

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David A. Bobardt, Community Development Director
Prepared By: Joseph R. Vacca, Principal Planner



DATE: March 6, 2013 (CC Meeting of 4/17/2013)

SUBJECT: Consider Report of Annual Development Agreement Review, Established in Connection with Vistas at Moorpark, Tract 5130, Located on the East Side of Walnut Canyon Road, Approximately 3,500 Feet North of Casey Road, on the Application of CV Urban Land, LLC (DBA, City Ventures)

BACKGROUND

Government Code Section 65864 and City of Moorpark Municipal Code Section 15.40 provide for Development Agreements between the City and property owners in connection with proposed plans of development for specific properties. Development Agreements are designed to strengthen the planning process, to provide developers some certainty in the development process and to assure development in accordance with the terms and conditions of the agreement.

On January 21, 2004, the Moorpark City Council adopted Ordinance No. 299 (effective February 20, 2004), approving a Development Agreement between the City of Moorpark and Moorpark 150, LLC, (formerly managed by SunCal Companies). The agreement was approved in connection with the Tract No. 5130/RPD 1998-02, a 110 unit single-family residential development located east of Walnut Canyon Road north of Wicks Road. The agreement remains in full force and effect for twenty (20) years from the operative date of the agreement (until February 20, 2024), or until the close of escrow on the initial sale of the last Affordable Housing Unit, whichever occurs last. While the entity which owns the subject property and which is a party to the Development Agreement has not changed, there has been a change in the management of that entity. Prior to December, 2006, LSOF Moorpark Land, L.P. ("LSOF") owned 95% of the member interests in Moorpark 150, LLC. In December 2006, LSOF acquired the 5% interest previously held by Moorpark Equity Partners, Ltd., an affiliate of the SunCal Companies. July 23 2012, LSOF Moorpark Land, L.P., foreclosed on the project, and Armed Forces Bank of Kansas City Missouri, acquired the property and all project entitlements. On December 21, 2012, CV Urban Land, LLC, (DBA City Ventures), acquired the property and all project entitlements, and is the current owner.

Provisions of the agreement require an annual review and report to the City Council on the status of completion of all aspects of the agreement. This is the ninth annual review of this Development Agreement. Bill McReynolds, of CV Urban Land, LLC, (DBA City Ventures), has submitted the necessary application form, related materials, and fee/deposit for the 2013 annual review. The Community Development Director has reviewed the submitted information and the project status and provides the following report.

DISCUSSION

Current Project Status

- The developer has provided condition compliance deposits and has submitted the final map, grading plans, and drainage and street improvement plans for engineering plan check. The plans and maps should be reaching a final review state.
- Efforts to obtain right of entry permission for work on Walnut Canyon Road are complete.
 - All of the twenty (20) required temporary construction easements have been obtained;
 - All of the thirteen (13) necessary sidewalk easements have been obtained and;
 - All of the six (6) required storm drain easements have been obtained from homeowners along that street.
- Caltrans plans for work in the state right-of-way along State Route 23, have been approved and an encroachment permit for the required work has been issued and all necessary permits for construction were in place. However, the permit has expired and the developer will have to reapply for a new permit.
- Communications with city staff on affordable housing options continue.
- Necessary weed abatement and erosion control efforts have been maintained on site.
- Processing of the Landscape Maintenance District is nearly complete.
- A Community Facilities District for the project has been tentatively approved by the City Council but has not yet been formed.
- On November 19, 2008, the City Council approved Modification No. 1 to Residential Planned Development No. 1998-02 and Tentative Tract Map No. 5130, primarily to change the timing language on the construction of Walnut Canyon Road. The condition now states that prior to issuance of a Certificate of Occupancy for the 50th dwelling unit or April 15, 2011, whichever comes first, construction of roadway improvements to Walnut Canyon Road and overlaying of the pavement on Wicks Road consistent with City standards, must be completed to the satisfaction of the City Engineer and Public Works Director.

