

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Joseph Fiss, Planning Manager 

DATE: April 30, 2015 (CC Meeting of 5/6/2015)

SUBJECT: Consider 2014 and 2015 Reports of Annual Development Agreement (DA 2003-01) Review, Established in Connection with Ivy Lane (Tract No. 5425), Located on the South Side of Los Angeles Avenue East of Fremont Street, on the Application of Shea Homes

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 April 20, 2005, the Moorpark City Council adopted Ordinance No. 313 (effective May 20, 2005), approving Development Agreement 2003-01 between the City of Moorpark and Shea Homes, Limited Partnership (Shea). The Agreement was approved in connection with the Tract No. 5425/RPD No. 2003-02, a 102 unit single-family residential development, located south of Los Angeles Avenue, east of Fremont Street. Due to site constraints, the ultimate unit count of the RPD and Final Map was reduced to 99 units. The Agreement remains in full force and effect for twenty (20) years from the operative date of the Agreement (until May 20, 2025), or until the close of escrow on the initial sale of the last Affordable Housing Unit, whichever occurs last.

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. Shea has submitted the necessary application form, related materials, and fee/deposits for the 2014 and 2015 annual reviews. The Community Development Director has reviewed the submitted information and the project status and provides the following report.

DISCUSSION

Current Project Status

During the past year, the following have been completed:

- Approval of the revised LMD landscape plans for Los Angeles Avenue.
- Issuance of Caltrans permit rider for the revised LMD landscape plans for Los Angeles Avenue.
- License entry agreement for Los Angeles Avenue and Fremont Street improvement work entered into between Shea Homes and the City of Moorpark.
- Approval of the updated architectural plans (updated to the 2013 California Building Code).
- Approval of the processing of the sequential lot line adjustments to give Fremont Street property owners 5' to 10' of Shea property.
- Payment of Development Agreement fees for Phases 2 through 12 (80 units).
- Issuance of building permits for Phases 2 through 12 (80 units).
- Federal Emergency Management Agency (FEMA) issuance of Letter of Map Revisions based on Fill (LOMR-F) for the models and Phases 1 through 9.
- Annexation of the Ivy Lane units (99 units) into the Canterbury Lane Community Association.
- City release of the early grading agreement bonds.
- City return of the interim Majestic Court knuckle bond cash deposit.

Shea is currently working on the following:

- Public Works/Engineering approval for cap paving of Fremont Street.
- Public Works/Engineering approval for the Parcel X detention basin improvement work.
- Sales contracts and/or close of escrow for 9 affordable housing units.
- Shea Homes is working on finishing the Los Angeles Avenue improvements.

Site Development Progress:

- Mass grading is 100% complete.
- Storm drain system is installed.
- Sewer system is installed.
- Water system is installed.
- Perimeter retaining walls are installed.
- Los Angeles Avenue sound wall across Fremont Street is installed.
- Paving is installed.
- Curb and gutter is installed.
- Entry monument is installed.
- Los Angeles Avenue LMD landscaping is complete.
- Los Angeles Avenue improvements are 95% complete.

- The Fremont Street improvements are 95% complete (cap paving pending City approval) and Fremont Street has been closed at Los Angeles Avenue.
- Certificates of Occupancy have been issued for the Models and Phases 1, 3, 4, 5, and 6 units (37 units). 28 of these units are sold and owner occupied. 7 affordable units are not sold/have not closed escrow.
- Overhead utilities to the affected Fremont residents have been converted to underground and the poles have been removed.
- Construction of the Phases 2, 7, 8, 9, and 10 units are underway (33 units).
- Final landscape certificates of completion issued for Phases 1, 3, and 4.

Occupancy has been granted for 37 units. Permits have been issued for 53 units. Phase 13 and 14 build out (9 units) is remaining.

