

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Barry K. Hogan, Deputy City Manager *JKH*
David A. Bobardt, Planning Director

DATE: July 9, 2007 (CC Meeting of 7/18/2007)

SUBJECT: Consider General Plan Amendment No. 2004-05, Zone Change No. 2004-04, Development Agreement No. 2004-03 and Residential Planned Development No. 2004-06 for a 200-Unit Apartment Project on Approximately 10.57 Acres with 8.84 Acres of Public/Institutional Land South of Casey Road and West of Walnut Canyon Road and Moorpark Avenue on the Application of Essex Portfolio, L.P.

BACKGROUND

On September 24, 2004, applications for a General Plan Amendment, Zone Change, Development Agreement and Residential Planned Development Permit were submitted by Essex Portfolio, L.P., for the construction of a 200-unit apartment complex on 10.57 acres with access from Casey Road, just east of the Moorpark Boys and Girls Club Gymnasium. The proposed project includes an additional 8.84 acres of land to the south that, as part of the terms of the development agreement, would be sold to the City for future public/institutional use. On June 26, 2007, the Planning Commission held a public hearing on these entitlements, and adopted a resolution recommending adoption of a Mitigated Negative Declaration and approval of the project, subject to conditions. A copy of the staff report and not-yet-signed Planning Commission resolution are attached.

DISCUSSION

At the Planning Commission meeting, staff noted that the applicant was concerned with the initial recommendation of 2.17 parking spaces per unit (based on a count of spaces on the site plan) and requested more flexibility. The commission and staff concurred that the 2.13 spaces per unit would be sufficient, as this is the ratio used for the Waterstone Apartments. The draft Development Agreement has been amended to reflect the 2.13 parking spaces per unit. The only public speaker at the Planning

Commission public hearing other than the applicant expressed support for the project for its provision of affordable housing.

Other issues discussed by the Planning Commission focused on architectural details and ingress/egress on Casey Road. The commission recommended that the emergency access to High Street be designed so that it can be converted to permanent access at the City's request if determined necessary. Design concerns of the commission focused on the leasing office (for which plans were included after the staff report to the Planning Commission was completed), the pool size and location, and the availability of parking in the vicinity of the pool.

The site dimensions and topography make it difficult to provide an ideal pool location. Some residents at the southern edge of the property may choose to drive to the pool because of its distance and elevation difference from these units. Parking is proposed in front of the pool. Since parking spaces must be assigned (Special Condition No. 7), staff will make sure that sufficient spaces in the pool vicinity are reserved for the pool. The proposed conditions have been amended to review and approve the pool size by staff as appropriate for a complex of this size. Other recommendations of the Planning Commission on project design have been incorporated into the conditions of approval, attached to the draft resolution for approval of the Residential Development Permit. Additionally, there has been some language clarification to special condition 3 regarding the gates on the temporary access and an addition to special condition 13 to add in timing for the pool to be complete and ready for use in the RPD resolution. In the Development Agreement there has been a clarification to the Cable TV section 6.26 to recognize the latest changes in state law.

The Affordable Housing Agreement was planned to be a part of the Development Agreement. It will now be a stand alone agreement. Staff and the applicant are still working on the final proposed language for the Affordable Housing Agreement. It is currently scheduled for Council consideration and action on August 1, 2007. It should be approved at the same time as the adoption of the Zone Change and Development Agreement ordinances. If the Council approves the project and related actions on July 18, 2007, and if the Affordable Housing Agreement is ready for Council consideration, adoption of the Zone Change and the Development Agreement ordinances will be scheduled for August 1, 2007.

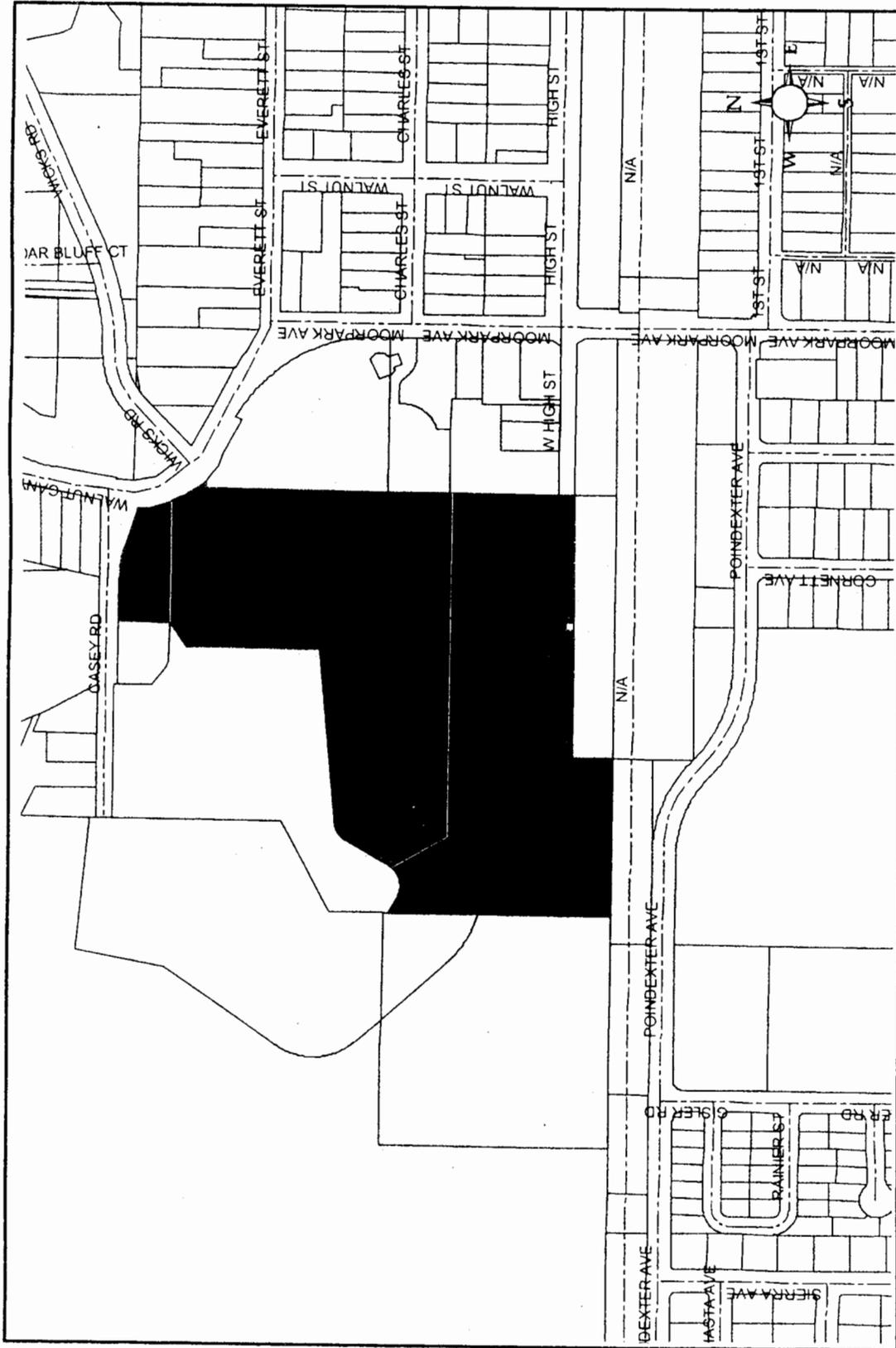
STAFF RECOMMENDATION

1. Open the public hearing, take public testimony, and close the public hearing.
2. Adopt Resolution No. 2007-____ adopting a Mitigated Negative Declaration and approving General Plan Amendment No. 2004-05.
3. Introduce, for first reading, Ordinance No. ____ approving Zone Change No. 2004-04, and set August 1, 2007, for second reading.

4. Introduce, for first reading, Ordinance No. ____ to adopt the Development Agreement No. 2004-03, and set August 1, 2007, for second reading;
5. Adopt Resolution No. 2007-____ approving Residential Planned Development Permit No. 2004-06, subject to Conditions of Approval.

ATTACHMENTS:

1. Location Map
2. Project Exhibits (Provided under Separate Cover)
 - A. Grading Plan
 - B. Building Plans (including Site Plan, Floor Plans, and Elevations)
 - C. Conceptual Landscape Plan
3. Planning Commission, June 26, 2007, Agenda Report (without attachments)
4. Planning Commission Resolution PC-2007-518 (without attachments)
5. Draft Resolution No. 2007-____ Adopting a Mitigated Negative Declaration and Approving General Plan Amendment No. 2004-05.
6. Draft Ordinance No. ____ Approving Zone Change No. 2004-04.
7. Draft Ordinance No. ____ Adopting Development Agreement No. 2004-03.
8. Draft Resolution No. 2007-____ Approving Residential Planned Development Permit No. 2004-06.



**ESSEX MOORPARK APARTMENTS
GPA 2004-05, ZC 2004-04, RPD 2004-06**

**Project Exhibits
(Provided Under Separate Cover)**

- A. Grading Plan
- B. Building Plans (including Site Plan, Floor Plans and Elevations)
- C. Conceptual Landscape Plan

**MOORPARK PLANNING COMMISSION
AGENDA REPORT**

TO: Honorable Planning Commission

FROM: Barry K. Hogan, Community Development Director
Prepared By: David A. Bobardt, Planning Manager 

DATE: June 7, 2007 (PC Meeting of 6/26/2007)

SUBJECT: Consider General Plan Amendment No. 2004-05, Zone Change No. 2004-04, Development Agreement No. 2004-03 and Residential Planned Development No. 2004-06 for a 200-Unit Apartment Project on Approximately 10.57 Acres with 8.84 Acres of Public/Institutional Land South of Casey Road and West of Walnut Canyon Road and Moorpark Avenue on the Application of Essex Portfolio, L.P.

BACKGROUND

On September 24, 2004, applications for a General Plan Amendment, Zone Change, Development Agreement and Residential Planned Development Permit were submitted by Essex Portfolio, L.P., for the construction of a 200-unit apartment complex on 10.57 acres with access from Casey Road, just east of the Moorpark Boys and Girls Club Gymnasium. The proposed project includes an additional 8.84 acres of land to the south that, as part of the terms of the development agreement, would be sold to the City for future public/institutional use. On June 28, 2005, the Planning Commission opened a public hearing for these entitlements with the exception of the Development Agreement. Staff analysis of the project was not presented at that meeting as the applicant and staff had not resolved all project issues related to the Development Agreement. Without resolution of project issues, the Planning Commission continued the agenda item several times until January 24, 2006, when the public hearing was closed and the item was taken off calendar. No speakers addressed the commission on the project at that time. The outstanding issues have since been resolved for the project review to proceed. On June 6, 2007, the City Council set Planning Commission and City Council public hearings on the Development Agreement for June 26, 2007 and July 18, 2007, respectively. This public hearing agenda item has now been re-advertised and re-noticed with the inclusion of the Development Agreement.

DISCUSSION

Project Setting

Existing Site Conditions:

The project site is on land that was part of the former Moorpark High School athletic fields. This land has not been maintained and is mostly covered with weeds. The southern portion of the site has been used as a fill site, primarily for earth material imported from the Las Lajas Debris Basin in Simi Valley. In addition, a small portion of the site along Casey Road is currently occupied by the Moorpark Boys and Girls Club as part of its facilities.

Previous Applications:

No previous applications are on file for this project site.

