

ITEM 8.A.

MOORPARK CITY COUNCIL AGENDA REPORT

TO: Honorable City Council

FROM: David A. Bobardt, Community Development Director
Prepared by Joseph Fiss, Principal Planner 

DATE: March 8, 2010 (CC Meeting of March 17, 2010)

SUBJECT: Consider Resolution Approving Modification No. 1 to Residential Planned Development (RPD) No. 1998-01, a Request to Relocate the Required Recreation Center from Vesting Tentative Tract Map No. 5425 to Tract Map No. 5133, Located on the South Side of Los Angeles Avenue at Millard Street, on the Application of Shea Homes, Inc.

BACKGROUND/DISCUSSION

On February 17, 2010, the City Council took testimony at an open public hearing for consideration of Modification No. 1 to Residential Planned Development No. 1998-01, the relocation of a recreation area to serve the Canterbury Lane development by Shea Homes. A copy of the staff report is attached. Testimony by Fremont Street neighbors at the hearing focused on concerns over activity levels expected at the proposed location, along with parking, noise, lighting, and litter. The City Council continued this matter to March 17, 2010, with the public hearing still open, and asked the applicant to meet with the Fremont Street residents to see if the concerns could be addressed.

The applicant met with Fremont Street residents on March 2, 2010, presenting the residents with two alternative site plans. After the meeting, these alternative site plans were further refined as Design Studies 1 and 2 (attached). A synopsis of design changes made to the plans by the applicant in response to the neighbors' concerns is provided in the attached letter from the applicant. Both these studies have re-oriented access and parking from Fremont Street to Majestic Court. A key distinction in the revised design under Study 2 is the provision of recreation building in a location that would buffer the Fremont Street neighborhood from pool lighting and noise. Under the proposed open meeting room design in this alternative, the facility could not be reserved

for special events, reducing the potential for large gatherings and associated noise and parking demand.

Staff requested an additional design study (Study 3) that included an off-street parking lot to provide additional parking and to avoid the need to back up into Majestic Court. Study 3 provides similar buffering of the Fremont Street neighborhood from the noise and lighting of the pool area as Study 2, however, it is able to maintain one additional street parking space on Majestic Court and provide 5 parking spaces that do not require backing out into the street. The disadvantage of Study 3 is that the play area is greatly reduced because of the driveway and back-up area. Because of this, staff is in support of the Study 2 design.

The 4 off-street parking spaces shown in Study 2, when combined with 3 available street parking spaces on Majestic Court adjacent to the recreation area, should be more than sufficient parking to avoid impacts to the Fremont Street neighborhood. Although the parking spaces in Study 2 require backing into the street, there are already 6 existing homes in Tract 5133 (Canterbury I) and 19 additional homes with Tract 5425 (Canterbury II) that will have driveways (50 parking spaces total) which require backing into Majestic Court as it extends to Los Angeles Avenue. The City Engineer/Public Works Director has reviewed this proposal and has found it would not pose a conflict with traffic patterns.

Since the February 17, 2010 City Council meeting, the following conditions of approval have been added to the draft resolution to address potential neighborhood impacts (shown on the draft resolution in legislative format):

- Condition No. 13 requires lighting review by the City's lighting consultant to ensure spillover lighting from the recreation area is minimized.
- Condition No. 14 allows for the future establishment of a preferential parking district on Fremont Street, should one be requested in the future.
- Conditions Nos. 19 and 20 provide that the recreation area may be open only between 7:00 AM and 10:00 PM daily, the recreation area may not be reserved except for homeowners' association general meetings, alcoholic beverages would not be permitted in the recreation area, and the off-street parking spaces may not be used between 10:00 PM and 7:00 AM.

An exhibit has also been prepared (Attachment 5) in response to questions from the City Council on February 17, 2010 about the various locations previously approved or proposed for the recreation area. The following is a synopsis of the approvals/proposals to accompany the exhibit.

Location A – The City Council adopted Resolution No. 99-1666 on October 6, 1999, approving Tentative Tract Map No. 5133 and RPD No. 1998-01 (Canterbury I) with a 6,650 square-foot recreation area at the northeast corner of Majestic Court and what is now Millard St. The tot lot was conditioned to be allowed in Arroyo Simi area if

permitted by the Ventura County Watershed Protection District (VCWPD) and Community Development Director.

Location B – On June 14, 2002, Minor Modification No. 2 was approved by the Community Development Director, with the tot lot relocated to a 2,520 square-foot area south of Majestic Court and east of Millard Street, as the previous location was not approved by the Ventura County Flood Control District (now Watershed Protection District). The recreation area was in the same location.

Location C – Minor Modification No. 3 was approved by the City Council on July 2, 2003, with the recreation area to be in the vicinity of lots 46, 47 and 48 (Location A) or outside the project boundaries (Location C) on what would become Vesting Tentative Tract Map No. 5425 (Canterbury II), with precise siting subject to the approval of the Community Development Director. It is also the current proposed location, with approximately 17,200 square feet for the recreation area and tot lot.

Location D – Residential Planned Development 2003-02 and Vesting Tentative Tract Map No. 5425 (Canterbury II) were approved by the City Council on April 6, 2005 for 102 dwelling units with a 15,405 square foot recreation area and tot lot at the southeast corner of the site to serve both Canterbury I and II.

Location E – The original application for Modification No. 1 to RPD 1998-01 requested relocation of the recreation lot for Tract Map No. 5133 to a 12,785 square-foot area in the southwest corner of the property, with the tot-lot area integrated to recreation area. At the time this modification application was filed, Shea Homes was intending to finish Tract No. 5133 as a standalone project, and was not sure whether development of Vesting Tentative Tract Map No. 5425 would occur in the near future. Staff expressed concerns over the accessibility and lack of visibility of this location in the December 16, 2009 report to City Council.

Location F – The location recommended by staff in the December 16, 2009 report to City Council on the Modification No. 1 request. Location C was identified as an alternative location by staff.

FISCAL IMPACT

None.

STAFF RECOMMENDATION

1. Continue to accept public testimony and close the public hearing.
2. Adopt Resolution No. 2010-____, approving Modification No. 1 to Residential Planned Development (RPD) No. 1998-01 as recommended by staff, subject to conditions of approval.