- On April 6, 2011, the City Council approved Modification No. 2 to Tentative Tract Map No. 5130, primarily to change the timing language on the construction of Walnut Canyon Road. The condition now states that prior to issuance of a Certificate of Occupancy for the 1st dwelling unit or April 11, 2013, whichever comes first, construction of roadway improvements to Walnut Canyon Road and overlaying of the pavement on Wicks Road consistent with City standards, must be completed to the satisfaction of the City Engineer and Public Works Director. Due to the recent acquisition of the project by City Ventures, and the short timeframe in which to comply with the timing of this condition, the new owner was not able to comply with the April 11, 2013 deadline. City Ventures understands that roadway improvements to Walnut Canyon Road and overlaying of the pavement on Wicks Road are requirements of conditions of approval of the project, and intends to comply with the conditions (with the exception of the time requirement which has already passed). City Ventures anticipates requesting an updated timeline for completion with a new Residential Planned Development, (RPD) Permit application, which they anticipate filing in April 2013, (more information provided below).
- A slope failure occurred on vacant land within Tract 5130 property, (just off Valley Road), and the developer has completed grading to remediate the slope failure to the satisfaction of the City in 2011.
- California Department of Fish and Game issued an extension to the existing Streambed Alteration Agreement – addendum in December 2011.
- Residential Planned Development (RPD) No. 1998-02 expired on December 17, 2012.
- City Ventures met with Dave Klotzle, Public Works Director/City Engineer on January 9, 2013 to determine what needs to be done for final approval of improvement plans and recordation of final map.
- City Ventures met with Caltrans on January 29, 2013 to discuss how to re-activate Caltrans permits for work on completing required improvements to Walnut Canyon Road.
- City Ventures contracted with Jensen Design & Surveying (Civil Engineer) to complete improvement plans and final map recordation.
- City Ventures submitted the tenth submittal of improvement plans on March 28, 2013, to the City Engineer; and has indicated that the proposed Final Map will be submitted to Ventura County in April, 2013. City Ventures believes that these will be the final submittals for both the Improvement Plans and Final Map.
- City Ventures contracted with Glenn Lukos Associates to re-activate United States Army Corp of Engineers, California Regional Water Control Board and California Department of Fish and Game jurisdictional permits for the project.
- On February 20, 2013, City Ventures and William Hezmalhalch Architects met with Joseph Vacca and David Bobardt to discuss the previous RPD permit and the process for submitting a new RPD permit application.

- City Ventures plans on submitting conceptual architecture to the City of Moorpark for review, using the previous RPD as a detailed guideline, on or before April 26, 2013.

Developer Compliance with Terms of Agreement

The developer's responsibilities are included in Section 6 of the Development Agreement and include twenty-four (24) specific requirements, as summarized below. Compliance with the terms and conditions of the Development Agreement will occur at various stages of the development process. Action by the developer and other clarifying information has been noted.

NO.	REQUIREMENT	STATUS
1.	Developer shall comply with the Agreement, subsequent project approvals and Mitigation Monitoring Program.	Developer is in compliance with all requirements at this time.
2.	All lands and interests in land shall be dedicated free and clear of liens and encumbrances.	To be granted at Final Map approval.
3.	Payment of "Development Fees" of eight thousand six hundred thirty-five dollars (\$8,635.00) per residential unit and thirty-eight thousand eight hundred fifty-eight dollars (\$38,858) per gross acre of institutional land.	These fees will be adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the agreement. Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.
4.	Payment of "Citywide Traffic Fees" of four thousand six hundred sixty-four dollars (\$4,664.00) per residential unit and twenty thousand nine hundred ninety-eight dollars (\$20,998) per acre of institutional land.	Beginning January 1, 2005, these fees will be adjusted annually (until paid) using the State Highway Bid Price Index in accordance with the agreement. Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.
5.	Payment of "Community Service Fees" of two thousand two hundred thirty-three dollars (\$2,233.00) per residential unit and seven thousand seventy dollars (\$7,070) per gross acre of institutional land.	Beginning January 1, 2007, these fees will be adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the agreement. Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.
6.	Payment of all outstanding processing costs.	This is an ongoing requirement. At this time the developer is current with all processing costs, including submittal of Annual Review Application and deposit for Development Agreement Annual Review.
7.	Payment of a fee in lieu of park dedication "Park Fee" of ten thousand eighty dollars (\$10,080.00) per residential unit and fifty cents (\$0.50) per square foot of each building used for institutional purposes.	These fees will be adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the agreement. Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.

