

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Yugal K. Lall, City Engineer/Public Works Director 

DATE: July 13, 2007 (CC Meeting of 07/18/07)

SUBJECT: Consider Southern California Edison's Objection to Recordation of Final Map 5147 (AB Properties, Applicant)

DISCUSSION

Tentative Tract 5147 (AB Properties, Applicant), a 34.5 acre industrial subdivision development project located approximately 1,300 feet west of Gabbert Road, north of Union Pacific Railroad Right-of-Way, was approved by City Council on March 15, 2000. It created 17 industrial lots, 1 lot for conservation easement, and 1 lot for landscaping purposes. The final map was approved at the Council's March 21, 2007, regular meeting. Following that meeting, recordation was delayed pertaining to finalizing a required easement.

Under Public Comments at the City Council meeting of June 6, 2007, Southern California Edison (SCE) voiced opposition to the recordation of the final map under the Subdivision Map Act, Government Code Section 66436 (a)(3)(A)(ii). SCE has identified that as a public utility owning a record title interest in the property, the property owner was required to provide SCE with legal notice prior to scheduling the final map for approval, which SCE has stated did not occur. Consistent with Government Code Section 66436(a)(3)(A)(v), after receipt of SCE's objection, a public hearing was noticed for July 18, 2007. On July 12, 2007, the City received a letter from SCE requesting that any public hearing be scheduled on a date beyond the standard thirty-day period to allow the parties (SCE and AB Properties) additional time to continue discussions. The developer is requesting an expeditious decision, since loan financing is tied to final map recordation, and grading has already begun. Following is an excerpt from the applicable Government Code section that applies to scheduling and conducting the public hearing:

(v) If the public entity or utility files an objection to the determination of the legislative body or advisory agency that the division and development of the property will not unreasonably interfere with the exercise of its right-of-way or easement, the legislative body or advisory agency shall set the matter for public

hearing to be held not less than 10 nor more than 30 days of receipt of the objection. At the hearing, the public entity or public utility shall present evidence in support of its position that the division and development of the property will unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement.

(vi) If the legislative body or advisory agency finds, following the hearing, that the development and division will in fact unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement, it shall set forth those conditions whereby the unreasonable interference will be eliminated and upon compliance with those conditions by the subdivider, the final map may be recorded with or without the signature of the objector. If the legislative body or advisory agency finds that the development and division will in fact not unreasonably interfere with the free and complete exercise of the objector's right-of-way or easement, the final map may be recorded without the signature of the objector, notwithstanding the objections.

STAFF RECOMMENDATION

Open the public hearing and direct staff as deemed appropriate.

Attachment: Letter from Edison dated July 10, 2007

July 10, 2007

VIA CERTIFIED MAIL

City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021

Re: California Government Code Section 66436 Request for
Hearing - Final Tract Map No. 5147

Dear Sirs and Madams:

On March 21, 2007, the City of Moorpark ("Moorpark") City Council considered and approved Final Tract Map No. 5147 ("TM 5147"). This letter serves as Southern California Edison Company's ("SCE") objection to any recording of TM 5147 in its present version, pursuant to California Government Code ("Govt. Code") § 66436(a)(3)(A)(ii).

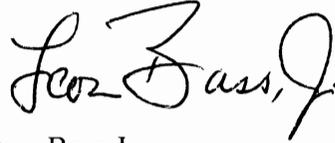
SCE owns fee and easement properties adjacent to and/or within the subdivided real property that is the subject of TM 5147. However, the Moorpark City Council approved TM 5147 without SCE's signature. In such a case, prior to recordation, Govt. Code § 66436(a)(3)(A)(i) requires the subdivider (i.e., A-B Properties) to send SCE, as a public utility owning a record title interest in the property, a sketch of the proposed final map together with a copy of Govt. Code § 66436. SCE understands that real estate developer A-B Properties submitted TM 5147 to the city clerk for recordation. SCE then notified A-B Properties of the requirements under Govt. Code § 66436(a)(3)(A)(i). By letter dated June 8, 2007, A-B Properties provided SCE with a copy of TM 5147 and Govt. Code § 66436.

SCE is concerned that the development of the property in the manner set forth in TM 5147 may unreasonably interfere with the exercise of its property rights. SCE and A-B Properties are engaged in discussions to address the concerns and interests of both parties. However, to protect its property interests and to preserve its right to a hearing under Govt. Code § 66436(a)(3)(A)(v), SCE hereby submits its objection to TM 5147. Given that SCE received the copy of TM 5147 from A-B Properties on June 11, 2007, this objection to the Moorpark City Council's determination and request for a hearing is timely. Because SCE and A-B Properties are currently working toward a

resolution of this matter, SCE asks that any public hearing on TM 5147 be scheduled on a date beyond the standard thirty-day period to allow the parties additional time to continue their discussions. SCE hereby waives time to allow for such an extension.

Thank you for your consideration of this letter.

Very truly yours,

A handwritten signature in black ink that reads "Leon Bass, Jr." The signature is written in a cursive style with a large, stylized "L" and "B".

Leon Bass Jr.

cc: Walker A. Matthews, III
Linda Anabtawi
Paula Ames-Axt
Robert Gariss
Paul D. Burns

LAW-#1380932

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