Developer Compliance with Terms of Agreement

The developer's responsibilities are included in Section 6 of the Development Agreement and include twenty (20) 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 this Agreement, Project Approvals, all Subsequent Approvals the Mitigation Monitoring and Reporting Program of the Mitigated Negative Declaration and any subsequent or supplemental environmental actions.	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.	Granted at Final Map approval.
3.	Payment of "Development Fees" of Eight Thousand Eight Hundred Ninety-Five Dollars (\$8,895.00) per residential unit and Forty Thousand Twenty-Eight Dollars (\$40,028.00) per gross acre of institutional land.	These fees are adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the Agreement. Fees are collected prior to issuance of Zoning Clearances for Building Permits. Fees have been collected for 90 units, including two model homes.
4.	Payment of "Citywide Traffic Fees" of Five Thousand Seventy-Five Dollars (\$5,075.00) per residential unit, and Twenty-Two Thousand, Eight Hundred Thirty-Eight Dollars (\$22,838.00) per acre of institutional land.	These fees are adjusted annually (until paid) using the State Highway Bid Price Index in accordance with the Agreement. Fees are collected prior to issuance of Zoning Clearances for Building Permits. Fees have been collected for 90 units, including two model homes.

NO.	REQUIREMENT	STATUS
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 (\$7,070.00) per gross acre of institutional land.	These fees are adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the Agreement. Fees are collected prior to issuance of Zoning Clearances for Building Permits. Fees have been collected for 90 units, including two model homes.
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 Eight Thousand Two Hundred Forty Dollars (\$8,240.00) for each residential dwelling unit and Fifty Cents (\$.50) per square foot of each building used for institutional purposes.	These fees are adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the Agreement. Fees are collected prior to issuance of Zoning Clearances for Building Permits. Fees have been collected for 90 units, including two model homes.
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. At the present time, no connection points exist within the vicinity of the project.
9.	<p>This section was amended by the City Council on October 16, 2013 as follows:</p> <p>Developer shall provide eighteen (18) three (3) bedroom and two bath single family attached units with a minimum of 1,600 square feet to be sold to buyers who meet the criteria for low income (80 percent or less of median income. Developer shall also pay a two hundred fifty thousand dollars (\$250,000.00) in-lieu fee to satisfy the requirement for providing moderate income units the Project.</p> <p>The units shall include amenities as specified in the Agreement.</p> <p>Developer and City may upon mutual agreement reduce the number of required affordable units from eighteen (18) to sixteen (16).</p> <p>Prior to recordation of the first final Tract Map for this Project, execute a Purchase and Sale Agreement which further sets forth the Developer's obligations of this subsection and City's obligations per Subsection 7.7</p> <p>Deposit \$120.00 for each dollar or portion thereof of the monthly HOA fees that are in excess of \$100.00 into a City administered trust to assist with future HOA fees for each affected affordable</p>	<p>Sales contracts and/or close of escrow for 9 affordable housing units as follows:</p> <ul style="list-style-type: none"> • Two affordable units have closed escrow • Two affordable units are pending closing. • Three affordable units are in escrow and under construction. • Two affordable units are under construction but not yet assigned buyers.

NO.	REQUIREMENT	STATUS
	unit. Comply with purchase price requirements per the Agreement. Pay closing costs not to exceed six-thousand dollars \$6,000.	
10.	Pay Air Quality Fee in the amount of One Thousand, Six Hundred, and Thirty-Six Dollars (\$1,636.00) per residential unit, and for institutional uses at a rate calculated by the Community Development Department.	These fees are adjusted annually (until paid) using the Consumer Price Index (CPI) in accordance with the Agreement. Fees are collected prior to issuance of Zoning Clearances for Building Permits. Fees have been paid for 90 units, including two model homes.
11.	Waiver of any density bonus rights that would increase the number of dwelling units approved to be constructed on the property.	Applicant has not requested density bonus units.
12.	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 owner's association(s) to provide landscape, street lighting and park (if necessary) open space land, trails drainage facilities maintenance and compliance with NPDES requirements.	A landscape maintenance district has been established for the project.
13.	Payment of all City capital improvement and processing fees.	Developer is in compliance with all requirements at this time. Fund review ongoing.
14.	Payment of Los Angeles Avenue Area of Contribution (AOC) Fee.	Fees are paid prior to issuance of Zoning Clearances for Building Permits. Fees have been paid for 90 units, including two model homes.
15.	Provide for a 50-year life, as determined by the City Engineer, for all public street improvements.	To be part of the Street Improvement Plans to be reviewed and approved by the City Engineer.
16.	Agreement to pay any fees and payments pursuant to this Agreement without reservation.	Developer is in compliance with all requirements at this time.
17.	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.
18.	Provide deposits for the proceedings and related services for possible formation of a District as referenced in Subsection 7.6	A landscape maintenance district has been established for the project.
19.	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.
20.	In the event referenced indices are discontinued or revised, successor indices shall be used.	To date, referenced indices remain effective.