GENERAL PLAN/ZONING			
Direction	General Plan	Zoning	Land Use
Site	Specific Plan 9 (School Overlay) and Public/Institutional	Rural Exclusive	Portion of Boys and Girls Club, Vacant Land (Former High School Athletic Fields)
North	Medium Density Residential	Rural Exclusive	Single-Family Homes and Vacant Land
South	School, General Commercial, and Light Industrial	Rural Exclusive and Limited Industrial	Vacant Land and Railroad Right-of-Way
East	Public/Institutional and General Commercial	Institutional and Old Town Commercial	City Hall, Active Adult Center, Library, Vacant Land
West	Specific Plan 9 (School Overlay), Specific Plan 1 (Agriculture Overlay)	Rural Exclusive, Agricultural Exclusive	Boys and Girls Club Gymnasium, Walnut Canyon School, Vacant Land

General Plan and Zoning Consistency:

The 1992 Land Use Element calls for a specific plan with up to 80 housing units on the entire 24.8-acre former high school site, including most of the project site and the Walnut Canyon School site (developed after adoption of the General Plan), but excluding the land sold by the school district to the Moorpark Boys and Girls Club. The General Plan allows the specific plan to increase the density up to 120 housing units on the site if the Council determines that the proposed development provides substantial public benefit to the community. Without a specific plan, the Land Use Element overlay designation for this portion of the site is for school development. The General Plan designation for the Moorpark Boys and Girls Club portion of the site is for public/institutional uses. The zoning

for the entire site is Rural Exclusive, which allows single-family homes on minimum 10,000 square-foot lots. The project, as proposed, does not comply with the provisions of the existing General Plan land use designation and zoning for the site. The applicant is seeking amendments to the General Plan and zoning as described below.

Project Summary

General Plan Amendment No. 2004-05:

The applicant is requesting a General Plan Amendment for the site to be designated for very high density residential uses (VH). This category would allow up to 15 units per acre of market-rate housing, or up to 20 units per acre when affordable housing is provided. The proposed project density is 18.92 units per acre. The applicant is proposing that 40 or twenty (20%) percent of the units be reserved for affordable to very low and low income households, with an additional 10 units to be reserved for affordable to moderate income households, if bond financing will be used. A copy of the proposed General Plan Amendment map is attached to the draft resolution

Zone Change No. 2004-04:

The applicant is requesting a zone change to Residential Planned Development at nineteen units per acre (RPD – 19.0 u). A copy of the proposed zone change map is attached to the draft resolution. General Plan and zoning issues are addressed in the analysis section.

Development Agreement No. 2004-03:

A Development Agreement between the City and the developer of this property is proposed as part of this project (attached). A Development Agreement Ad-Hoc Committee (Mayor Hunter and former Councilmember Harper) met with representatives from Essex Portfolio, L.P. (applicant) and staff on numerous occasions to discuss the terms of the agreement. On February 23, 2006, the Committee finalized the negotiations on the substantive points of the attached draft development agreement. Staff and the applicant then worked on the language in the agreement. On June 6, 2007, the City Council considered the recommendation of its Ad Hoc Committee and directed staff to advertise a public hearing on the Development Agreement before the Planning Commission on June 26, 2007 and before the City Council on July 18, 2007.

As with all of the City's development agreements, a standard format has been utilized, making slight adjustments to suit the particular project. Development Agreement No. 2004-03 is patterned after the Development Agreement approved for the Shea Homes development project. Details of the developer's obligations are in Section 6 and the City's obligations are in Section 7. This Development Agreement is fairly consistent with the Development Agreements that have been named above. One aspect unique to this Development Agreement is the affordable housing provision. The following table details the units allocated to meet the affordable housing requirement. This affordable housing will substantially help the City in achieving its housing goals in the next Housing Element cycle.

Affordable Housing Per Development Agreement No. 2004-03				
Affordability	Unit Type			
	1 Bdrm 1 Bath	2 Bdrm 1 Bath	2 Bdrm 2 Bath	3 Bdrm 2 Bath
Low Income (24)	11	4	8	1
Very Low Income (16)	8	2	5	1
TOTAL without Bond Financing (40)	19	6	13	2
Additional Affordable Units Provided if Bond Financing is Utilized				
Moderate Income (10)		1	4	5
TOTAL with Bond Financing (50)	19	7	17	7

In addition, 4 of the 19 one-bedroom one bath affordable low and very low income units will be handicap accessible and reserved for and occupied by persons eligible for such accommodations, to the extent there are qualified tenants ready to occupy these units.

Residential Planned Development Permit No. 2004-06:

A Residential Planned Development Permit is requested for the 200-unit apartment project, with a leasing office and recreation building. The unit mix includes 94 one-bedroom units, 98 two-bedroom units, and 8 three-bedroom units in four 20-unit buildings and five 24-unit buildings, as detailed in the following table.

Bldg. Type	No. of Bldgs.	Type of Apartment Units	Range of Apartment Sizes (Sq. Ft.)	No. of Units Per Building	Total No. of Units
1	4	1 Bedroom – 1 Bath	643-795	11	44
		2 Bedroom – 1 Bath	906	2	8
		2 Bedroom – 2 Bath	908-1086	5	20
		3 Bedroom – 2 Bath	1116	2	8
		SUBTOTAL			20
2	5	1 Bedroom – 1 Bath	643-737	10	50
		2 Bedroom – 1 Bath	906	4	20
		2 Bedroom – 2 Bath	908-990	10	50
		SUBTOTAL			24
TOTAL				200	

Proposed Project

Architecture:

The project proposes development of 200 units of apartments in nine buildings of two different types. Building type 1, a twenty-unit apartment building, is proposed for four buildings at the southern edge of the property. It is three stories tall with individual garage units on the north side of the ground floor. Total building height is approximately thirty-nine (39') feet. Building type 2, a twenty-four unit apartment, is proposed for five buildings on the northeastern portion of the site. This building type has three-stories on a podium above a parking level. The parking level is at grade at its entrance, and fully below grade at the opposite side of the building as these units are set into sloping portions of the project site. Total building height measured from the parking level floor is approximately forty-nine (49') feet. Building height is addressed in the analysis section of this report. The building style for both building types is contemporary, with warm-colored stucco finishes on the walls and earth-tone concrete-tiled hip roofs. Details include arched entries and window trim, raised window sills, balconies with decorative metal railing, and exposed corbels above the individual garage units. Floor plans and elevations are attached. Plans have not been provided for the leasing office or the recreation building. This issue is addressed in the analysis section.

Setbacks:

The proposed leasing office for the apartment buildings is set back approximately fifteen (15') feet from Casey Road. The apartment buildings are set back between fifteen (15') and seventy (70') feet from side property lines and approximately thirty (30') feet from the rear property line. Setbacks in the proposed RPD zone are established through the development review process. The building setbacks proposed in the site plan are appropriate for the scale of the buildings proposed to avoid imposition on surrounding property. A fill slope and a stormwater quality/detention basin are proposed south of the rear property line of the apartment site on the land to be sold to the City as part of the new Civic Center campus. This issue is addressed in the analysis section.

Circulation:

Access to the site is proposed from Casey Road, with emergency only access at the western terminus of High Street. The applicant has proposed to construct the emergency access originally at the eastern edge of the property, to be relocated to the western edge when the property being sold to the City will be developed.

Traffic:

An April 2005 traffic study prepared by Austin Foust Associates for the City identified project-specific mitigation including the extension of queuing on Casey Road, signal modification at Casey Road and Walnut Canyon Road, and signal modification at Moorpark Avenue and High Street. It also identified the contribution of the project to fair-share funded improvements. These measures have been included in the Mitigated Negative Declaration prepared for the project and are incorporated as conditions of approval. It should be noted that the northbound left-turn phase at the Casey Road/Walnut Canyon Road intersection has already been constructed.

Parking:

A total of 434 parking spaces are proposed for the apartments, with 52 in private garages, 125 in common garages, 30 in covered spaces, and 227 in open spaces. Of the open spaces, 15 are proposed adjacent to the leasing office outside the gate. The Zoning Code requires 2 covered parking spaces per unit, one of which must be in a garage, with an additional ½ space per unit for visitor parking, for a total of 500 spaces. The applicant is requesting a waiver from the parking requirements as part of a development agreement with the City. This issue is discussed in greater detail in the analysis section.

Loading Area:

No loading areas are proposed or required for this project.

Landscaping:

The former site of the Moorpark High School athletic fields has not been maintained in years and consists of overgrown shrubs, weeds, and a few trees. Trees on the site include California pepper, Brazilian pepper, jacaranda, elm, and palm trees. No native trees are growing on the site. The proposed landscaping for the project site includes substantial planting of trees, shrubs, and groundcover, which would greatly enhance the appearance of the site. Conceptual landscape plans, which are subject to plan check for compliance with the City's Landscape Standards and Guidelines, are attached.

Site Improvements and National Pollution Discharge Elimination Standards Requirements (NPDES):

Conditions recommended by the City Engineer call for the project to provide for all necessary on-site and off-site storm drain improvements including the imposition of National Pollution Discharge Elimination System (NPDES) requirements. A 0.193 acre-foot detention basin is proposed at the southwest corner of the parcel to be sold to the City to accommodate drainage from the site. The location of the detention basin is adjacent to a proposed detention basin for the Hitch Ranch Specific Plan project. It is possible that as the Hitch Ranch Specific Plan is developed, these two detention basins may be connected.

Air Quality:

According to the 2003 Ventura County Air Quality Assessment Guidelines, the proposed project will generate vehicle traffic that will produce NOx emissions in excess of the 25 pound per day threshold, providing a conclusion that there will be an impact on regional air quality. As is required with all larger projects, staff has incorporated a mitigation measure and standard condition requiring a contribution to the Moorpark Traffic Systems Management Fund to off-set air pollutants, consistent with the 2003 Ventura County Air Quality Assessment Guidelines.

ANALYSIS

Issues

Staff analysis of the proposed project has identified the following areas for Planning Commission consideration in their recommendation to the City Council:

- Area One: General Plan and Zoning Issues
- Area Two: Building Heights
- Area Three: Accessory Building Design
- Area Four: Parking

Area One: General Plan and Zoning Issues

The project involves an increase in the number of housing units contemplated by the General Plan for the site. The 1992 General Plan Land Use Element contemplated use of the entire 24.8-acre former high school site for a project developed under a specific plan with 80-120 homes. Since the time of this plan, the City adopted a Downtown Specific Plan, a SOAR Ordinance, and a revised Housing Element. Housing affordability has become a more critical issue than ever before, as the local housing market is only building for sale homes affordable to high income (> 120% of County median income) households. In addition, the school district redeveloped part of the specific plan site with an elementary school, leaving no reason to developing the rest of the site under a specific plan. The development of a new City Hall in the vicinity of the project site has also become a Council priority and the purchase of the 8.84 acres by the City would allow for civic uses to complement the new City Hall. These factors all suggest that the proposed residential density of 19.0 units per acre on the northern 10.57 acres is appropriate for this site.

Area Two: Building Heights

At thirty-nine (39') and forty-nine (49') feet high, the two apartment building types would be the tallest residential buildings in Moorpark. In comparison, the Archstone (renamed Waterstone) Apartments on Moorpark Avenue south of Los Angeles Avenue are thirty-five (35') feet high. The Essex project site is, however, isolated from the low-rise homes east of

Moorpark Avenue, separated by the current civic center and the Walnut Canyon flood control channel. It is also near other buildings of similar height (Walnut Canyon School auditorium, Boys and Girls Club gymnasium). In addition, the site also slopes down south from Casey Road, reducing the massing of the buildings and the project when viewed from the north. While the project would clearly change the development character of the area, the building height would be compatible with present and planned uses in the project vicinity.

Area Three: Accessory Building Design

Plans have not been provided for the accessory buildings on the site; including the leasing office, recreation building, trash/recycling areas, and carports. These buildings do not make up a substantial portion of the site, but the design of these buildings should be compatible with the rest of the buildings on the site. A condition is included in the draft resolution requiring compatible design and materials to the satisfaction of the Community Development Director.

Area Four: Parking

With 434 parking spaces proposed, the project has a ratio of 2.17 spaces per unit. A waiver from the 500 spaces required by the Zoning Ordinance is requested as part of the Development Agreement (Section 7.11). The following table compares the proposed parking to code requirements.