ATTACHMENTS:

1. Staff Report from February 17, 2010 (without attachments)
2. March 5, 2010 Letter from Shea Homes
3. Design Studies 1-3
4. Alternative Recreation Building Floor Plan
5. Approved and Proposed Locations of Recreation Area
6. Draft Resolution with Conditions of Approval

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David A. Bobardt, Community Development Director
Prepared by Joseph Fiss, Principal Planner 

DATE: February 5, 2010 (CC Meeting of February 17, 2010)

SUBJECT: Consider Resolution Approving Modification No. 1 to Residential Planned Development (RPD) No. 1998-01, a Request to Relocate the Required Recreation Center from Vesting Tentative Tract Map No. 5425 to Tract Map No. 5133, Located on the South Side of Los Angeles Avenue at Millard Street, on the Application of Shea Homes, Inc.

BACKGROUND

On July 13, 2009 Shea Homes, Inc., submitted an application for a Modification to the original conditions of approval of RPD No. 1998-01 to relocate the required recreation center from Vesting Tentative Tract Map No. 5425 to Tract Map No. 5133, located on the south side of Los Angeles Avenue at Millard Street. The City Council opened a public hearing on this application on December 16, 2009, and continued the matter to January 20, 2010 at the request of the applicant to allow the staff and applicant additional time to discuss staff concerns and recommended conditions. The continued public hearing on January 20, 2010 was continued again to February 17, 2010 at the request of the applicant. No testimony was provided on either date. As a result of discussions between the applicant and staff, the applicant is now proposing to locate the recreation lot for both Tract Map No. 5133 and Vesting Tentative Tract Map No. 5425 within the boundaries of Vesting Tentative Tract Map No. 5425, north of an extension of Majestic Court and east of Tract Map No. 5133 (location map attached), centrally located for both subdivisions. This staff report and the recommended conditions in the attached resolution have been updated based on discussions with the applicant. Because of the new location, area property owners have been re-notified (copy of notice attached) of this open and continued public hearing with a map showing the new proposed location.

DISCUSSION

Permit modifications may be considered for any proposed change that is not extensive enough to be considered a substantial or fundamental change in the approved entitlement or use relative to the permit, would not have a substantial adverse impact on surrounding properties and would not change any findings contained in the environmental documentation prepared for the permit. Action on a permit modification application is taken by the decision-making body that approved the original permit by the same process and public noticing as required for the original project application. In this case, the City Council was the original decision-making body of the RPD, through a noticed public hearing process.

The City Council adopted Resolution No. 99-1666 on October 6, 1999, approving Tentative Tract Map No. 5133 and RPD No. 1998-01 for 79 residential duplex condominium units. This project is known as Canterbury Lane, or "Canterbury I". The recreation area was approved at the northeast corner of Majestic Court and "A" Street (now Millard St.), and conditioned for a tot-lot to be allowed in Arroyo Simi area if permitted by the Ventura County Watershed Protection District (VCWPD) and Community Development Director. An unnumbered and unlettered condition was included between Condition No. 33 j and k (Page 52 of Resolution No. 99-1666) as follows:

" The size of the recreational area shall be increased pursuant to Staff Alternative "B" and shall contain a pool minimum surface area of 1,000 sq. ft.), spa, wading pool, deck area, tot-lot, and building containing restrooms and a meeting room. The design of the recreation facility, fencing and equipment proposed for the tot-lot shall be as approved by the Director of Community Development. The tot-lot may be located on Ventura County Flood Control property if approved by the Ventura County Flood Control District and the Director of Community Development."

Attachment No. 3 shows a recreation area of 95 feet by 70 feet (6,650 square feet) as originally approved, with no on-site parking. It does not show the precise location of the tot-lot.

On June 14, 2002, Minor Modification No. 2 was approved by the Community Development Director. The proposed tot-lot in the Arroyo Simi floodway area was not approved by the Ventura County Flood Control District (now Watershed Protection District) and was relocated across the street from the recreation area south of Majestic Court, east of "A" Street (Millard St.) on a 36' by 70' (2,520 square-foot) lot as shown on Attachment No. 4.

Minor Modification No. 3 was approved by the City Council on July 2, 2003. The recreation area was relocated to be in the vicinity of lots 46, 47 and 48 on the northeast corner of Majestic Court and Millard Street or outside the project boundaries (Attachment No. 5) on what would become Vesting Tentative Tract Map No. 5425

(Canterbury II), with precise siting, subject to the approval of the Community Development Director. The latter described area is the area currently proposed for the recreation area to serve both Tract Map No. 5133 and Vesting Tentative Tract Map No. 5425. A precise site plan and design for the recreation area under Minor Modification No. 3 was never submitted as processing of the adjacent Vesting Tentative Tract Map No. 5425 had begun. This new project proposal included a single recreation area to serve both (then) Tentative Tract Map No. 5133 and Vesting Tentative Tract Map No. 5425.

Residential Planned Development 2003-02 and Vesting Tentative Tract Map No. 5425 were approved by the City Council on April 6, 2005 for 102 dwelling units. This project was intended to be a continuation of the Canterbury Lane project and was known as "Canterbury II", with the same product type, and the same Homeowner's Association (HOA). A condition of approval was included to develop a 15,405 square foot recreation area at the southeast corner of the site, adjacent to the Arroyo Simi (Attachment No. 6), that would meet the needs of 179 dwelling units (77 from Canterbury I and 102 from Canterbury II), and the requirement for a recreation area at Canterbury I would be satisfied at this location with no further modifications to the conditions of approval. At this point, the recreation area and tot lot were no longer reflected on plans for Canterbury I. To date, Zoning Clearances for building permits had been issued for 60 homes in Canterbury I, 4 of which are in the model complex and the rest are occupied.

The original application for Modification No. 1 to RPD 1998-01 requested relocation of the recreation lot for Tract Map No. 5133 to a 12,785 square-foot area in the southwest corner of the property, with the tot-lot area integrated to recreation area. At the time this modification application was filed, Shea Homes was intending to finish Tract No. 5133 as a standalone project, and was not sure whether development of Vesting Tentative Tract Map No. 5425 would occur in the near future.

Since this time, Shea has revisited the feasibility of proceeding with Vesting Tentative Tract Map No. 5425 and has indicated a desire to continue pursuing the development as originally approved. The modification application had been amended with a revised proposal for an approximately 17,200 square-foot recreation lot and integrated tot-lot north of an extension of Majestic Court and immediately east of Tract Map No. 5133. A 1,172 square-foot clubhouse and a 1,125 square-foot pool plus wading pool and spa are included in this proposal.