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 eight (8) 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.	An early grading permit was issued on 10/7/2012.
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.	To date no Community Facilities District has been required.
7.	Agreement to appoint affordable housing staff person to oversee the implementation of affordable housing requirements.	The Economic Development and Housing Manager in the Community Development Department oversees affordable housing requirements.
8.	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.

Adjusted Development Agreement Fees

As mentioned above, the Development Agreement calls for adjustment of the various fees at different times. Currently, the adjusted fees are as follows:

DA				
Section	Fee Description		Current Fee	Base Fee
6.3	Development Fee		\$9,021.29	\$8,895.00
	(Indexes 1 year after first building permit)			
6.4	Citywide Traffic Fee		\$8,955.25	\$5,075.00
	Indexing Begins January 1, 2006 Caltrans Annual Index *			

Section	Fee Description	Current Fee	Base Fee
6.5	Community Services Fee	\$2,612.06	\$2,233.00
	Indexing begins January 1, 2008 CPI Index (August to August) **		
6.7	Park Fee		
	(Indexes 1 year after first building permit)	\$8,356.99	\$8,240.00
6.10	Air Quality Fee	\$1,929.46	\$1,636.00
	Indexing begins March 1, 2007 CPI Index (December to December) **		
6.14	Los Angeles Avenue Area of Contribution Fee	\$8,760.00	\$7,807.00
	(Fixed Fee - Current Fee Amount)		