TYPE OF SPACE	CODE	PROPOSED
GARAGE	200	177 (52 Private, 125 Common)
CARPORT	200	30
OPEN	100	227
TOTAL	500 (2.5/u)	434 (2.17/u)

The parking ratio is comparable to the 2.13 spaces per unit at the 312-unit Waterstone Apartment project, where the 666 off-street parking spaces have proven to be sufficient. Given that the unit mix of the Essex project is similar to that of the Waterstone Apartments (as shown in the following table); staff does not anticipate a shortage of off-street parking. Special condition of Approval No. 7 provides for maintenance of parking spaces.

TYPE OF UNIT	ESSEX Number (Percent)	WATERSTONE Number (Percent)
1 BEDROOM	94 (47%)	156 (50%)
2 BEDROOM	98 (49%)	120 (38%)
3 BEDROOM	8 (4%)	36 (12%)
TOTAL	200 (100%)	312 (100%)

Findings

The following findings are offered for the Residential Planned Development Permit:

- A. The proposed project site design, including structure location, size, height, setbacks, massing, scale, architectural style and colors, and landscaping is consistent with the provisions of the City's General Plan and Zoning Ordinance, if amended by General Plan Amendment No. 2004-05 and Zone Change No. 2004-04, in that the proposed project will provide an appropriate density development for the site given its proximity to the downtown area and that the project will contribute substantially toward the City's Housing Element goal to expand and protect housing opportunities for lower income households and special needs groups.
- B. The site design of the proposed project would not create negative impacts on or impair the utility of properties, structures or uses in the surrounding area, in that the buildings proposed are appropriate in height, scale, and setback given the proximity of the site to the downtown area and the traffic improvement conditions of approval will avoid negative traffic impacts.
- C. The proposed project is compatible with existing and permitted uses in the surrounding area, in that the surrounding existing and future development includes a variety of housing types, along with public and school uses.

PROCESSING TIME LIMITS

General Plan Amendments, Zone Changes, and Development Agreements are legislative acts that are not subject to processing time limits under the Permit Streamlining Act (Government Code Title 7, Division 1, Chapter 4.5). The Residential Planned Development Permit application is dependent on the approval of the General Plan Amendment, Zone Change, and Development Agreement, and therefore is also not subject to the Permit Streamlining Act in this case.

ENVIRONMENTAL DETERMINATION

In accordance with the City's environmental review procedures adopted by resolution, the Community Development Director determines the level of review necessary for a project to comply with the California Environmental Quality Act (CEQA). Some projects may be exempt from review based upon a specific category listed in CEQA. Other projects may be

exempt under a general rule that environmental review is not necessary where it can be determined that there would be no possibility of significant effect upon the environment. A project which does not qualify for an exemption requires the preparation of an Initial Study to assess the level of potential environmental impacts.

Based upon the results of an Initial Study, the Director may determine that a project will not have a significant effect upon the environment. In such a case, a Notice of Intent to Adopt a Negative Declaration or a Mitigated Negative Declaration is prepared. For many projects, a Negative Declaration or Mitigated Negative Declaration will prove to be sufficient environmental documentation. If the Director determines that a project has the potential for significant adverse impacts and adequate mitigation can not be readily identified, an Environmental Impact Report (EIR) is prepared.

The Director has prepared or supervised the preparation of an Initial Study to assess the potential significant impacts of this project. Based upon the Initial Study, the Director has determined that there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment and has prepared a Mitigated Negative Declaration for Planning Commission review and consideration before making a recommendation on the project.

STAFF RECOMMENDATION

1. Open the public hearing, accept public testimony and close the public hearing.
2. Adopt Resolution No. PC-2007-_____ recommending to the City Council adoption of a Mitigated Negative Declaration and approval of General Plan Amendment No. 2004-05, Zone Change No. 2004-04, Development Agreement No. 2004-03 and Residential Planned Development No. 2004-06 with Conditions of Approval.

ATTACHMENTS:

1. Location Map
2. Project Exhibits (under separate cover)
 - A. Site Plan
 - B. Floor Plans and Elevations
 - C. Conceptual Landscape Plan
3. Initial Study and Mitigated Negative Declaration
4. Draft Development Agreement
5. Draft PC Resolution with Conditions of Approval

RESOLUTION NO. PC-2007-518

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MOORPARK, CALIFORNIA, RECOMMENDING TO THE CITY COUNCIL ADOPTION OF A MITIGATED NEGATIVE DECLARATION AND APPROVAL OF GENERAL PLAN AMENDMENT NO. 2004-05, ZONE CHANGE NO. 2004-04, DEVELOPMENT AGREEMENT NO. 2004-03, AND RESIDENTIAL PLANNED DEVELOPMENT PERMIT NO. 2004-06, FOR A TWO-HUNDRED (200) UNIT APARTMENT COMPLEX ON 10.57 ACRES AND 8.84 ACRES OF PUBLIC/INSTITUTIONAL LAND SOUTH OF CASEY ROAD AND WEST OF WALNUT CANYON ROAD, ON THE APPLICATION OF ESSEX PORTFOLIO, L.P.

WHEREAS, at duly noticed public hearing held on June 26, 2007, the Planning Commission considered General Plan Amendment No. 2004-05, Zone Change No. 2004-04, Development Agreement No. 2004-03, and Residential Planned Development Permit No. 2004-06 for a two-hundred (200) unit apartment complex on 10.57 acres and 8.84 acres of public/institutional land south of Casey Road and west of Walnut Canyon Road, on the application of Essex Portfolio, L.P.; and

WHEREAS, the Planning Commission has reviewed and considered the Initial Study and Mitigated Negative Declaration prepared for the project in compliance with the California Environmental Quality Act (CEQA) and City CEQA Procedures; and

WHEREAS, at its meeting of June 26, 2007, the Planning Commission considered the agenda reports and any supplements thereto and written public comments; opened the public hearing and took and considered public testimony both for and against the proposal; closed the public hearing and reached a decision on this matter.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. ENVIRONMENTAL DETERMINATION: The Planning Commission has reviewed and considered the Initial Study and Mitigated Negative Declaration prepared for the project in compliance with the California Environmental Quality Act (CEQA) and City Policy.

SECTION 2. PLANNED DEVELOPMENT FINDINGS: Based upon the information set forth in the staff report(s), accompanying studies, and oral and written public testimony, the Planning Commission makes the following findings in accordance with City of Moorpark, Municipal Code Section 17.44.040:

- A. The proposed project site design, including structure location, size, height, setbacks, massing, scale, architectural style and colors, and landscaping is consistent with the provisions of the City's General Plan and Zoning Ordinance, if

amended by General Plan Amendment No. 2004-05 and Zone Change No. 2004-04, in that the proposed project will provide an appropriate density development for the site given its proximity to the downtown area and that the project will contribute substantially toward the City's Housing Element goal to expand and protect housing opportunities for lower income households and special needs groups.

- B. The site design of the proposed project would not create negative impacts on or impair the utility of properties, structures or uses in the surrounding area, in that the buildings proposed are appropriate in height, scale, and setback given the proximity of the site to the downtown area and the traffic improvement conditions of approval will avoid negative traffic impacts.
- C. The proposed project is compatible with existing and permitted uses in the surrounding area, in that the surrounding existing and future development includes a variety of housing types, along with public and school uses.

SECTION 3. PLANNING COMMISSION RECOMMENDATIONS: The Planning Commission recommends to the City Council:

- A. Adoption of the Mitigated Negative Declaration prepared on behalf of this project;
- B. Approval of General Plan Amendment No. 2004-05 and Zone Change No. 2004-04 for the area as shown in Exhibits A and B;
- C. Approval of Development Agreement No. 2004-03 as presented to the Planning Commission; and
- D. Approval of Residential Planned Development Permit No. 2004-06 subject to the Special and Standard Conditions of Approval included in Exhibit C (Special and Standard Conditions of Approval), attached hereto and incorporated herein by reference.

SECTION 4. FILING OF RESOLUTION: The Community Development Director shall cause a certified resolution to be filed in the book of original resolutions.

The action of the foregoing direction was approved by the following vote:

AYES: Commissioners Hamous and Landis, Vice Chair Peskay and Chair Taillon

NOES:

ABSTAIN:

ABSENT: Commissioner Di Cecco

PASSED, AND ADOPTED this 26th day of June, 2007.

Mark Taillon, Chair

Barry K. Hogan
Community Development Director

Exhibit A – Proposed General Plan Amendment No. 2004-05

Exhibit B – Proposed Zone Change No. 2004-04

Exhibit C – Special and Standard Conditions of Approval for RPD No. 2004-06

RESOLUTION NO. 2007-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND APPROVING GENERAL PLAN AMENDMENT NO. 2004-05 FOR A CHANGE OF LAND USE DESIGNATIONS ON 10.57 ACRES SOUTH OF CASEY ROAD AND WEST OF WALNUT CANYON ROAD, ON THE APPLICATION OF ESSEX PORTFOLIO, L.P.

WHEREAS, on June 26, 2007, the Planning Commission adopted Resolution No. PC-2007-518, recommending that the City Council adopt a Mitigated Negative Declaration and approve General Plan Amendment No. 2004-05, to amend the General Plan land-use designations from Specific Plan 9 (SP-9) – School Overlay to Very High Density Residential (VH), on 10.57 acres located south of Casey Road and west of Walnut Canyon Road, on the application of Essex Portfolio, L.P.; and

WHEREAS, at a duly noticed public hearing on July 18, 2007, the City Council considered the agenda report for General Plan Amendment No. 2004-05 and any supplements thereto and written public comments; opened the public hearing and 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 has read, reviewed, and considered the proposed Mitigated Negative Declaration prepared for the project referenced above.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. ENVIRONMENTAL DOCUMENTATION: The City Council finds and declares as follows:

- A. The Mitigated Negative Declaration and Initial Study prepared for this project, attached as Exhibit B, are complete and have been prepared in compliance with CEQA, and City CEQA Procedures.
- B. The City Council has considered information in the environmental document in its deliberation of this project before making a decision concerning the project and the Mitigated Negative Declaration.
- C. The Mitigation Measures are hereby incorporated into the project conditions of the Residential Planned Development for this project.
- D. The Mitigated Negative Declaration reflects an independent judgment of the City Council.

SECTION 2. ADOPTION OF MITIGATED NEGATIVE DECLARATION: The Mitigated Negative Declaration prepared in connection with General Plan Amendment No. 2004-05, Zone Change No. 2004-04, Development Agreement Nos. 2004-03, and Residential Planned Development Permit No. 2004-06 is hereby adopted.

SECTION 3. CITY COUNCIL APPROVAL: General Plan Amendment 2004-05 is approved, amending the General Plan Land Use Map as shown in Exhibit "A" attached hereto.

SECTION 4. The effective date of General Plan Amendment No. 2004-05 shall be concurrent with the effective date of the Ordinances for Zone Change No. 2004-04 and Development Agreement No. 2004-03, whichever occurs last.

SECTION 5. CERTIFICATION OF ADOPTION: 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 18th day of July, 2007.