NO.	REQUIREMENT	STATUS
8.	Prior to Final Map recordation, confirmation from Ventura County Waterworks District No. 1 that sufficient recycled water is available to serve public and community owned landscape areas. Design and construction of facilities required to deliver the reclaimed water to the project, and payment of any connection/meter fees required by the District.	If determined necessary, these improvements will be included in the Water Works District No. 1 improvement plan package and will be bonded for prior to recordation of the Final Map.
9.	Grant a conservation easement to the City for lots A, B, C, O and P. Lots A, B and P may include wetlands, storm water detention and debris basins and related service roads, landscaping and decorative planting areas, sidewalks and trails that do not interfere with the open space uses.	To be recorded with the Final Map for each phase.
10.	Payment of one hundred forty thousand dollars \$140,000.00 to satisfy obligation for upgrading the intersections of Moorpark Avenue (SR 23) at Charles Street and at High Street.	Beginning January 1, 2005, this fee increases by one-half percent (0.05%) each month until paid. The fee must be paid prior to recordation of the first Final Map. No Final Maps have been recorded to date.
11.	<p>Provide five (5) four (4) bedroom and two bath and two (2) three (3) bedroom and two (2) bath single-family detached units with a minimum of 1,200 sq. ft. for low income (80 percent of or less of medium income)</p> <p>Provide four (4) four (4) bedroom and two bath and one (1) three (3) bedroom and two (2) bath single-family detached units with a minimum of 1,200 sq. ft. for very low income (50 percent of or less of medium income)</p> <p>The units shall include amenities as specified in the agreement.</p> <p>City Council approval and execution of an Affordable Housing Implementation and Resale Restriction Plan and an Affordable Housing Agreement, and payment of up to a maximum of nine thousand dollars (\$9,000) for City's direct costs for preparation of the Plan and Agreement.</p> <p>Three of the low and three of the very low units to be occupied by qualified buyers prior to occupancy of the 50th residential unit in Tract 5130.</p> <p>The remaining low and very low income units shall be occupied by qualified buyers prior to occupancy of the 90th residential unit in Tract 5130.</p> <p>No less than six (6) of the substituted for sale units shall be located within the boundaries of the Moorpark Redevelopment Area.</p> <p>Comply with requirements for home inspection and completion of necessary repairs, including purchase of standard home warranty policy for a</p>	<p>This obligation may be met by a ratio of one and one-half (1-1/2) attached for sale units for each required detached single-family unit.</p> <p>No fees have been collected to date for affordable housing activities.</p>

NO.	REQUIREMENT	STATUS
	<p>three year period. No shake or wood shingle roofs shall be approved.</p> <p>Provide an HOA trust for HOA fees in excess of \$100.00.</p> <p>Comply with purchase price requirements per the agreement.</p> <p>Pay closing costs not to exceed six thousand dollars \$6,000.00</p>	
12.	<p>Pay Air Quality Fee in the amount of one thousand five hundred eighty-eight dollars (\$1,588.00) per residential unit, and for institutional uses at a rate calculated by the Community Development Department.</p>	<p>Beginning March 1, 2007, these fees will be adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the agreement. Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.</p>
13.	<p>Waiver of any density bonus rights that would increase the number of dwelling units approved to be constructed on the property.</p>	<p>Applicant has not requested density bonus units.</p>
14.	<p>Agreement to cast affirmative ballots for formation of one or more assessment districts for maintenance of parkway and median landscaping and street lighting, including but not limited to all water and electricity costs. Agreement to form property owners association(s) to provide landscape, street lighting and park (if necessary) open space land, trails drainage facilities maintenance and compliance with NPDES requirements.</p>	<p>Formation of a Landscape Maintenance District is in process.</p>
15.	<p>Payment of all City capital improvement and processing fees.</p>	<p>Developer is in compliance with all requirements at this time. Fund review ongoing.</p>
16.	<p>Payment of Los Angeles Avenue Area of Contribution (AOC) Fee.</p>	<p>Fees must be paid prior to issuance of Zoning Clearance for Building Permit. No Building Permits have been issued.</p>
17.	<p>Payment of seventy thousand dollars (\$70,000.00) to satisfy Mitigation Measures 2, 5, and 11 for open space acquisition and maintenance, and habitat restoration and preservation.</p>	<p>Must be paid prior to approval of first Final Map. The fee has not yet been paid.</p>
18.	<p>Street improvements for North Hills Parkway designed and constructed for a 50-year life.</p>	<p>To be included with project improvement plans.</p>