The revised location for this recreation lot would be more centrally located for both Tract Map No. 5133 and Vesting Tentative Tract Map No. 5425. It would also be larger than the currently approved 15,405 square-foot recreation area (Attachment 6), and it would also be more visible within the community. As noted above, the Homeowners' Association is already set up to serve both subdivisions, making management of the recreation area straightforward. The design for the clubhouse is compatible with the

architecture of the rest of the project. In addition, the open space area at the end of Millard Street would be maintained with the new proposed location.

Recommended conditions have been modified from the original conditions proposed on December 16, 2009, due to the new location of the recreation area. Timing for some of the conditions has also been modified based on the phasing of Tract Map No. 5133, now that the recreation area is no longer removing proposed houses. A review of plans by the Police Department and an 8-foot high wall on the northern property line of the recreation lot would address security and privacy issues associated with the new location for the recreation area. Street improvements that would be needed include the extension of Majestic Court to Fremont Street, and dedication of right-of-way from Vesting Tentative Tract Map No. 5425 for Los Angeles Avenue road widening, along with a security deposit for its improvement, should the City construct the widening prior to the development of this subdivision. Finally, a condition is added to ensure that access is provided from the private extension of Millard Street in Tract Map No. 5133 to a residentially-zoned parcel owned by the Redevelopment Agency.

FISCAL IMPACT

None.

STAFF RECOMMENDATION

1. Continue to accept public testimony and close the public hearing.
2. Adopt Resolution No. 2010-____, approving Modification No. 1 to Residential Planned Development (RPD) No. 1998-01 as recommended by staff, subject to conditions of approval.

ATTACHMENTS:

1. Location Map
2. Aerial Photograph
3. Recreation Area Location as Originally Approved
4. Recreation Area Location As Approved per Minor Modification No. 2
5. Recreation Area Location As Approved per Minor Modification No. 3
6. Recreation Area Location As Approved per Tract 5425
7. Project Plans (Under Separate Cover)
8. Public Notice
9. Draft Resolution with Conditions of Approval

SheaHomes

Caring since 1881

March 5, 2010

David Bobardt
Planning Director
City of Moorpark
799 Moorpark Ave.
Moorpark, CA 93021

Subject: Canterbury Lane Recreation Center Application

Dear Mr. Bobardt,

We want to start by saying thank you to both you and Joe for attending the meeting we held with the Fremont Street residents on Tuesday evening, March 2nd, 2010. We believe it was a benefit for you to hear what they had to say and we also appreciate you being there to provide your knowledge and comments about the project.

As you know, over the past couple of weeks we studied various options to the recreation center site plan in an effort to address concerns that were raised at the City Council meeting on February 17th, 2010. Below is a recap of concerns that were raised and how we plan to mitigate each one. Some of the concerns are addressed with same changes in each study and they are included in the first table. The second and third tables outline the specific changes made for the respective site plan. The last table is how we plan to address concerns through the implementation of rules and design, however, these are not changes from what was previously submitted. The rules are stated as proposed because until they are adopted by the Board of Directors, they are not considered approved.

- Changes made to Studies 1 and 2

Issue or Concern	Change Made to Address the Issue
Parking on Fremont Street	Relocated the designated parking from Fremont Street to Majestic Court and increased the number of parking stalls by two.
Access points on Fremont Street will cause a parking issue on Fremont Street	Relocated all access points from Fremont Street to Majestic Court. There is no access to the recreation facility from Fremont Street.

1250 Corona Pointe Court
Suite 600
Corona, CA 92879

951.739.9700 f
951.738.1758 f

CC ATTACHMENT 2

Shea Homes Limited Partnership &
Shea Homes Marketing Company
Independent members of the Shea family of companies

- Changes made to Study 1

Issue or Concern	Change Made to Address the Issue
Noise from the Meeting Room	Relocated the building to the southwest corner of the parcel.
Adjacency to the existing residence on Fremont Street	With the relocation of the building, the tot lot was moved so that it is now adjacent to the existing residence. The tot lot and surrounding landscaping provide for a buffer between the existing residence and the pool area.
Recreation center will generate additional overflow lighting to Fremont Street	The tot lot adjacent to the Fremont residence will not have lights, just walkway bollards. It is only open from dawn until dusk. Shea Homes will work with the Police Department on acceptable lighting that minimizes the impact to Fremont Street.
Large number of People	Meeting room is limited to 34 people per the Fire Department. Proposed rule states that homeowners are not permitted to host more than four (4) guests in the pool area at any given time.

- Changes made to Study 2

Issue or Concern	Change Made to Address the Issue
Noise for Meeting Room	This plan creates a covered patio area in lieu of a meeting room. The covered patio area is integrated into the pool area and provides a shade element for users of the pool and still provides a location for HOA quarterly meetings. Of most importance to the Fremont homeowners, it eliminates a room that could be reserved for parties. Proposed pool rules state that homeowners may not reserve the pool area facilities for exclusive use.
Adjacency to the existing residence on Fremont Street	The building is oriented away from the existing residence and acts as a buffer between the pool and residence.
Recreation center will generate additional overflow lighting to Fremont Street	The building adjacent to the Fremont residence will help block the required lighting in the pool area. The lighting will all be directed towards Majestic Court. Shea Homes will work with the Police Department on acceptable lighting that minimizes the impact to Fremont Street.
Large number of People	Proposed rule states that homeowners are not permitted to host more than four (4) guests in the pool area at any given time.

- Designs features and rules for Studies 1 and 2

Issue or Concern	Design Features and Rules to Address Issue
Late Night Parties and Noise	Proposed pool hours from 6:00 am - 9:00 pm on Sunday through Thursday and 6:00 am - 10:00 pm on Fridays and Saturdays. The closing time is one hour earlier than what we typically do at our communities. A key fob system will be utilized so that the gates lock at the appropriate time.
General concern regarding two story buildings	The recreation center building is one story whereas the homes plotted on these lots are two stories.
Trash and dumpsters	The recreation center will not have a dumpster and the trash cans will be emptied on a weekly basis by the janitorial company.
Drinking alcohol	Alcohol and smoking are not permitted in the pool area.

We believe some of the residents from Fremont Street were satisfied with the alternate plans we proposed but we also realize others want it in a different location and will not be satisfied with our proposed location. Our response to this is that we have tried, through our various revisions, to mitigate their concerns the best we could but given the site constraints, this is the only feasible option at this time. We also believe that with our decision to proceed with Canterbury II, it no longer makes sense to build the recreation center on any of the remaining lots of Tract 5133.