Patrick Hunter, Mayor

ATTEST:

Deborah S. Traffenstedt, City Clerk

Attachments:

Exhibit A – General Plan Amendment Map

Exhibit B – Mitigated Negative Declaration

EXHIBIT A

GENERAL PLAN AMENDMENT NO. 2004-05

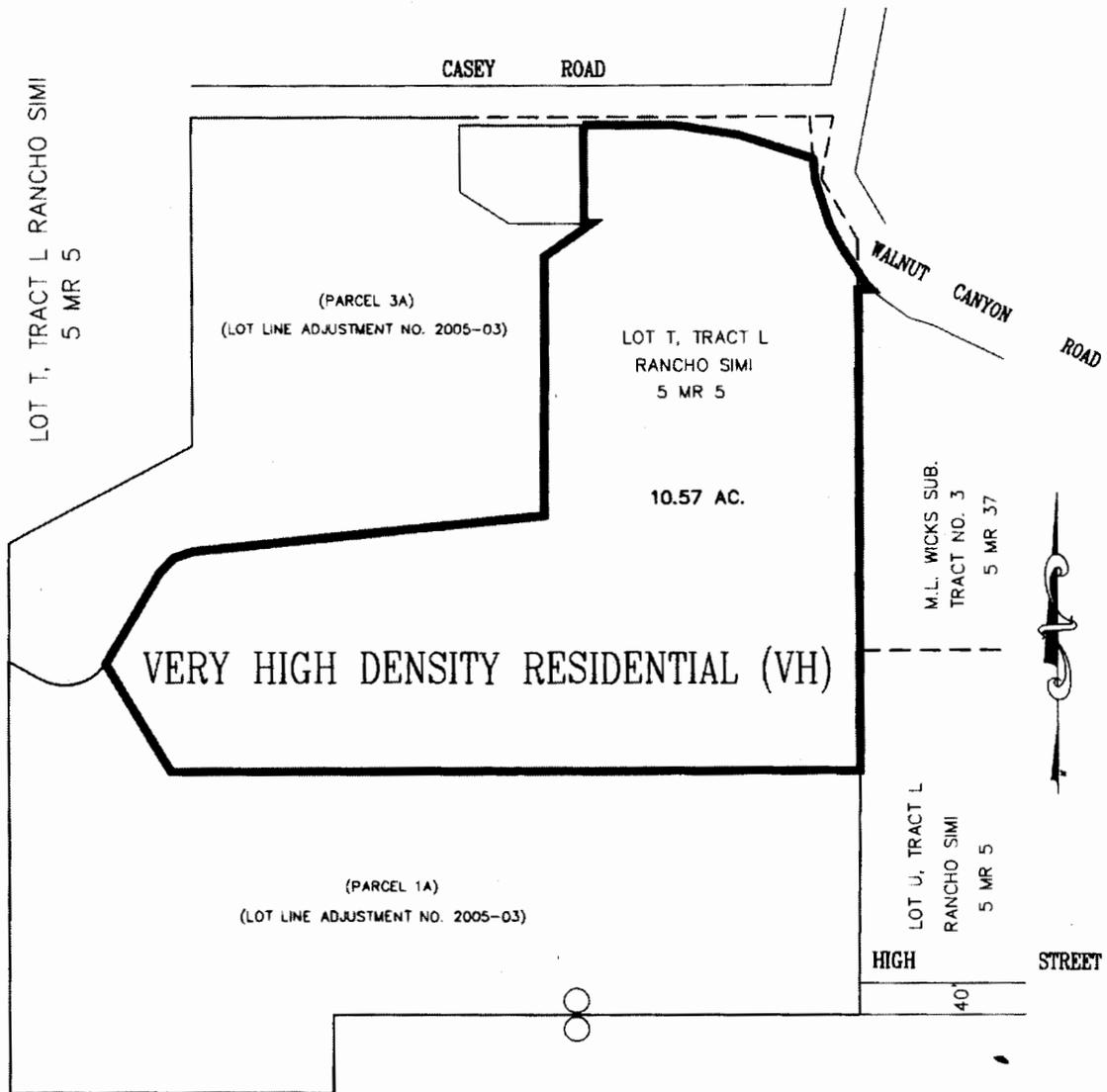


EXHIBIT B

MITIGATED NEGATIVE DECLARATION AND INITIAL STUDY



MITIGATED NEGATIVE DECLARATION CITY OF MOORPARK

799 MOORPARK AVENUE
MOORPARK, CA 93021
(805) 517-6200

The following Mitigated Negative Declaration has been prepared in accordance with the California Environmental Quality Act of 1970 as amended, the State Guidelines, and the Environmental Procedures of the City of Moorpark.

Public Review Period: June 17, 2005 to July 16, 2005

Project Title/Case No.: Essex Moorpark Apartments: GPA 2004-05, ZC 2004-04, RPD 2004-06

Project Location: South of Casey Road, West of Walnut Canyon Road, Moorpark, Ventura County. (Location Map Attached)

Project Description: 200 Apartments on 10.57 acres of vacant land with access from Casey Road.

Project Type: Private Project Public Project

Project Applicant: Essex Portfolio, L.P.

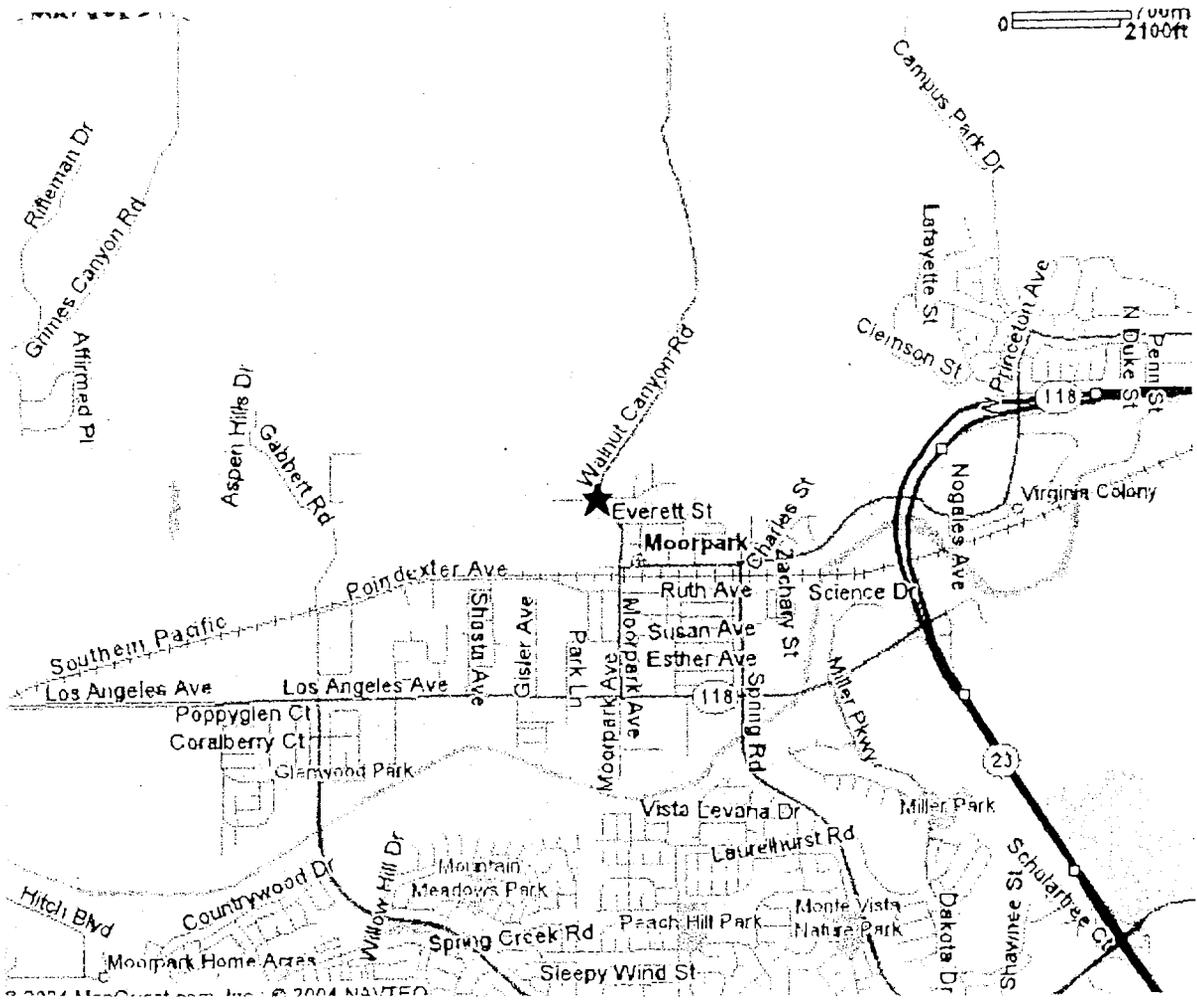
Finding: After preparing an Initial Study for the above-referenced project, revisions have been made by or agreed to by the applicant consistent with the mitigation measures identified in the Initial Study. With these revisions, it is found that there is no substantial evidence, in light of the whole record before the City of Moorpark, that the project may have a significant effect on the environment. (Initial Study Attached)

Responsible Agencies: California Department of Transportation

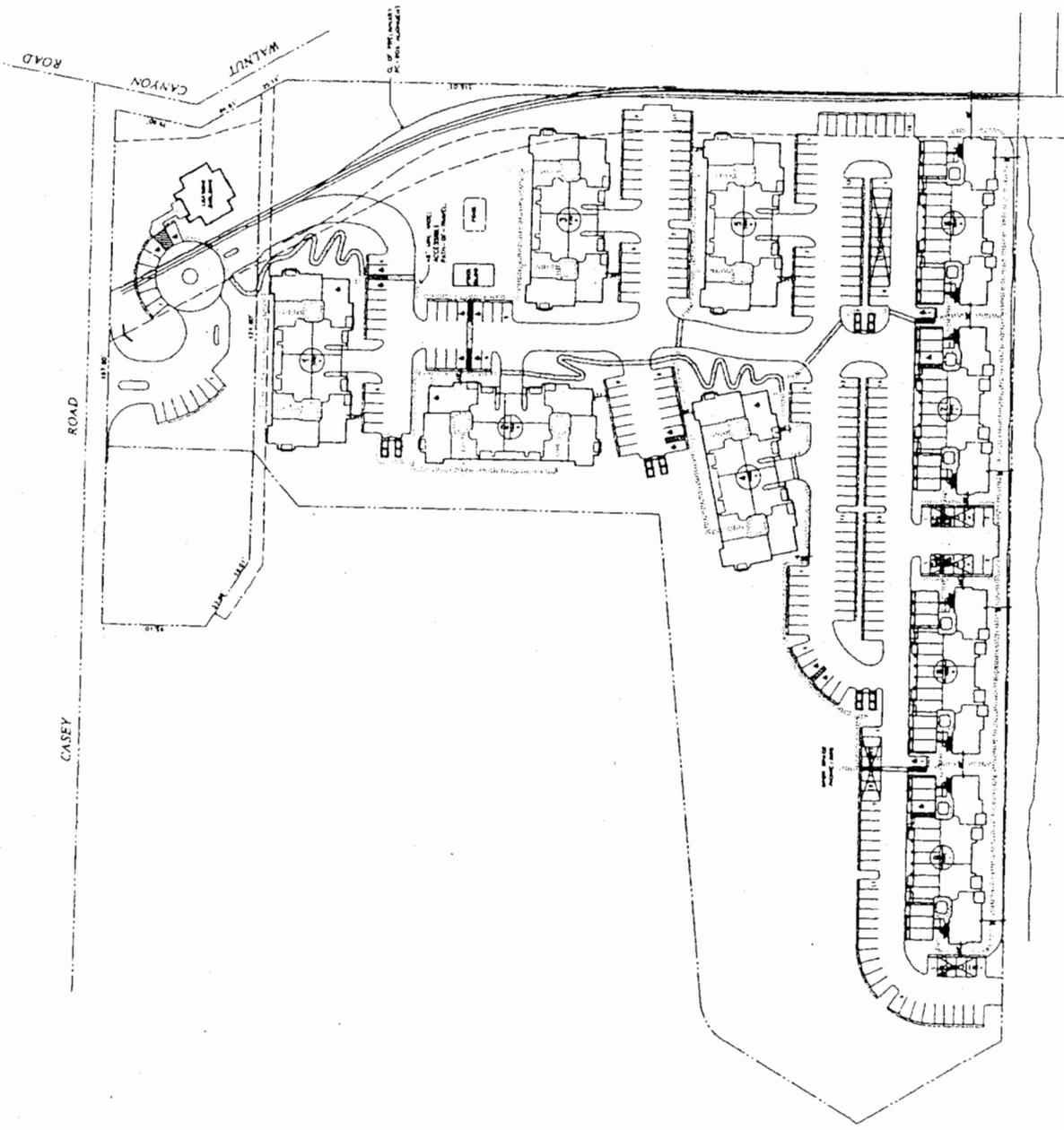
Trustee Agencies: n/a

Attachments: Location Map
Initial Study

Contact Person: David A. Bobardt
Community Development Department
City of Moorpark
799 Moorpark Avenue
Moorpark, California, 93021
(805) 517-6281



Location Map



PROJECT SUMMARY
 SITE AREA : 10.18 AC
 UNITS : 290
 DENSITY : 18.9 U/A
 PARKING PROVIDED:
 32 PRIVATE GARAGES
 15 COMMON (MIN.)
 28 CARPOLES
 228 OPEN SPACES
 426 TOTAL SPACES (2.13)

000026



MOORPARK APARTMENTS MOORPARK, CA ARCHITECTURAL SITE PLAN A2

ESSEX PROPERTY TRUST

SCALE 1" = 40'



Essex Moorpark Apartments
RPD No. 2004-06

CITY OF MOORPARK INITIAL STUDY
799 MOORPARK AVENUE
MOORPARK, CA 93021
(805) 517-6200

Project Title: Essex Moorpark Apartments	Case No.: RPD 2004-06, GPA 2004-05, ZC 2004-04, DA 2004-03
Contact Person and Phone No.: David A. Bobardt (805) 517-6281	
Name of Applicant: Essex Portfolio, LP	
Address and Phone No.: 22120 Clarendon Street #200, Woodland Hills, CA 91367 (818)227-2131	

Project Location: Southwest Corner of Casey Road and Walnut Canyon Road
General Plan Designation: Specific Plan **Zoning:** Rural Exclusive
Project Description: 200-unit apartment complex with access from Casey Road

Surrounding Land Uses and Setting:

North: Walnut Canyon School
South: Vacant, Railroad Right-of-Way
East: Moorpark Civic Center
West: Vacant

Responsible and Trustee Agencies: Caltrans for signal modifications on SR-23

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" or "Less Than Significant With Mitigation," as indicated by the checklist on the following pages.