NO.	REQUIREMENT	STATUS
19.	Acquire property needed to improve and make improvements to Walnut Canyon Road consistent with Conditions of Approval for Tentative Tract 5130.	On April 6, 2011, City Council approved Modification No. 2 to Tract Map No. 5130, to change timing language on construction of roadway improvements to Walnut Canyon Road and overlaying of pavement on Wicks Road. Improvements must be completed to the satisfaction of City Engineer/Public Works Director, prior to issuance of a Certificate of Occupancy for the 1st dwelling unit or April 11, 2013, whichever comes first. Due to the recent acquisition of the project by City Ventures, and the short timeframe in which to comply with the timing of this condition, the new owner was not able to comply with the April 11, 2013 deadline. City Ventures understands that roadway improvements to Walnut Canyon Road and overlaying of the pavement on Wicks Road are requirements of conditions of approval of the project, and will comply with the conditions; and anticipates requesting an updated timeline for completion with a new Residential Planned Development, (RPD) Permit application, which they anticipate filing in April 2013.
20.	Agreement to pay any fees and payments pursuant to this Agreement without reservation.	Developer is in compliance with all requirements at this time.
21.	Agreement to comply with requirements for annual review of the Agreement including evaluation of Mitigation Monitoring Program.	To date, the applicant has complied with review requests and Mitigation Monitoring Program requirements.
22.	Install six-foot (6') to eight-foot (8') high decorative masonry wall and landscaping north of the right-of-way of proposed North Hills Parkway, subject to approval of Ventura County Waterworks District No. 1, Community Development Director and City Engineer.	To be installed prior to the first residential occupancy.
23.	Provide cash deposit for costs related to formation of Community Facilities District.	On September 15, 2004, Moorpark 150 LLC., submitted a \$100,000.00 cash deposit to cover the costs for the creation of the Community Facilities District.
24.	Agreement that any property to be acquired by eminent domain shall be at City's discretion and after compliance with all legal requirements.	No request for property to be acquired by eminent domain has been submitted to date.

All requirements of the Development Agreement will be considered in the City's review and approval process for all aspects of the development; including but not limited to, subsequent entitlement requests, public and private improvements, Final Maps, and building permits.

City Compliance with Terms of Agreement

The City's responsibilities are included in Section 7 of the agreement and include nine (9) specific provisions, as summarized below.

NO.	REQUIREMENT	STATUS
1.	Agreement to commit reasonable time and resources on expedited and parallel processing of application for subsequent applications.	To date, City has complied with any such requests.
2.	If requested, at the developer's cost, proceed to acquire easements or fee title to land in order to allow construction of required public improvements.	To date, no such request has been received.
3.	Authorization for the City Manager to sign an early grading permit.	No early grading permit has been requested to date.
4.	Agreement to process concurrently, whenever possible, all land use entitlements for the same property (so long as deemed complete).	To date, City has complied.
5.	Agreement that Park Fee required per section 6.7 meets obligation for park land dedication provisions of state law and local codes.	To date, City has complied.
6.	Agreement to commence proceedings for Community Facilities District formation and incur bonded indebtedness.	On September 21, 2005, the Honorable City Council approved the formation of a Community Facilities District for this project however, bonds have not been issued nor have taxes been levied in association with this district.
7.	Agreement to appoint affordable housing staff person to oversee the implementation of affordable housing requirements. Agreement to respond within thirty (30) days on acceptance or rejection of proposed affordable housing unit per subsection 6.11. Agreement that Developer may construct rather than purchase affordable housing units required per subsection 6.11.	The Redevelopment Manager oversees affordable housing requirements.
8.	Agreement to allow for a variation of five feet (5') maximum in the grades as shown on the Grading Plan exhibit, subject to approval of the Community Development Director/City Council that the overall design and visual quality would not be significantly affected.	Any such requests would have to be processed as Permit Adjustments subject to the approval of the Community Development Director.
9.	Agreement to facilitate reimbursement to developer of any costs incurred that may be subject to partial reimbursement from other developers.	To date, no such request has been received.