Similar to the recommendation made by City Staff in the Staff Report dated November 16th, 2009, we believe the recreation center located on Lots 71 -74 of Tract 5425 is an ideal location. This location is central to both communities and allows for a larger recreation center. In addition, the underground utilities are in a location that we can build the recreation center this year and hopefully be in a position to deliver it to our homeowners by year end. If we wait and build it in the current approved location within Tract 5425, we will not be able to deliver it this year and most likely not next year either. As you know, there is significant infrastructure that needs to be designed, approved and installed to get us to a point where we can begin to build the recreation center. Even if we were to wait for the infrastructure to be installed and build it as an island, there will not be "eyes" on it and homeowners trying to gain access will be required to walk through a construction site, which we try to limit because of safety concerns.

We strongly believe in the two plans we are proposing for the Canterbury Lane community. Each plan has a different layout but both work well for the given location. We think either plan will be acceptable to the Canterbury Lane homeowners, however, we would like to expand on the idea of an outdoor covered gathering area because we feel it will be an improvement to the Canterbury Lane recreation center. These outdoor areas get significantly more use than a meeting room, they are less maintenance so it should lower the HOA dues, and since it cannot be reserved, the HOA does not have to deal with renting it out and inspecting it after each use. In the plan submitted as part of this application (study 2), we also feel it provides a much better buffer to the Fremont Street residents (visually and sound) and allows for a layout that interacts well with the pool, bbq and tot lot area. We understand that this is not typical in Moorpark but

given these are single family homes and the meeting room is designed at 500 SF, we believe homeowners holding an event will do so in their home and backyard, especially since the meeting room is only slightly larger than the family & dining rooms of the units and renting it will require a deposit and most likely cost a fee.

Please let us know if you have questions about either recreation center layout and if there is any additional information you would like us to provide. I can be reached at (951) 739-9718 or brooke.thomas@sheahomes.com.

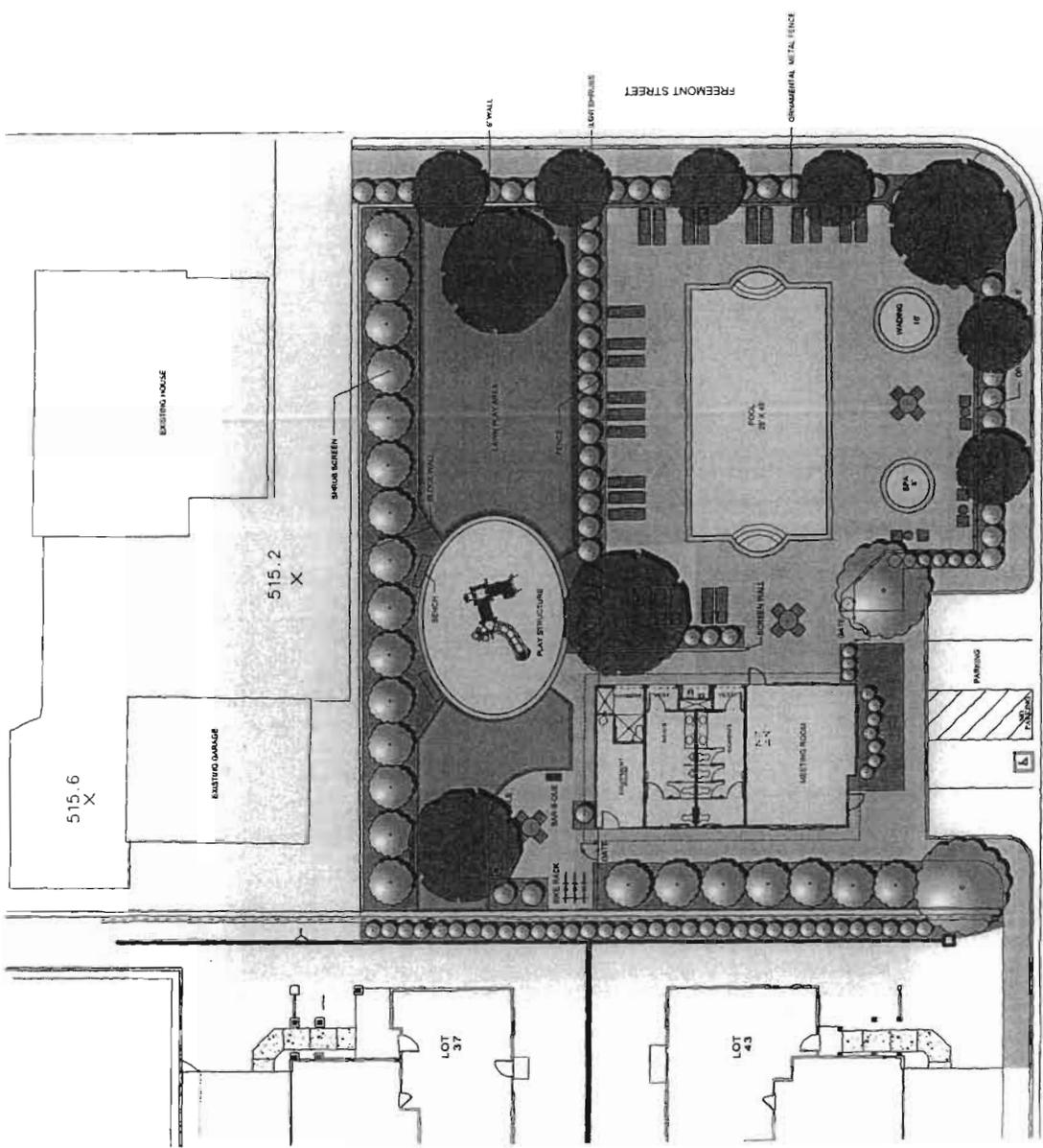
Sincerely,
Shea Homes Limited Partnership