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Agricultural Resources	<input checked="" type="checkbox"/>	Air Quality
<input type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Geology/Soils
<input type="checkbox"/>	Hazards and Hazardous Materials	<input type="checkbox"/>	Hydrology/Water Quality	<input type="checkbox"/>	Land Use/Planning
<input type="checkbox"/>	Mineral Resources	<input checked="" type="checkbox"/>	Noise	<input type="checkbox"/>	Population/Housing
<input type="checkbox"/>	Public Services	<input type="checkbox"/>	Recreation	<input checked="" type="checkbox"/>	Transportation/Traffic
<input type="checkbox"/>	Utilities/Service Systems	<input type="checkbox"/>	Mandatory Findings of Significance	<input type="checkbox"/>	None

DETERMINATION: On the basis of this initial evaluation, I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. Mitigation measures described on the attached Exhibit 1 have been added to the project. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

Prepared by: David A. Bobardt DP **Reviewed by:** Barry K. Hogan JSN
Date: June 15, 2005 **Date:** June 15, 2005

INITIAL STUDY EXHIBIT 1:
MITIGATED NEGATIVE DECLARATION
MITIGATION MEASURES AND
MONITORING AND REPORTING PROGRAM

1. Prior to the issuance of the first building permit, the applicant shall contribute fees to the City's Transportation Systems Management Program to offset increases in NOx emissions in excess of 25 pounds per day during the first 3 years of operation, unless the City has adopted a formal Transportation Systems Management Fee Program, in which case such fees shall apply to this project. Currently estimated at \$29,686.45 for this project, the Community Development Director shall calculate the emissions and fees using the latest URBEMIS model at the time of building permit issuance.

Monitoring Action: Receipt of fees
Timing: Prior to issuance of first building permit
Responsibility: Community Development Director

2. Construction shall be designed so that interior noise levels are below 45 dBA CNEL. Prior to the issuance of a building permit, the applicant shall provide a noise report to demonstrate the achieving of this standard.

Monitoring Action: Review of noise report
Timing: Prior to issuance of first building permit
Responsibility: Community Development Director

3. A Citywide Traffic Mitigation Fee shall be paid to fund public street and traffic improvements directly or indirectly affected by the development. The fee shall be paid in accordance with fee requirements in effect at the time of zoning clearance application.

Monitoring Action: Receipt of fees
Timing: Prior to issuance of first building permit
Responsibility: Community Development Director

4. Prior to issuance of the first Zoning Clearance for a building permit, the applicant shall comply with all mitigation identified in Table 4-1 of the April 2005 Traffic Analysis, including the submission to the Community Development Department of project responsibility and fair-share contributions for intersection improvements and proof of participation in the County Traffic Mitigation Fee Program. The cost of improvements and the level of fair-share participation will be to the satisfaction of the City Engineer based on the traffic report prepared for the project.

Monitoring Action: Receipt of fees
Timing: Prior to issuance of first building permit
Responsibility: Community Development Director, City Engineer

5. Prior to the issuance of a Zoning Clearance for each building permit, the applicant shall pay to the Community Development Department the Area of Contribution (AOC) Fee for the area in which the project is located. The fee shall be paid in accordance with City Council adopted AOC fee requirements in effect at the time of building permit application.

Monitoring Action: Receipt of fees
Timing: Prior to issuance of first building permit
Responsibility: Community Development Director

**AGREEMENT TO PROPOSED MITIGATION MEASURES AND
MONITORING AND REPORTING PROGRAM**

In accordance with the CEQA Guidelines Section 15070 (California Code of Regulations Title 14, Chapter 3, Article 6), this agreement must be signed prior to release of the Mitigated Negative Declaration for public review.

I, THE UNDERSIGNED PROJECT APPLICANT, HEREBY AGREE TO MODIFY THE PROJECT DESIGN, CONSTRUCTION OR OPERATION AS NECESSARY TO INCLUDE ALL OF THE ABOVE-LISTED MITIGATION MEASURES IN THE PROJECT.

Signature of Project Applicant

Date

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
A. AESTHETICS – Would the project:				
1) Have a substantial adverse effect on a scenic vista?	_____	_____	_____	<u> X </u>
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	_____	_____	_____	<u> X </u>
3) Substantially degrade the existing visual character or quality of the site and its surroundings?	_____	_____	_____	<u> X </u>
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	_____	_____	_____	<u> X </u>

Response: The site was previously developed with athletic fields for the Moorpark High School. It is currently vacant and mostly covered with non-native weeds. The project involves a redevelopment of the site with apartments.

Sources: Project Application (9/24/2004), , Site Inspection (4/27/2005), General Plan Land Use Element (1992).

Mitigation: None required.

B. AGRICULTURE RESOURCES – In determining whether impacts to agricultural resources are significant environmental effects, the City of Moorpark may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources agency, to non-agricultural use?	_____	_____	_____	<u> X </u>
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	_____	_____	_____	<u> X </u>
3) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	_____	_____	_____	<u> X </u>

Response: The project is not planned or zoned for agricultural uses. The Ventura County Important Farmland Map has the site classified as "Urban and Built-Up Land."

Sources: California Dep't of Conservation: Ventura County Important Farmland Map (2002), General Plan Land Use Element (1992), Zoning Map (2005)

Mitigation: None required.

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
C. AIR QUALITY – Would the project:				
1) Conflict with or obstruct implementation of the applicable air quality plan?	_____	_____	_____	<u> X </u>
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	_____	_____	<u> X </u>	_____
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	_____	_____	<u> X </u>	_____
4) Expose sensitive receptors to substantial pollutant concentrations?	_____	_____	_____	<u> X </u>
5) Create objectionable odors affecting a substantial number of people?	_____	_____	_____	<u> X </u>

Response: The project is expected to result in a total 3,385 lbs of NOx in excess of the VCAPCD's 25 lb per day threshold during the first 3 years of operation (2006-2008), mostly from vehicle traffic. After the first 3 years, the project will generate less than 25 lbs per day of NOx. Payment of the City's Transportation Systems Management Program fee, a standard condition of development projects in Moorpark, will mitigate this impact.

Sources: Ventura County Air Pollution Control District: Ventura County Air Quality Assessment Guidelines (2000), URBEMIS 2002

Mitigation: Prior to the issuance of the first building permit, the applicant shall contribute fees to the City's Transportation Systems Management Program to offset increases in NOx emissions in excess of 25 pounds per day during the first 3 years of operation, unless the City has adopted a formal Transportation Systems Management Fee Program, in which case such fees shall apply to this project. Currently estimated at \$29,686.45 for this project, the Community Development Director shall calculate the emissions and fees using the latest URBEMIS model at the time of building permit issuance.

D. BIOLOGICAL RESOURCES – Would the project:				
1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	_____	_____	_____	<u> X </u>
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	_____	_____	_____	<u> X </u>
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	_____	_____	_____	<u> X </u>

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	_____	_____	_____	X
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	_____	_____	_____	X
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	_____	_____	_____	X

Response: The project site was previously developed with athletic fields for Moorpark High School.

Sources: Project Application (9/24/2004), Site Inspection (4/27/2005), California Department of Fish and Game: Natural Diversity Data Base-Moorpark and Simi Valley Quad Sheets (1993)

Mitigation: None required.

E. CULTURAL RESOURCES – Would the project:

1) Cause a substantial adverse change in the significance of a historic resource as defined in §15064.5?	_____	_____	_____	X
2) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	_____	_____	_____	X
3) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	_____	_____	_____	X
4) Disturb any human remains, including those interred outside of formal cemeteries?	_____	_____	_____	X

Response: No cultural resources have been identified on the property. The site has been previously graded, and the chance of discovering new resources is remote. Compliance with applicable State and Federal laws will avoid any adverse impact.

Sources: Project Application (9/24/2004), Site Inspection (4/27/2005)

Mitigation: None required.

F. GEOLOGY AND SOILS – Would the project:

1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death Involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	_____	_____	X	_____
ii) Strong seismic ground shaking?	_____	_____	X	_____

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
iii) Seismic-related ground failure, including liquefaction?	_____	_____	X	_____
iv) Landslides?	_____	_____	X	_____
2) Result in substantial soil erosion or the loss of topsoil?	_____	_____	X	_____
3) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	_____	_____	X	_____
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	_____	_____	X	_____
5) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	_____	_____	X	_____

Response: Standard conditions of approval will be placed on the project by the City Engineer to address geologic and soil conditions. The applicant shall be required comply with the recommendations the geotechnical report prepared for the site area.

Sources: Project Application (9/24/2004), General Plan Safety Element (2001)

Mitigation: None required.

G. HAZARDS AND HAZARDOUS MATERIALS – Would the project:

1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	_____	_____	X	_____
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	_____	_____	_____	X
3) Emit hazardous emission or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	_____	_____	X	_____
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	_____	_____	_____	X
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	_____	_____	_____	X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	_____	_____	_____	X
7) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	_____	_____	_____	X
8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	_____	_____	_____	X

Response: Asbestos-containing materials and lead-based paint were identified in a vacant school building on-site proposed to be removed as part of the project. Any demolition will require clearance from Ventura County Environmental Health prior to the issuance of a demolition permit.

Sources: Project Application Phase I Report (9/24/2004), General Plan Safety Element (2001)

Mitigation: None required.

H. HYDROLOGY AND WATER QUALITY – Would the project:

1) Violate any water quality standards or waste discharge requirements?	_____	_____	X	_____
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	_____	_____	_____	X
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	_____	_____	X	_____
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	_____	_____	X	_____
5) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	_____	_____	X	_____
6) Otherwise substantially degrade water quality?	_____	_____	X	_____
7) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard boundary or Flood Insurance Rate Map or other flood hazard delineation map?	_____	_____	_____	X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	_____	_____	_____	X
9) Expose people or structures to a significant risk of loss, injury or death involving i) flooding, including flooding as a result of the failure of a levee or dam?	_____	_____	_____	X
ii) inundation by seiche, tsunami, or mudflow?				X

Response: Standard conditions of approval will ensure that the project complies with all applicable Federal, State, Regional and local regulations with respect to drainage, flooding, and water quality.

Sources: Project Application (9/24/2004), General Plan Safety Element (2001)

Mitigation: None required.