Evaluation of Good Faith Compliance

Based on a review of the Development Agreement Annual Review Application and the status of the project, the Community Development Director has determined, on the basis of substantial evidence that CV Urban Land, LLC, (DBA City Ventures), has, to date, complied in good faith with the terms and conditions of the agreement, except not meeting the timing deadline of conditions of approval for improvements to Walnut Canyon Road and Wicks Road, as discussed in the report.

FISCAL IMPACT

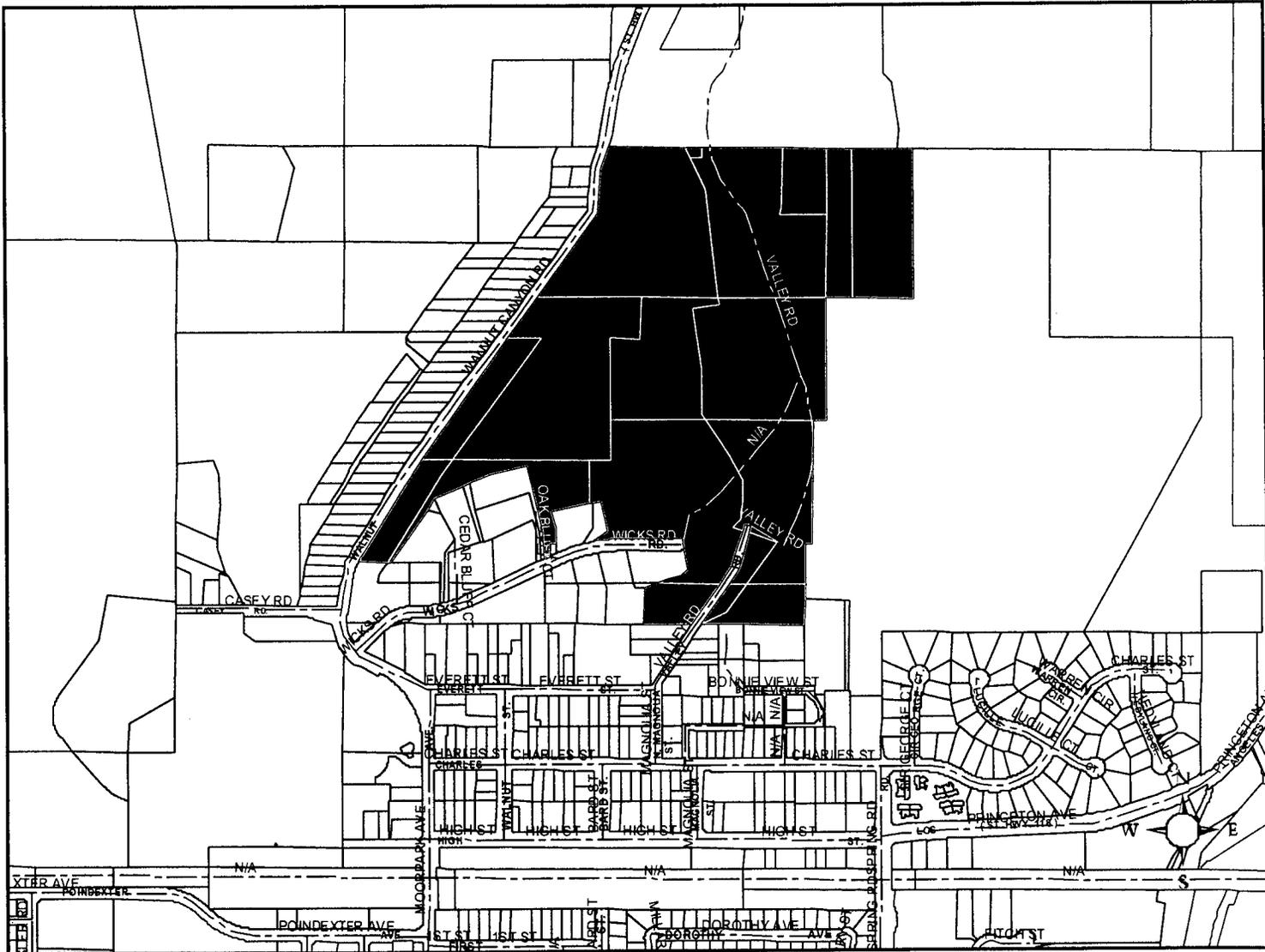
None.