Brooke Thomas
Community Development Manager



JORDAN, GILBERT & BAIN LANDSCAPE ARCHITECTS, INC.
SANTA ANA, CALIFORNIA
REG. #0213641



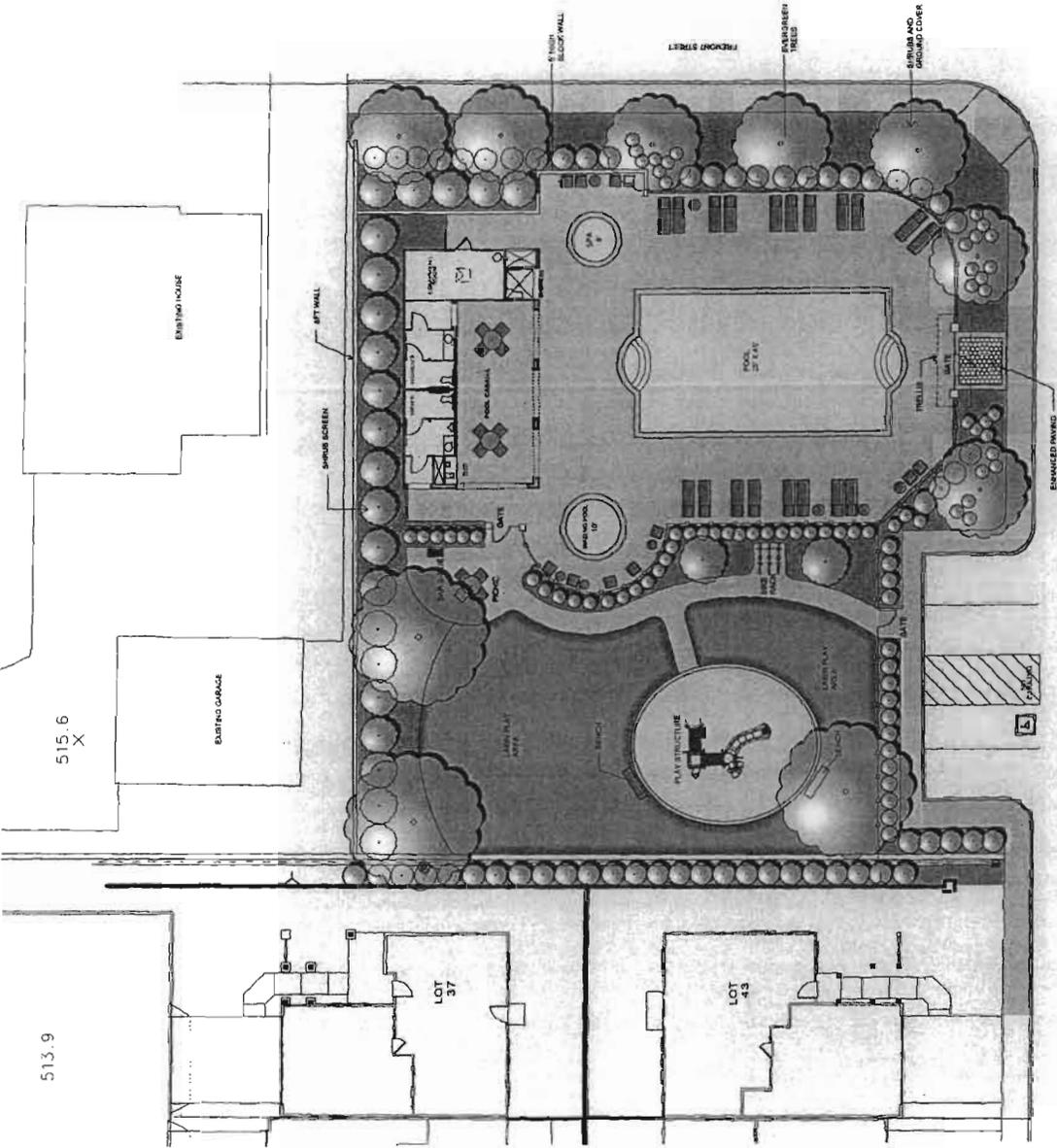
MAJESTIC COURT

SheaHomes
SOUTHERN CALIFORNIA DIVISION

CANTERBURY
RECREATION AREA
STUDY 1

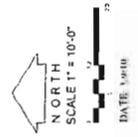
CC ATTACHMENT 3





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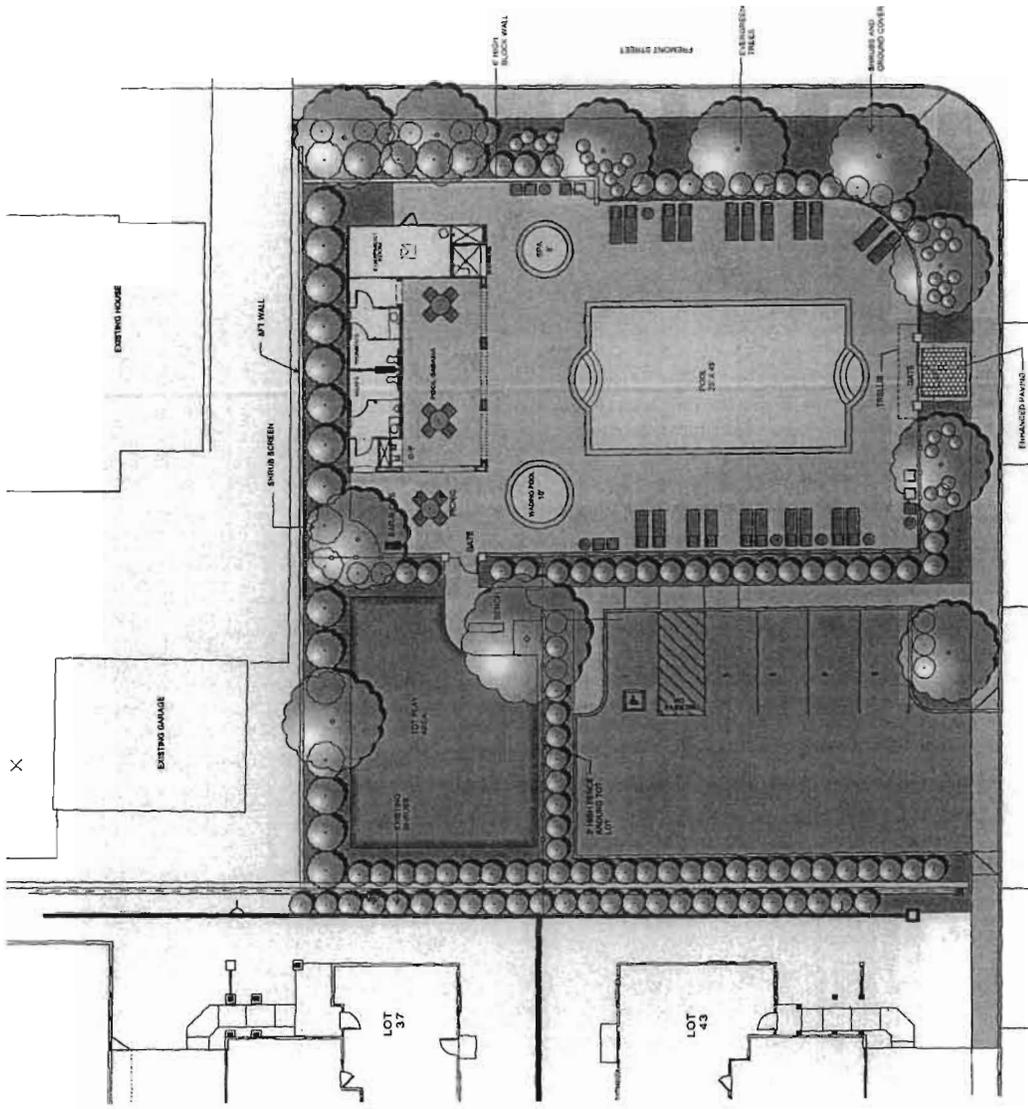
CANTERBURY
RECREATION AREA
STUDY 2