I. LAND USE AND PLANNING – Would the project:

1) Physically divide an established community?	_____	_____	_____	X
2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	_____	_____	X	_____
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?	_____	_____	_____	X

Response: A General Plan Amendment has been requested to increase the allowable residential density on the project site. The proposed apartments would be compatible with existing and future surrounding uses and would contribute to Housing Element goals for affordable housing.

Sources: Project Application (9/24/2004), General Plan Land Use Element (1992), General Plan Housing Element (2001)

Mitigation: None required.

J. MINERAL RESOURCES – Would the project:

1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	_____	_____	_____	X
2) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	_____	_____	_____	X

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
<u>Response:</u> There are no known mineral resources on the project site.				
<u>Sources:</u> Project Application ((9/24/2004), General Plan Open Space, Conservation, and Recreation Element (1986)				
<u>Mitigation:</u> None required.				

K. NOISE – Would the project result in:

1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	_____	_____	_____ X _____	_____
2) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	_____	_____	_____	_____ X _____
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	_____	_____	_____ X _____	_____
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	_____	_____	_____ X _____	_____
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	_____	_____	_____	_____ X _____
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	_____	_____	_____	_____ X _____

<u>Response:</u> The predominant noise impacting the project site is related to the railroad operations. The project site is in an area normally acceptable for residential uses. Mitigation is included to ensure that interior noise levels meet the standards of the Noise Element. In addition, standard conditions of approval have been placed on the project to adequately address any potential noise issues. Outdoor equipment must comply with the City's noise standards. Construction activity hours are limited and construction is not allowed on Sundays. Additionally, construction activities such as requiring staging areas, regulating haul routes and other requirements to limit noise activities are required.
<u>Sources:</u> Project Application (9/24/2004), General Plan Noise Element (1998)
<u>Mitigation:</u> Construction shall be designed so that interior noise levels are below 45 dBA CNEL. Prior to the issuance of a building permit, the applicant shall provide a noise report to demonstrate the achieving of this standard.

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
L. POPULATION AND HOUSING – Would the project:				
1) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	_____	_____	_____	_____X_____
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	_____	_____	_____	_____X_____
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	_____	_____	_____	_____X_____

Response: The project will provide market-rate and affordable apartments to address existing housing needs in the city.

Sources: Project Application (9/24/2004)

Mitigation: None required.

M. PUBLIC SERVICES

1) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	_____	_____	_____X_____	_____
Police protection?	_____	_____	_____X_____	_____
Schools?	_____	_____	_____X_____	_____
Parks?	_____	_____	_____X_____	_____
Other public facilities?			_____X_____	

Response: Conditions of approval and Development fees are collected by agencies in order to alleviate potential adverse impacts on public services. The applicant is required to obtain approvals of the Fire Protection District, Police Department, Water District and other applicable agencies prior to obtaining a building permit.

Sources: Project Application (9/24/2004), General Plan Safety Element (2001), General Plan Open Space, Conservation, and Recreation Element (1986)

Mitigation: None required.

N. RECREATION

1) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	_____	_____	_____X_____	_____
--	-------	-------	-------------	-------

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	_____	_____	X	_____

Response: The project includes a recreational area for its residents, In addition, this project will be conditioned to provide a contribution to the City's recreational and parks program.

Sources: Project Application (9/24/2004), General Plan Open Space, Conservation, and Recreation Element (1986)

Mitigation: None required.

O. TRANSPORTATION/TRAFFIC – Would the project:

1) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	_____	X	_____	_____
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	_____	X	_____	_____
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	_____	_____	_____	X
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	_____	_____	_____	X
5) Result in inadequate emergency access?	_____	_____	X	_____
6) Result in inadequate parking capacity?	_____	_____	X	_____
7) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	_____	_____	_____	X

Response: A traffic study has been prepared for this project and is incorporated into this Initial Study. Mitigation is included to ensure project compliance with the mitigation identified in this study.

Sources: Project Application (9/24/2004), Project Traffic Analysis (4/13/2005), General Plan Circulation Element (1992)

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
Mitigation:	<p>1. A Citywide Traffic Mitigation Fee shall be paid to fund public street and traffic improvements directly or indirectly affected by the development. The fee shall be paid in accordance with fee requirements in effect at the time of zoning clearance application.</p> <p>2. Prior to issuance of the first Zoning Clearance for a building permit, the applicant shall comply with all mitigation identified in Table 4-1 of the April 2005 Traffic Analysis, including the submission to the Community Development Department of project responsibility and fair-share contributions for intersection improvements and proof of participation in the County Traffic Mitigation Fee Program. The cost of improvements and the level of fair-share participation will be to the satisfaction of the City Engineer based on the traffic report prepared for the project.</p> <p>3. Prior to the issuance of a Zoning Clearance for each building permit, the applicant shall pay to the Community Development Department the Area of Contribution (AOC) Fee for the area in which the project is located. The fee shall be paid in accordance with City Council adopted AOC fee requirements in effect at the time of building permit application.</p>			

P. UTILITIES AND SERVICE SYSTEMS – Would the project:

1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	_____	_____	<u> X </u>	_____
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	_____	_____	<u> X </u>	_____
3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	_____	_____	<u> X </u>	_____
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	_____	_____	<u> X </u>	_____
5) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	_____	_____	<u> X </u>	_____
6) Be served by the landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	_____	_____	<u> X </u>	_____
7) Comply with federal, state, and local statutes and regulations related to solid waste?	_____	_____	<u> X </u>	_____

Response:	The project is required to enter into agreements and provide adequate utility and service systems prior to the issuance of a building permit for construction.
Sources:	Project Application (9/24/2004), Ventura County Watershed Protection District: Technical Guidance Manual for Stormwater Quality Control Measures (2002)
Mitigation:	None required.

	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
Q. MANDATORY FINDINGS OF SIGNIFICANCE				
1) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history of prehistory?	_____	_____	X	_____
2) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effect of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and effects of probable future projects)?	_____	_____	X	_____
3) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	_____	_____	X	_____

Response: The site has been previously disturbed and is surrounded by existing and future urban development. No endangered species or habitats have been identified on this site. No unmitigated cumulative impacts have been identified.

Sources: Project application (9/24/2004)

Earlier Environmental Documents Used in the Preparation of this Initial Study

None

Additional Project References Used to Prepare This Initial Study

One or more of the following references were incorporated into the Initial Study by reference, and are available for review in the Community Development Office, City Hall, 799 Moorpark Avenue, Moorpark, CA 93021. Items used are referred to by number in the Response Section of the Initial Study Checklist.

1. The City of Moorpark's General Plan, as amended.
2. The Moorpark Municipal Code, as amended.
3. The City of Moorpark CEQA adopted by City Council Resolution No. 2004-2224
4. Public Resources Code Section 21000 et. seq. and California Code of Regulations, Title 14 Section 15000 et. seq.
5. Ventura County Air Quality Assessment Guidelines, October 31, 2003.

DEPARTMENT OF TRANSPORTATION

DISTRICT 7, Office of Regional Planning
 100 MAIN STREET
 LOS ANGELES, CA 90012-3606
 PHONE (213) 897-3747
 FAX (213) 897-1337
 TTY (213) 897-4937



*Flex your power!
 Be energy efficient!*

June 21, 2005

IGR/CEQA cs/050621 – NEG DEC

City of Moorpark

Essex Moorpark Apartments, 200 apartments on 10.57 acres,

GPA 2004-05, ZC 2004-04, RPD 2004-06

S. of Casey Rd./W. of Walnut Canyon Rd.

Vic. VEN-23-13.62; SCH # 2005061096

Mr. David A Bobardt
 City of Moorpark
 799 Moorpark Ave.
 Moorpark, California 93021

RECEIVED

JUN 24 2005

CITY OF MOORPARK

Dear Mr. Bobardt:

Thank you for including the California Department of Transportation in the environmental review process for the above-mentioned project. Based on the information received, we have the following comments:

Please submit a copy of the 4-13-05 Project Traffic Analysis for Caltrans review. Since the proposed project is located close to State Route 23 and trips generated by the project is anticipated to have an impact on both State Route 23 and State Route 118, the traffic study should have included an analysis of affected intersections along these State highways. Caltrans will need to review the traffic mitigation measures listed in Table 4-1 of the April 2005 Traffic Analysis.

Any traffic mitigation measures that involve State highways will need a Caltrans Encroachment Permit. A standard Caltrans Encroachment Permit application along with 6 sets of engineering plans would be needed for Caltrans review and approval. A Transportation Management Plan will be needed for any lane closures, detours, parking restrictions, etc.

If you have any questions regarding our comments, please refer to our IGR/CEQA Record number cs/050621 and do not hesitate to contact me at (213) 897-3747.

Sincerely,

Cheryl J. Powell
 IGR/CEQA Program Manager

cc: Scott Morgan, State Clearinghouse

RESOURCE MANAGEMENT AGENCY
county of ventura

Planning Division

Christopher Stephens
 Director

July 13, 2005

David Bobardt, Planning Manager
 Community Development Department
 City of Moorpark
 799 Moorpark Avenue
 Moorpark, CA 93021

Post-It® Fax Note	7671	Date	7/14	# of pages	9
To	DAVID BOBARDT		From		
Co./Dept.			Co.		
Phone #			Phone #		
Fax #			Fax #		

FAX#: (805) 529-8270

SUBJECT: GPA 2004-05, ZC 2004-04, RDP 2004-06, Essex Portfolio; MND

Thank you for the opportunity to review and comment on the above subject document. Attached are the comments that we have received resulting from an intra-county review of the projects.

Any responses to these comments should be sent directly to the commenter, with a copy to Carl Morehouse, Ventura County Planning Division, L#1740, 800 So. Victoria Avenue, Ventura, CA 93009.

If you have any questions regarding any of the comments, please contact the appropriate respondent. Overall questions may be directed to Carl Morehouse at (805) 654-2476.

Sincerely,



Christopher Stephens
 County Planning Director

G:\Planning Division\Outside Environmental Documents\Response Letters\Moorpark 05-042

Attachment

County RMA Reference Number 05-042

000042





VENTURA COUNTY
WATERSHED PROTECTION DISTRICT
PLANNING AND REGULATORY DIVISION
800 South Victoria Avenue, Ventura, California 93009
PAUL CALLAWAY, Permit Manager - 805 654-2011

DATE: July 8, 2005

TO: Carl Morehouse, Resource Management Agency
Tricia Maier

FROM: Paul Callaway, Permit Manager

SUBJECT: RMA 05-042 – CITY OF MOORPARK

Any direct drainage connection to the watercourse will require review and permitting by the District. We will also need to receive a Hydrology and Hydraulic report addressing the increase in runoff due to the increase of impervious area from the proposed development of the above sites and to assist in mitigation of the cumulative impact of similar projects in the Moorpark area per the Watershed Protection District requirements.

The developer should be conditioned that on-site detention will be required. The detention requirement must be shown to be adequate to address the increase in runoff due to this site's development and to assist in mitigation of the impact per Watershed Protection District requirements in any storm frequency.

There is a Watershed Protection District easement that covers a portion of this proposed lot. It will be necessary to apply, issue and complete the permit requirements should any encroachment into the easement be required.

000043

JUL 01 2005

**VENTURA COUNTY
AIR POLLUTION CONTROL DISTRICT**

Memorandum

TO: Carl Morehouse, Planning

DATE: June 29, 2005

FROM: K.D. Otani 

SUBJECT: Request for Review of Mitigated Negative Declaration (MND) for Essex Moorpark Apartments, City of Moorpark, RPD No. 2004-06 (Ref. No. 05-042)

Air Pollution Control District staff has reviewed the subject project, which is General Plan Amendment No. 2004-05, Zone Change No. 2004-04, Residential Planned Development Permit No. 2004-06, to allow construction of a 200-unit apartment complex on approximately 10.57 acres of land south of Casey Road and west of Walnut Canyon Road in the City of Moorpark. The project also includes the removal of one 500 square foot building.