STAFF RECOMMENDATION

1. Accept the Community Development Director's report and recommendation, on the basis of substantial evidence, that CV Urban Land, LLC, (DBA City Ventures), has complied in good faith with the terms and conditions of the agreement.
2. Deem the annual review process complete.

ATTACHMENTS:

1. Location Map
2. Site Map
3. Narrative by Bill McReynolds, of CV Urban Land, LLC, (DBA City Ventures).



↑
NORTH

**LOCATION MAP
CC ATTACHMENT 1**

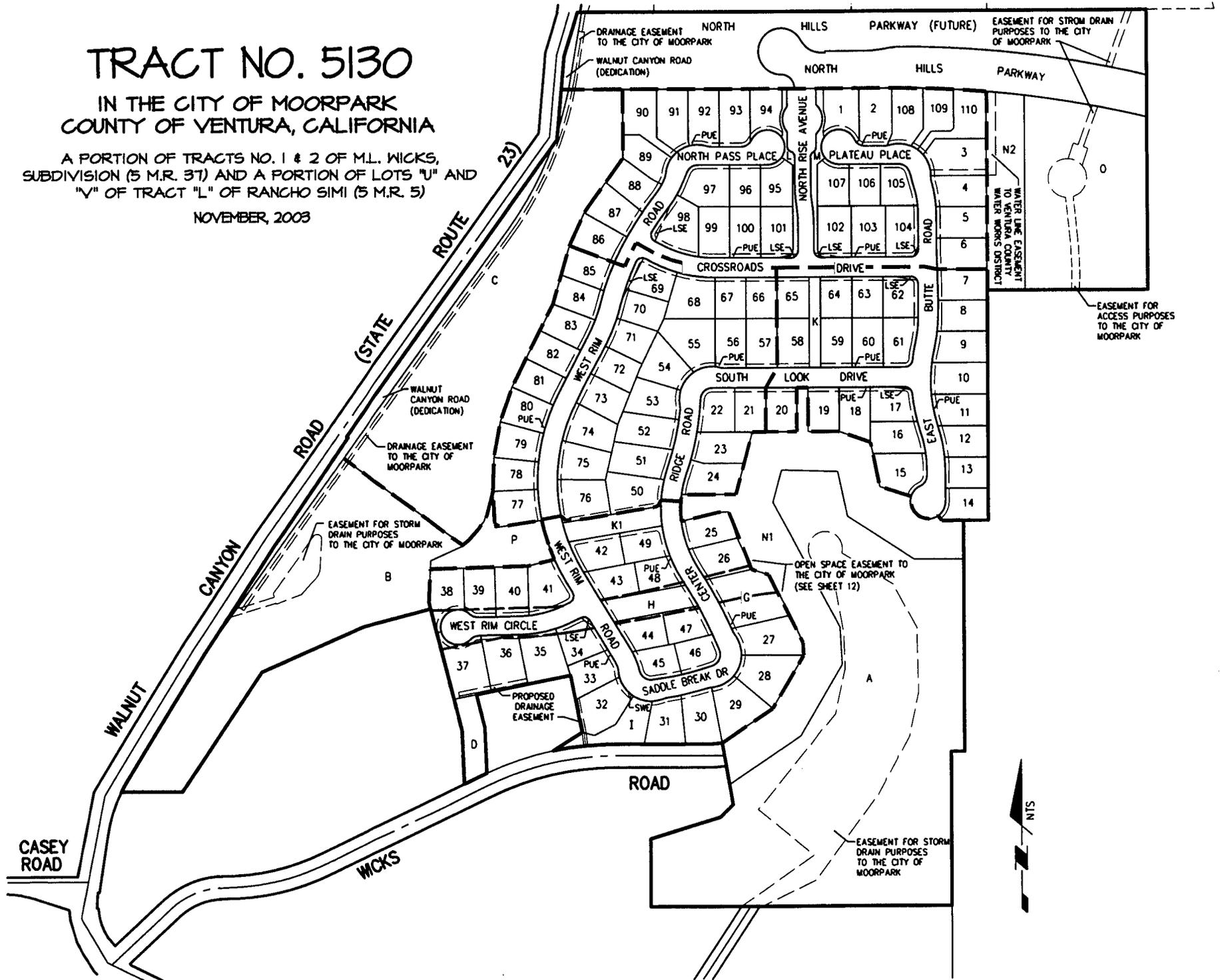
TRACT NO. 5130

IN THE CITY OF MOORPARK
COUNTY OF VENTURA, CALIFORNIA

A PORTION OF TRACTS NO. 1 & 2 OF M.L. WICKS,
SUBDIVISION (5 M.R. 37) AND A PORTION OF LOTS "U" AND
"V" OF TRACT "L" OF RANCHO SIMI (5 M.R. 5)

NOVEMBER, 2003

CC ATTACHMENT 2





City Ventures

March 7, 2013

Joseph Vacca, Principal Planner
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021

Re: TTM 5130 Development Agreement

Dear Mr. Vacca:

On behalf of CV Urban Land, LLC (DBA, City Ventures) the new owners of the Moorpark at Vistas property, the following is a project update in accordance with the City's annual review process:

- City Ventures entered into Purchase and Sale Agreement with Armed Forces Bank of Kansas City, Missouri on Wednesday, December 12, 2012.
- The Residential Planned Development (RPD) No. 1998-02 for the Vistas at Moorpark expired on December 17, 2013.
- City Ventures closed escrow on the Moorpark at Vistas on Friday, December 21, 2012.
- City Ventures met with David Klotzle, Public Works Director/City Engineer on January 9, 2013 to determine what needs to be done to complete the improvement plans and final map recordation.
- City Ventures met with Caltrans on January 29, 2013 to discuss how to re-activate Caltrans permits for work to Walnut Canyon Road.
- On February 20, 2013 City Ventures and William Hezmalhalch Architects met with Joseph Vacca and David Bobardt to discuss the previous RPD and creating a new RPD.