SheaHomes
SOUTHERN CALIFORNIA DIVISION

MAJESTIC COURT

JORDAN, GILBERT & BAYN LANDSCAPE ARCHITECTS, INC.
REVISED: 04/18/2004
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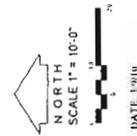




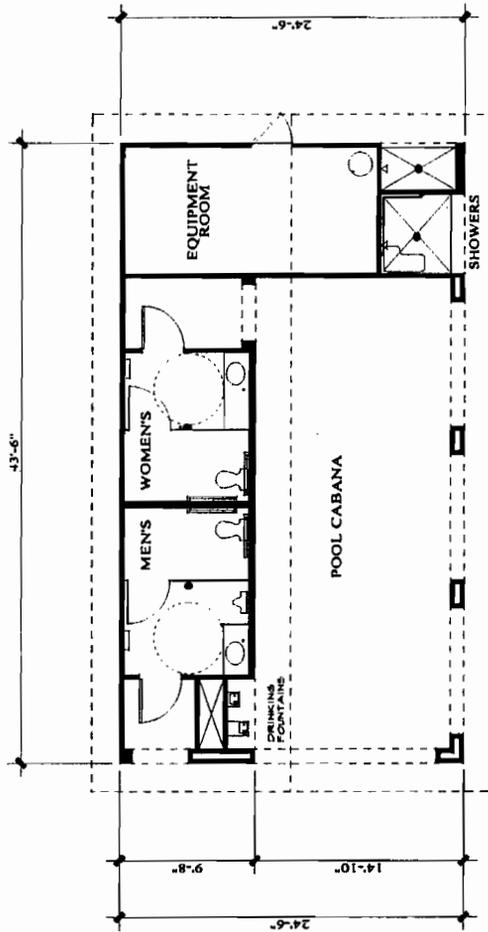
JORDAN, GILBERT & BAIN LANDSCAPE ARCHITECTS, INC.
 475116, CALIFORNIA
 909-482-7042

SheaHomes
 SOUTHERN CALIFORNIA DIVISION

CANTERBURY
 RECREATION AREA
 STUDY 3



CC ATTACHMENT 4



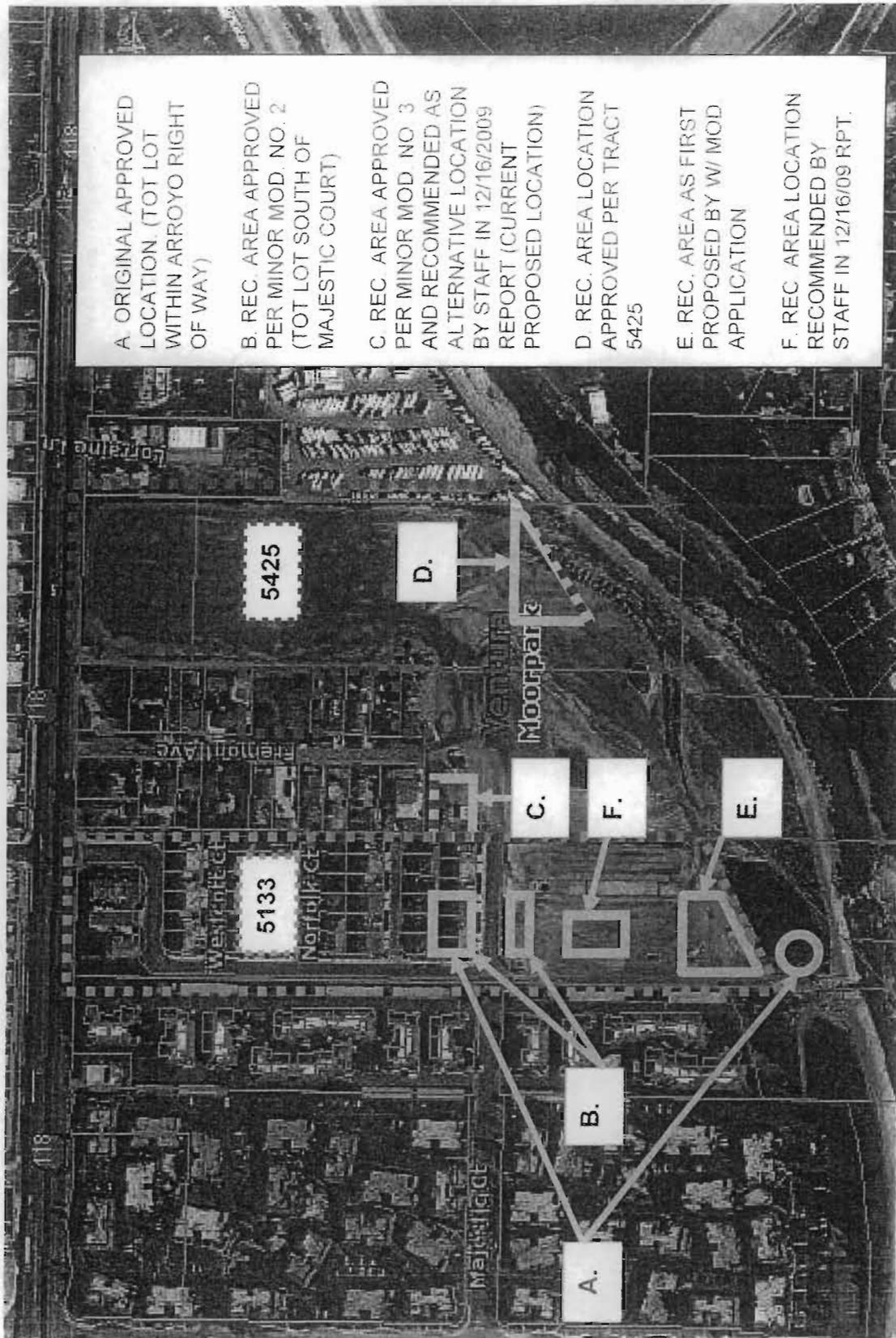
POOL CABANA = 507 SQ.FT.
 TOILETS = 329 SQ.FT.
 EQUIPMENT ROOM = 174 SQ.FT.
 SHOWERS = 57 SQ.FT.
 TOTAL = 1,190 SQ.FT.