Evaluation of Good Faith Compliance

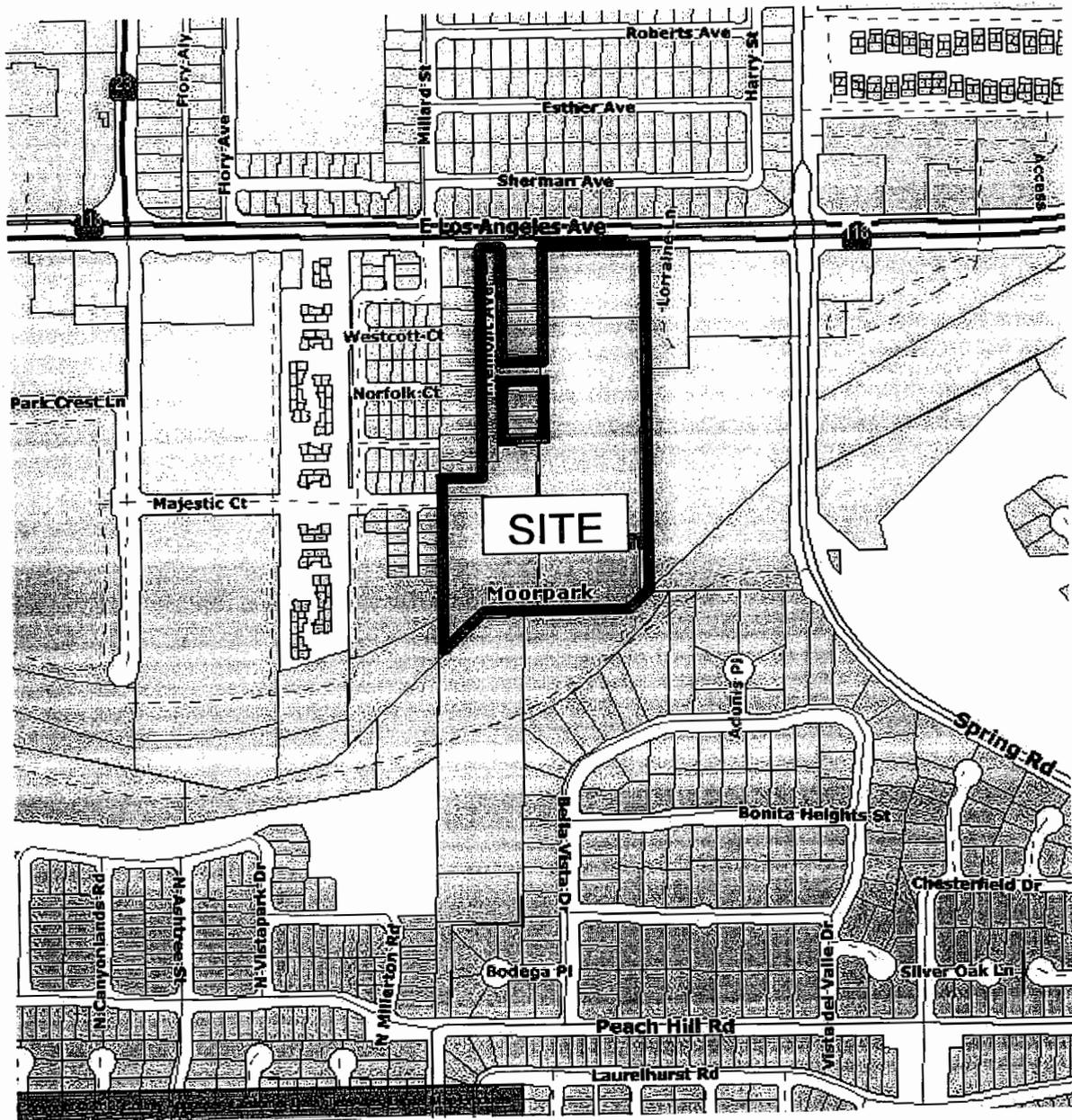
Based on a review of the Development Agreement Annual Review Application and the status of the project, the Community Development Director has determined, on the basis of substantial evidence that Shea Homes has, to date, complied in good faith with the terms and conditions of the Agreement.

STAFF RECOMMENDATION

1. Accept the Community Development Director's Report and recommendation, on the basis of substantial evidence, that Shea Homes, Limited Partnership has complied in good faith with the terms and conditions of the Agreement.
2. Deem the annual review processes for 2014 and 2015 complete.