- City Ventures contracted with Jensen Design & Surveying (Civil Engineer) to complete improvement plans and final map. The 10th submittal of improvement plans will occur on or before March 29, 2013. Final Map will be submitted to Ventura County and the City of Moorpark on April 5, 2013. It is believed that these will be the final submittals for both the Improvement Plans and Final Map.
- City Ventures contracted with Glenn Lukos Associates to re-activate United States Army Corp of Engineers, California Regional Water Control Board and California Department of Fish and Wildlife jurisdictional permits.
- City Ventures plans on submitting conceptual architecture to the City of Moorpark for review, using the previous RPD as a detailed guideline, on or before April 26, 2013. The design of the RPD will be a collaborative effort between the City of Moorpark and City Ventures to ensure compatibility with the previously approved design and that the best community is brought forward for review by the Planning Commission and City Council during the summer of 2013.

Based on our new efforts at seeking approval and re-activation of the expired Caltrans and jurisdictional permits you will find that we are in compliance with all conditions set forth in the Development Agreement. Based on the fact that the Improvement Plans were not completed and that Caltrans permits expired, City Ventures will not be able to comply with Condition of Approval regarding that the improvements to Walnut Canyon Road (Caltrans Right-of-Way) are started before April 11, 2013. The Vesting Tentative Tract Map is set to expire on December 17, 2013. City Ventures' goal is to have the Final Map recorded in August, 2013 before the Vesting Tentative Tract Map expires. Along with the RPD City Ventures will be requesting an alternative date to the start the required that the start of the Caltrans work be extended to September 30, 2014.

Please feel free to contact me if you have any questions or concerns.

Sincerely,



Bill McReynolds

Vice President of Development