SheaHomes
 MULTIFAMILY CONSTRUCTION DIVISION
 10000 SHERWOOD BLVD., SUITE 100
 WESTLAKE VILLAGE, CA 91391
 PH: 818-890-3300 FAX: 818-890-3300

BASSEMAN
LACON
 ARCHITECTS AND INTERIORS
 20000 SHERWOOD BLVD., SUITE 100
 WESTLAKE VILLAGE, CA 91391
 PH: 818-890-3300 FAX: 818-890-3300

DATE: 03-04-10

CANTERBURY LANE RECREATION BUILDING MOORPARK, CALIFORNIA



CC ATTACHMENT 5

RESOLUTION NO. 2010-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING MODIFICATION NO. 1 TO RESIDENTIAL PLANNED DEVELOPMENT (RPD) NO. 1998-01, A REQUEST TO RELOCATE THE REQUIRED RECREATION CENTER FROM THE SOUTHEAST CORNER OF VESTING TENTATIVE TRACT MAP NO. 5425 TO THE WESTERN EDGE OF VESTING TENTATIVE TRACT MAP NO. 5425, NORTH OF MAJESTIC COURT, ON THE APPLICATION OF SHEA HOMES, INC.

WHEREAS, at a duly noticed public hearing held on December 16, 2009, January 20, 2010, February 17, 2010, and March 17, 2010, the City Council considered the agenda report and any supplements thereto and any written public comments; opened the public hearing, took and considered public testimony both for and against the proposal, closed the public hearing, and reached a decision on this matter; and

WHEREAS, the City Council concurs with the Community Development Director's determination that this project would not change any findings contained in the environmental documentation prepared for the permit.

SECTION 1. MODIFICATION FINDINGS: Based upon the information set forth in the staff report(s), accompanying studies, and oral and written public testimony, the City Council makes the following findings in accordance with City of Moorpark, Municipal Code Section 17.44.030:

1. The modification will not alter any of the findings of the original approval of Residential Planned Development 1998-01.
2. The modification will not alter any of the findings in the environmental document prepared for Residential Planned Development 1998-01 and will have no adverse impacts on the environment.
3. The modification will not have any adverse impact on surrounding properties.

SECTION 2. CITY COUNCIL APPROVAL: The City Council hereby approves Modification No.1 to Residential Planned Development No. 1998-01 (Study 2 in March 17, 2010 staff report), subject to Conditions of Approval attached hereto and incorporated herein as Exhibit A.

CC ATTACHMENT 6

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 17th day of March, 2010.

Janice S. Parvin, Mayor

ATTEST:

Deborah S. Traffenstedt, City Clerk

Exhibit A: Conditions of Approval:

EXHIBIT A

CONDITIONS OF APPROVAL FOR MODIFICATION
NO. 1 TO RESIDENTIAL PLANNED DEVELOPMENT 1998-01

1. The permit is granted for the land and project as identified on the entitlement application for a Modification and as shown on the attached, approved plans. The location and design of all site improvements shall be as shown on the approved plot plans and elevations (Study 2 in March 17, 2010 staff report), except or unless indicated otherwise by conditions within this letter.
2. All Conditions of Approval for Residential Planned Development (RPD) NO. 1998-01 as amended are incorporated by reference in this approval letter and shall continue to apply unless specifically modified by this permit.
3. Within thirty (30) calendar days of approval of this entitlement, the applicant shall sign and return to the Planning Division an Affidavit of Agreement and Notice of Entitlement Permit Conditions of Approval, indicating that the applicant has read and agrees to meet all Conditions of Approval of this entitlement. The Affidavit of Agreement/Notice shall include a legal description of the subject property, and have the appropriate notary acknowledgement suitable for recordation.
4. This Modification expires one (1) year from the date of its approval unless the use has been inaugurated by issuance of a building permit for construction. The Community Development Director may, at his/her discretion, grant up to two (2) additional one-year extensions for use inauguration of the development permit, if there have been no changes in the adjacent areas and if the applicant can document that he/she has diligently worked towards use inauguration during the initial period of time. The request for extension of this planned development permit must be made in writing, at least thirty (30) days prior to the expiration date of the permit and must be accompanied by applicable entitlement processing deposits.
5. Conditions of this entitlement may not be interpreted as permitting or requiring any violation of law or any unlawful rules or regulations or orders of an authorized governmental agency.
6. Should continued compliance with these Conditions of Approval not be met, the Community Development Director may modify the conditions in accordance with Municipal Code Section 17.44.100 and sections amendatory or supplementary thereto, declare the project to be out of compliance, or the Director may declare, for some other just cause, the project to be a public nuisance. The applicant shall be liable to the City for any and all costs and expenses to the City involved in thereafter abating the nuisance and in obtaining compliance with the Conditions of Approval or applicable codes. If the applicant fails to pay all City costs related to this action, the

City may enact special assessment proceedings against the parcel of land upon which the nuisance existed (Municipal Code Section 1.12.170).

7. The applicant shall defend, indemnify and hold harmless the City and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul any approval by the City or any of its agencies, departments, commissions, agents, officers, or employees concerning this entitlement approval, which claim, action or proceeding is brought within the time period provided therefore in Government Code Section 66499.37 or other sections of state law as applicable and any provision amendatory or supplementary thereto. The City will promptly notify the applicant of any such claim, action or proceeding, and, if the City should fail to do so or should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify and hold harmless the City or its agents, officers and employees pursuant to this condition.

The City may, within its unlimited discretion, participate in the defense of any such claim, action or proceeding if both of the following occur:

- a. The City bears its own attorney fees and costs;
- b. The City defends the claim, action or proceeding in good faith.