District staff has completed the review of the MND for the purpose of evaluating air quality impacts. Staff concurs that significant regional air quality impacts are expected to result from the project, and we do not anticipate long-term local air quality impacts. While no significant long-term local air impacts are expected we do anticipate short-term air quality impacts due to construction and demolition activities planned for this project.

The following are our proposed revision and recommendations for this project:

Regional Air Quality Impacts

Based on the latest version of the "URBEMIS 2002 for Windows" (Version 8.7.0) computer model the emission estimate for oxides of nitrogen (NO_x) is 28.82 lbs/day. See Attachment 1 for a copy of the URBEMIS emission estimates. The unit cost for NO_x is \$8.77/lb for projects completed in the year 2005.

Local Air Quality Impacts

After the review of the Initial Study for this project District Staff sent a letter addressed to Mr. David A. Bobardt, Planning Manger, at the City of Moorpark (dated October 25, 2004) recommending several permit conditions be applied to the subject project which are not included in the mitigation measures described in the subject MND. We would

000044

like to reiterate the project conditions stated in our original letter and recommend they be included as project conditions:

Fugitive Dust Project Conditions

- 1) A "Fugitive Dust Mitigation Plan" shall be developed and adopted for the project. Please see Attachment 2 for an example of a fugitive dust mitigation plan.
- 2) Dust control requirements shall be shown on all grading plans.

Ozone Precursor Project Conditions

- 3) Construction equipment idling time shall be minimized to the maximum extent feasible.
- 4) The engine size of construction equipment shall be the minimum practical size.
- 5) Heavy-duty diesel-powered construction equipment manufactured after 1996 (with federally mandated clean diesel engines) shall be utilized wherever feasible.
- 6) Construction equipment engines shall be maintained in good condition and in proper tune as per manufacturers' specifications.
- 7) The number of construction equipment operating simultaneously shall be minimized through the efficient management practices to ensure that the smallest number is operating at any one time.

Nuisance Project Condition

- 8) Facilities shall be constructed and operated in accordance with the Rules and Regulations of the Ventura County Air Pollution Control District, with emphasis on Rule 51, *Nuisance*.

"A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endangers the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property."

Construction Equipment Permit Condition

- 9) Any combustion equipment onsite, which is rated at 50 horsepower (HP) or greater, must have either an APCD Permit to Operate (PTO), or be registered with the

California Air Resources Board's (CARB) Portable Equipment Registration Program (PERP). Examples of such equipment include portable electrical generators and air compressors.

For more information on obtaining an APCD PTO please contact the District's Permitting Engineering Division at (805) 645-1401 or (805) 645-1481. Additional information can also be accessed from the Permits section of the APCD website at www.vcapcd.org. For more information on CARB's PERP program, please visit the CARB website at <http://www.arb.ca.gov/perp/perp.htm>, or call (916) 324-5869.

Demolition Project Condition

The application materials indicate that an existing building would be demolished to make way for the proposed project. Demolition activities have the potential to disturb asbestos containing materials.

- 10) The applicant shall notify the District prior to issuance of demolition permits for any onsite structures. Demolition and/or renovation activities shall be conducted in compliance with District Rule 62.7, *Asbestos – Demolition and Renovation*.

Rule 62.7 governs activities related to demolition of buildings with asbestos-containing materials. This rule establishes the notification and emission control requirements for demolition activities. Specifically, this rule requires that the owner or operator of a facility shall remove all asbestos-containing material from a facility being demolished. For additional information on asbestos, or to download a copy of Rule 62.7, please visit our website at www.vcapcd.org/asbestos.htm. You can also contact the District's Asbestos Coordinator, Jay Nicholas at (805) 645-1443 or by email at jay@vcapcd.org.

If you have any questions, contact me by telephone at (805) 645-1422 or by email at kd@vacapcd.org.

URBEMIS 2002 For Windows 8.7.0

File Name: <Not Saved>
Project Name: Essex Moorpark Apartments
Project Location: Ventura County
On-Road Motor Vehicle Emissions Based on EMFAC2002 Version 2.2

SUMMARY REPORT
(Pounds/Day - Summer)

AREA SOURCE EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10
TOTALS (lbs/day,unmitigated)	13.24	1.51	1.42	0.00	0.01

OPERATIONAL (VEHICLE) EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10
TOTALS (lbs/day,unmitigated)	16.88	27.31	211.52	0.22	21.28

SUM OF AREA AND OPERATIONAL EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10
TOTALS (lbs/day,unmitigated)	30.12	28.82	212.94	0.22	21.28

Model Fugitive Dust Mitigation Plan

Fugitive dust produced during grading, excavation, and construction activities shall be controlled by the following:

1. The areas disturbed at any one time by clearing, grading, earth moving, or excavation operations shall be minimized to prevent excessive amounts of dust.
2. Pre-grading/excavation activities shall include watering the area to be graded or excavated before commencement of grading or excavation operations. Application of water (preferably reclaimed, if available) should penetrate sufficiently to minimize fugitive dust during earthmoving, grading, and excavation activities.
3. All trucks shall be required to cover their loads as required by California Vehicle Code §23114.
4. All graded and excavated material, exposed soil areas, including unpaved parking and staging areas, and other active portions of the construction site, including unpaved on-site roadways, shall be treated to prevent fugitive dust. Treatment shall include, but not necessarily be limited to, periodic watering, application of environmentally-safe soil stabilization materials, and/or roll-compaction as appropriate. Watering shall be done as often as necessary and reclaimed water shall be used whenever possible.
5. Graded and/or excavated inactive areas of the construction site shall be monitored by (indicate by whom) at least weekly for dust stabilization. Soil stabilization methods, such as water and roll-compaction, and environmentally-safe dust control materials, shall be periodically applied to portions of the construction site that are inactive for over four days. If no further grading or excavation operations are planned for the area, the area should be seeded and watered until vegetation is established, or periodically treated with environmentally-safe dust suppressants.
6. Signs shall be posted on-site limiting vehicle speed to 15 miles per hour or less.
7. During periods of high winds (i.e., wind speed sufficient to cause fugitive dust to impact adjacent properties), all clearing, grading, earth moving, and excavation operations shall be curtailed to the degree necessary to prevent fugitive dust created by on-site activities and

operations from being a nuisance or hazard, either off-site or on-site. The site superintendent/supervisor shall use his/her discretion in conjunction with the APCD in determining when winds are excessive.

8. Adjacent streets and roads shall be swept at least once per day, preferably at the end of the day, if visible soil material is present.
9. Wheel washers or track out devices shall be installed where vehicles enter and exit unpaved roads onto paved road, or wash off trucks and any other equipment leaving the site.
10. All on-site construction roads that have a daily traffic volume of more than 50 daily trips shall be paved.
11. All site access roads shall be paved at least 100 feet from the main road.
12. Material open material stockpiles shall be covered, seeded, periodically watered, or treated with environmentally-safe dust suppressants.
13. There shall be at least one qualified and authorized person on-site each work day to enforce the provisions of the Fugitive Dust Mitigation Plan and any other applicable fugitive rules, ordinances, or conditions.
14. Personnel involved in grading operations should be advised to wear respiratory protection in accordance with California Division of Occupational Safety and Health regulations.
15. All project construction operations shall be conducted in compliance with all applicable Ventura County Air Pollution Control District Rules and Regulations with emphasis on Rule 50 (Opacity) and Rule 51 (Nuisance).



PUBLIC WORKS AGENCY
TRANSPORTATION DEPARTMENT
Traffic, Advance Planning & Permits Division

MEMORANDUM

DATE: June 23, 2005

TO: Resource Management Agency, Planning Division
Attention: Carl Morehouse

FROM: Nazir Lalani, Deputy Director

SUBJECT: Review of Document 05-042
Mitigated Negative Declaration (MND)
Essex Moorpark Apartments
South of Casey Road, West of Walnut Canyon Road in the City of Moorpark
Lead Agency: The City of **MOORPARK**

The Public Work Agency - Transportation Department has completed the review of the Initial Study and Notice of Intent to adopt a Mitigated Negative Declaration (MND). The proposed project proposes to construct 200 Apartments on 10.57 acres of vacant land with access from Casey Road in the City of Moorpark. We offer the following comments:

1. The cumulative traffic impact of this project on Ventura County Road Network should be addressed by the payment of the Traffic Impact Mitigation Fees (TIMF). Mitigation 2 on page 13 of the initial Study indicates the participation in the County TIMF Program. Based on the fee schedule established in accordance with County Ordinance Code 8601-0 et seq. for the area identified in the Ordinance as the Moorpark Traffic Impact Fee District, and the information provided in the MND, the estimated fee amount is:

$$200 \text{ Apartments} \times \$120.00/\text{Other Housing Units} = \underline{\$24,000}$$

If the project cumulative impacts are not mitigated by payment of a TIMF, current General Plan policy will require County opposition to this project. If the County has successfully negotiated a Reciprocal Agreement with the City before the approval of this project, this project will be subject to the terms of this Agreement.

The above County fee is an estimate and may be subject to adjustment at the time of deposit due to provisions in the Traffic Impact Mitigation Ordinance allowing the fee to be adjusted for inflation based on the Engineering News Record (ENR) construction cost index.

2. The Traffic Study prepared for this project was not available for review of this Initial Study and MND.

Our review is limited to the impacts this project may have on the County's Regional Road Network.

Please call me at 654-2080 if you have questions.



Arnold
Schwarzenegger
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Sean Walsh
Director

July 19, 2005

David A. Bobardt
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021

RECEIVED
JUL 21 2005
CITY OF MOORPARK

Subject: Essex Moorpark Apartments: GPA 2004-05, ZC 2004-04, RPD 2004-06
SCH#: 2005061096

Dear David A. Bobardt:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on July 18, 2005, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,


Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

Document Details Report
State Clearinghouse Data Base

SCH# 2005061096
Project Title Essex Moorpark Apartments: GPA 2004-05, ZC 2004-04, RPD 2004-06
Lead Agency Moorpark, City of

Type MN Mitigated Negative Declaration
Description D
Two hundred apartments on 10.57 acres.

Lead Agency Contact

Name David A. Bobardt
Agency City of Moorpark
Phone (805) 517-6281 **Fax**
email
Address 799 Moorpark Avenue
City Moorpark **State** CA **Zip** 93021

Project Location

County Ventura
City Moorpark
Region
Cross Streets Casey Road / Walnut Canyon Road
Parcel No. 511-0-020-055, 105, 155
Township 2N **Range** 19W **Section** **Base** SB

Proximity to:

Highways 23, 118
Airports
Railways UPRR
Waterways
Schools Walnut Canyon, Chaparral
Land Use Vacant / Rural Exclusive / Specific Plan

Project Issues Air Quality; Noise; Traffic/Circulation

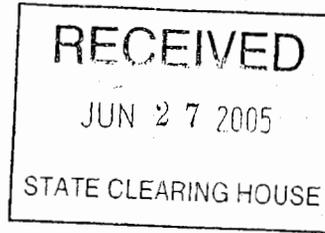
Reviewing Agencies Resources Agency; Regional Water Quality Control Board, Region 4; Department of Parks and Recreation; Native American Heritage Commission; Department of Health Services; Office of Emergency Services; Department of Fish and Game, Region 5; Department of Water Resources; California Highway Patrol; Caltrans, District 7

Date Received 06/17/2005 **Start of Review** 06/17/2005 **End of Review** 07/18/2005

000052

DEPARTMENT OF TRANSPORTATION

DISTRICT 7, Office of Regional Planning
 100 MAIN STREET
 LOS ANGELES, CA 90012-3606
 PHONE (213) 897-3747
 FAX (213) 897-1337
 TTY (213) 897-4937



clear
 7:18:05
 e



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June 21, 2005

IGR/CEQA cs/050621 – NEG DEC

City of Moorpark

Essex Moorpark Apartments, 200 apartments on 10.57 acres,

GPA 2004-05, ZC 2004-04, RPD 2004-06

S. of Casey Rd./W. of Walnut Canyon Rd.

Vic. VEN-23-13.62; SCH # 2005061096

Mr. David A Bobardt
 City of Moorpark
 799 Moorpark Ave.
 Moorpark, California 93021

Dear Mr. Bobardt:

Thank you for including the California Department of Transportation in the environmental review process for the above-mentioned project. Based on the information received, we have the following comments:

Please submit a copy of the 4-13-05 Project Traffic Analysis for Caltrans review. Since the proposed project is located close to State Route 23 and trips generated by the project is anticipated to have an impact on both State Route 23 and State Route 118, the traffic study should have included an analysis of affected intersections along these State highways. Caltrans will need to review the traffic mitigation measures listed in Table 4-1 of the April 2005 Traffic Analysis.