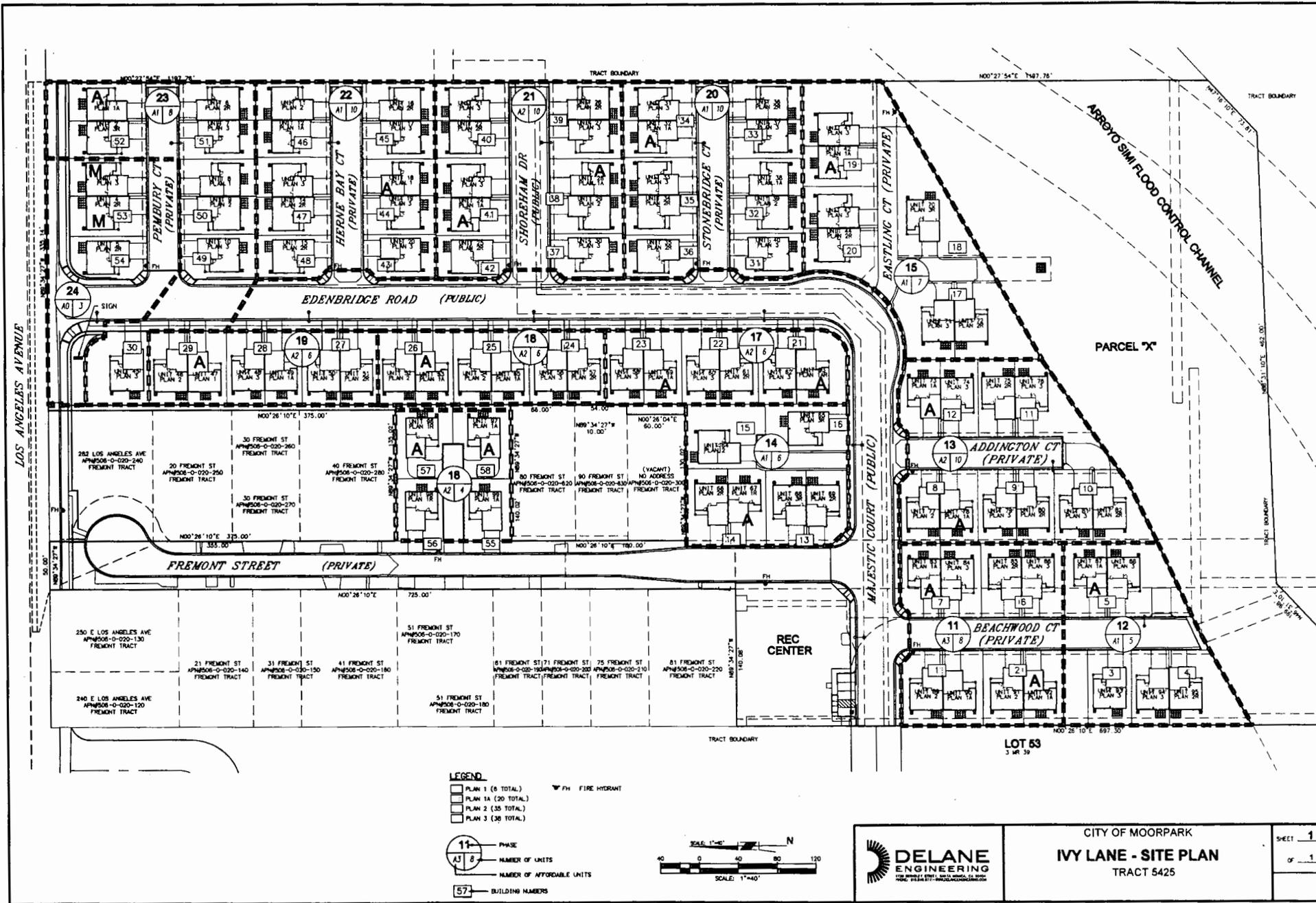
ATTACHMENTS:

1. Location Map
2. Site Map
3. Narrative prepared by Shea Homes



LOCATION MAP

CC ATTACHMENT 2



SheaHomes

Caring since 1881

April 16, 2015

Mr. Joseph Fiss
Planning Manager
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021

RE: Tract No. 5425
Development Agreement Annual Review Application

Dear Mr. Fiss:

As part of the annual review and per the requirements of the Development Agreement entered into on May 23, 2005 between Shea Homes and the City of Moorpark, this letter serves as a narrative summary on how Shea Homes complied with the agreement during the last year.

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

CC ATTACHMENT 3

- Sales contracts and/or close of escrow for the affordable housing units in Phases 1, 3, 4, 5, and 6 (7 units).
- Shea Homes is working on finishing the Los Angeles Avenue improvements.

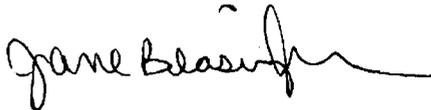
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Shea Homes has acted and continues to act in good faith compliance with the Development Agreement.

If you have any questions, I may be contacted at 949-292-4977. Thank you.

Sincerely,
Shea Homes, LP



Jane Blasingham, PMP
Community Development Manager

Attachments