The applicant shall not be required to pay or perform any settlement of such claim, action or proceeding unless the settlement is approved by the applicant. The applicant's obligations under this condition shall apply regardless of whether a Final Map is ultimately recorded with respect to the subdivision or a building permit is issued pursuant to the planned development permit.

8. If any of the conditions or limitations of this approval are held to be invalid, that holding does not invalidate any of the remaining conditions or limitations set forth.
9. All facilities and uses, other than those specifically requested in the application and approval and those accessory uses allowed by the Municipal Code, are prohibited unless otherwise permitted through application for Modification consistent with the requirements of the zone and any other adopted ordinances, specific plans, landscape guidelines, or design guidelines.
10. Prior to the approval of any Zoning Clearance for this entitlement the applicant shall submit to the Community Development Department all outstanding entitlement case processing fees, including all applicable City legal service fees. This payment must be made within sixty (60) calendar days after the approval of this entitlement.
11. Prior to the issuance of any additional building permits, the applicant shall provide cash surety in a form acceptable to the Community Development Director and City Engineer/Public Works Director to comply with all conditions in the July 27, 2006 Agreement Regarding Conditions of Approval (Tract 5133) by and between the City

of Moorpark and Shea Homes Limited Partnership. Compliance shall be met on all conditions prior to the issuance of a Zoning Clearance for construction of the 68th housing unit in Tract Map No. 5133, with the exception of the completion of Majestic Court to Fremont Street to the east. Prior to the issuance of a Zoning Clearance for construction of the 68th housing unit in Tract Map No. 5133, the applicant shall provide plans for the improvement and dedication of Majestic Court from the easterly boundary of Tract 5133 to the existing terminus of Fremont Street to the satisfaction of the City Engineer/Public Works Director, and consistent with the design standards as shown on Vesting Tentative Tract Map No. 5425 as conditioned by Resolution No. 2005-2304. Street improvements must be completed and an irrevocable offer of dedication for public street purposes must be provided to the satisfaction of the City Engineer/Public Works Director prior to issuance of a Zoning Clearance for occupancy of the 73rd unit in Tract Map No. 5133, or December 31, 2010, whichever occurs first. The developer shall disclose this condition in writing to any prospective buyers for Units 73, 74, 75, 76 and 77 and provide the City with a written acknowledgement from the buyer in a form acceptable to the City Manager and City Attorney prior to the issuance of a Zoning Clearance for construction of these units.

12. Prior to the issuance of a Zoning Clearance for construction of the recreation area, site and security plans shall be submitted for review and approval of the Moorpark Police Department that incorporate appropriate CPTED (Crime Prevention Through Environmental Design) features.
13. Prior to the issuance of a Zoning Clearance for construction of the recreation area, lighting plans shall be submitted for review by the City's Lighting Consultant to ensure that lighting is in compliance with the standards of the Zoning Ordinance to the satisfaction of the Community Development Director.
14. Prior to the issuance of a Zoning Clearance for construction of the recreation area, the applicant shall request that the City Council approve a resolution to enforce California Vehicle Codes (CVC) on all private streets in Tract Map No. 5133 and Vesting Tentative Tract Map No. 5425, including Fremont Street as permitted by the CVC. A \$5,000 fee shall be provided to the City by the applicant with this request to cover future costs of creating and operating a preferential parking district, should the residents of Fremont Street wish to establish preferential resident parking in the future.
15. Prior to the issuance of a Zoning Clearance for construction of the 68th housing unit in Tract Map No. 5133, the applicant shall obtain a building permit for construction of the recreation area and tot lot. The recreation area plans must include a minimum 1,000 square-foot clubhouse/restroom building, minimum 1,000 square-foot pool, wading pool, spa, deck area and tot lot, along with an eight (8) foot high wall on the north property line, subject to the review and approval of the Community Development Director. Improvements must be completed and available for use prior to the issuance of a Zoning Clearance for occupancy of the 73rd unit in Tract Map

- No. 5133. The developer shall disclose this condition in writing to any prospective buyers for Units 73, 74, 75, 76 and 77 and provide the City with a written acknowledgement from the buyer in a form acceptable to the City Manager and City Attorney prior to the issuance of a Zoning Clearance for construction of these units.
16. Prior to the issuance of a Zoning Clearance for construction of the 61st housing unit in Tract Map No. 5133, the applicant shall provide the City with an irrevocable offer of dedication for the public right-of-way along Los Angeles Avenue as required by Vesting Tentative Tract Map No. 5425 and shall enter an agreement with the City, with the provision of either a cash security or lien on the Vesting Tentative Tract Map No. 5425 property in a form acceptable to the City Manager and City Attorney, to compensate the City for improvements to Los Angeles Avenue as required by Vesting Tentative Tract Map No. 5425 as conditioned by Resolution No. 2005-2304 and Ordinance No. 313.
 17. Prior to the issuance of a Zoning Clearance for construction of the 61st housing unit in Tract Map No. 5133, a permanent and irrevocable access easement shall be provided along Millard Street south of Majestic Court to allow vehicular and pedestrian access for construction, future occupants, and public agencies and utilities for the approximately 1.34-acre parcel owned by the City and/or Redevelopment Agency on the west side of Millard Street (APN: 506-0-020-525), subject to final wording approval by the City Manager and City Attorney.
 18. Prior to the issuance of a Zoning Clearance for construction of the 68th housing unit in Tract 5133, all fences/walls along the western lot boundary must be in place to the satisfaction of the Community Development Director.
 19. Prior to issuance of a Zoning Clearance for occupancy of the recreation area, the Homeowners' Association rules for use of the recreation area must include provisions that a.) the recreation area may not be reserved for any special event other than a Homeowners' Association general meeting; b.) alcoholic beverages are not permitted within the recreation area; and c.) the recreation area may only be used between the hours of 7:00 A.M. and 10:00 P.M. daily (The HOA may adopt stricter time limits), and that routine maintenance will only be performed Monday through Friday between 8:00 AM and 5:00 PM. The time restrictions and prohibition on alcoholic beverages must also be posted within the recreation area to the satisfaction of the Community Development Director. Items a, b, and c can only be changed by action of the City Council.
 20. Prior to issuance of a Zoning Clearance for occupancy of the recreation area, the parking spaces for the recreation area must be posted for "No Parking – Subject to Tow Away" for the hours of 10:00 PM to 7:00 AM daily to the satisfaction of the Community Development Director.

- End -