Any traffic mitigation measures that involve State highways will need a Caltrans Encroachment Permit. A standard Caltrans Encroachment Permit application along with 6 sets of engineering plans would be needed for Caltrans review and approval. A Transportation Management Plan will be needed for any lane closures, detours, parking restrictions, etc.

If you have any questions regarding our comments, please refer to our IGR/CEQA Record number cs/050621 and do not hesitate to contact me at (213) 897-3747.

Sincerely,

Original Signed By Carl Shiigi

Cheryl J. Powell
 IGR/CEQA Program Manager

cc: Scott Morgan, State Clearinghouse

"Caltrans improves mobility across California"

000053

DEPARTMENT OF TRANSPORTATION
 DISTRICT 7, OFFICE OF PUBLIC TRANSPORTATION
 AND REGIONAL PLANNING
 IGR/CEQA BRANCH
 100 SOUTH SPRING STREET
 LOS ANGELES, CA 90012
 PHONE (213) 897-3747
 FAX (213) 897-1337

RECEIVED
 AUG 31 2005
 CITY OF MOORPARK



*Flex your power!
 Be energy efficient!*

August 25, 2005

Dave
 Mr. Joseph Fiss
 City of Moorpark
 Community Development Department
 799 Moorpark Avenue
 Moorpark, CA 93021

Re: *Essex Apartments*
 IGR/CEQA No. 050667/EA, SCH# 2005061096
 Vic. VEN-23-PM R13.37

Dear Mr. Fiss:

Thank you for including the California Department of Transportation in the review process for the proposed development of 200 residential units known as the Essex Apartments. The development is to be located west of Walnut Canyon Road (State Route 23) south of Casey Road in the City of Moorpark. After a review of the traffic study submitted, we have the following comments:

- The traffic impact analysis correctly noted that the intersection at Walnut Canyon Road (SR-23) and Casey is congested during morning drop-off and afternoon pick-up times of students from the school nearby. City representatives have complained to this department that northbound traffic on Walnut Canyon Road sometimes backs up from Casey to New Los Angeles Avenue. Consequently, we are concerned that additional traffic related to the proposed Essex Apartments project would further deteriorate traffic operations at that interchange and result in longer delays. The proposed traffic mitigation so far, does not address the northbound left turn delay from SR-23 to Casey Road. To avoid delay during the permitting process, please contact this Department to discuss other traffic mitigation alternatives that would be mutually acceptable.
- We note that, to address the projects' cumulative transportation impacts in the area, it will be required to contribute funds on a fair-share basis towards short range and long range transportation improvements throughout the City. We remind you that all improvements to State highways need to be coordinated with this Department.
- We encourage the City to adopt a traffic impact fee program to address cumulative transportation impacts. When a local match is provided for improvements on State highways, they may be expedited.

If you have any questions regarding our comments, you may contact me at (213) 897-3747 and please refer to record number 050667/EA.

Sincerely,

Cheryl Powell

CHERYL J. POWELL
 IGR/CEQA Program Manager

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING ZONE CHANGE NO. 2004-04, FOR A CHANGE OF ZONING ON 10.57 ACRES SOUTH OF CASEY ROAD AND WEST OF WALNUT CANYON ROAD, ON THE APPLICATION OF ESSEX PORTFOLIO, L.P.

WHEREAS, on June 26, 2007, the Planning Commission adopted Resolution No. PC-2007-518, recommending approval to the City Council of Zone Change No. 2004-04, for a change of zoning from Rural Exclusive (RE) to Residential Planned Development – 19.0 units per acre (RPD-19.0u) on 10.57 acres located south of Casey Road and west of Walnut Canyon Road, on the application of Essex Portfolio, L.P.; and

WHEREAS, at a duly noticed public hearing on July 18, 2007, the City Council considered the agenda report for Zone Change No. 2004-04 and any supplements thereto and written public comments; opened the public hearing and 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 has read, reviewed, considered and adopted a Mitigated Negative Declaration prepared for the project referenced above.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Zone Change No. 2004-04 is consistent with the General Plan as amended by General Plan Amendment No. 2004-05.

SECTION 2. The Zoning Map described and referenced in Chapter 17.12 of Title 17, Zoning, of the Municipal Code of the City of Moorpark is hereby amended as shown in Exhibit "A" attached hereto.

SECTION 3. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 4. This Ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 5. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published once in the Moorpark Star a newspaper of general circulation, as defined in Section 6008 of the Government Code, for the City of Moorpark, and which is hereby designated for that purpose.

PASSED AND ADOPTED this ____ day of _____, 2007.

Patrick Hunter, Mayor

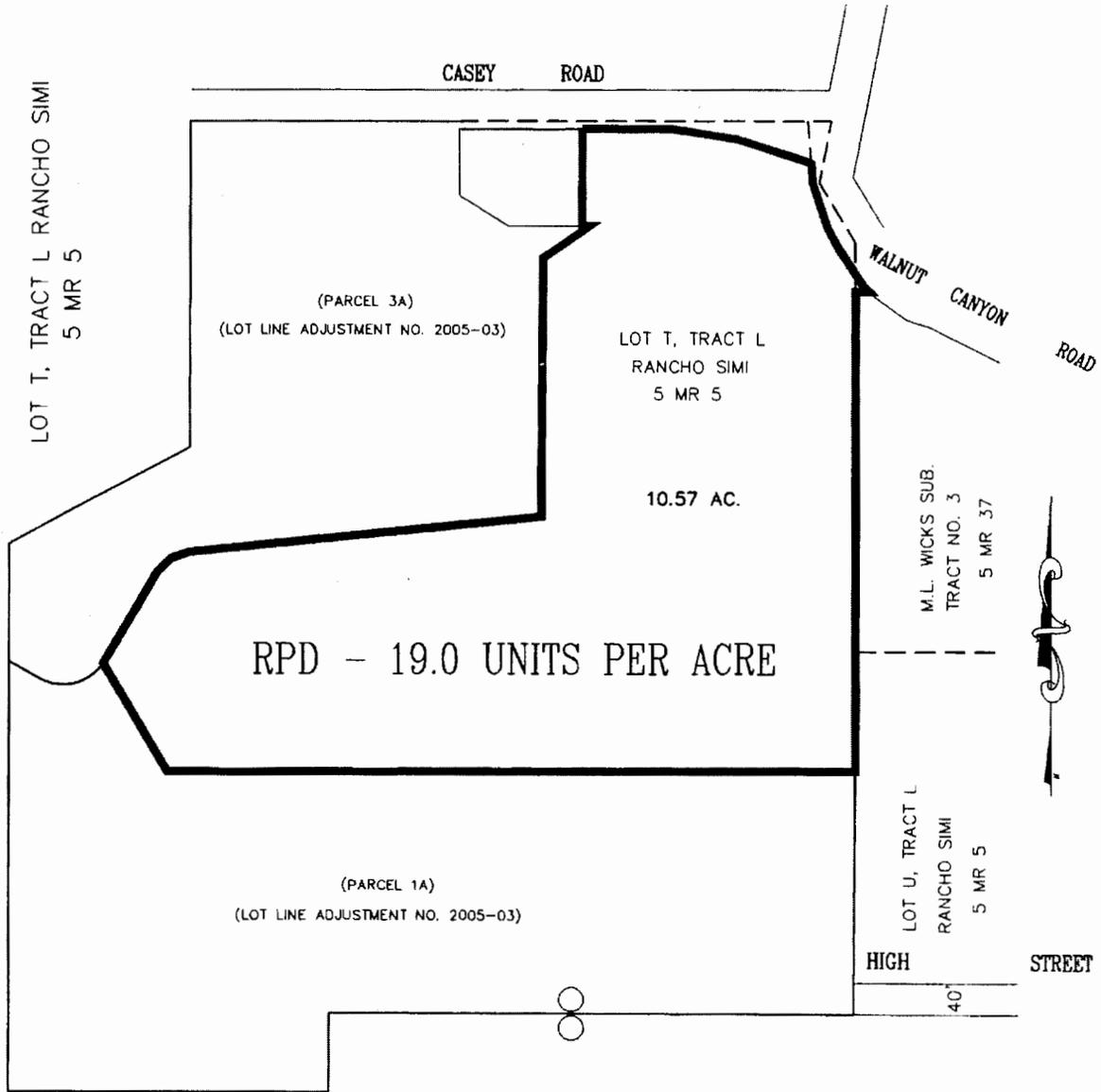
ATTEST:

Deborah S. Traffenstedt, City Clerk

Attachments:

Exhibit A: Zone Change Map

EXHIBIT A
ZONE CHANGE NO. 2004-04



ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, ADOPTING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MOORPARK AND ESSEX PORTFOLIO LIMITED PARTNERSHIP (L.P.) FOR 19.41 ACRES SOUTH OF CASEY ROAD AND WEST OF WALNUT CANYON ROAD.

WHEREAS, Section 65864, Article 2:5, Chapter 4, Division 1, Title 7 of the State Planning and Zoning Law provides that cities may enter into contractual obligations known as Development Agreements with persons having equitable interest in real property for development of that property; and

WHEREAS, Essex Portfolio, L.P., the owner of the land with an application for General Plan Amendment No. 2004-05, Zone Change No. 2004-04, and Residential Planned Development Permit No. 2004-06, has applied to the City of Moorpark to seek a Development Agreement (No. 2004-03) with the City pursuant to Chapter 15.40 of the Moorpark Municipal Code; and

WHEREAS, the Planning Commission of the City of Moorpark on June 26, 2007, adopted Resolution No. PC 2007-518 recommending to the City Council approval of Development Agreement No. 2004-03, proposed in conjunction with the 200-unit apartment complex project initiated by Essex Portfolio, L.P., also consisting of applications for General Plan Amendment No. 2004-05, Zone Change No. 2004-04, and Residential Planned Development Permit No. 2004-06; and

WHEREAS, the City Council on July 18, 2007, adopted the Mitigated Negative Declaration for the Essex Portfolio, L.P. project, as having been completed in accordance with the California Environmental Quality Act, (CEQA), the CEQA Guidelines and the City's CEQA procedures; and

WHEREAS, a duly noticed public hearing was conducted by the City Council on July 18, 2007 to consider the Development Agreement and to accept public testimony related thereto; and

WHEREAS, the City Council has considered all points of public testimony relevant to the Development Agreement and has given careful consideration to the content of the Development Agreement, and has reached a decision on the matter.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Moorpark does hereby find as follows:

A. The Development Agreement is consistent with the General Plan as amended by General Plan Amendment No. 2004-05.

B. The Development Agreement and the assurances that said agreement places upon the project are consistent with the intent and provisions of the Mitigated Negative Declaration.

C. The Development Agreement is necessary to ensure the public health, safety and welfare.

SECTION 2. The City Council hereby adopts Development Agreement No. 2004-03 (attached hereto) between the City of Moorpark, a municipal corporation, and Essex Portfolio L. P., and the City Clerk is hereby directed to cause one copy of the signed, adopted agreement to be recorded with the County Recorder no later than ten (10) days after the City enters into the development agreement pursuant to the requirements of Government Code Section 65868.5.

SECTION 3. Upon the effective date of this ordinance, the Community Development Director shall cause the property that is the subject of the Development Agreement to be identified on the Zoning Map of the City by the designation "DA" followed by the dates of the term of said Agreement.

SECTION 4. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 5. This Ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 6. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published once in the Moorpark

Ordinance No. ____
Page 3

Star a newspaper of general circulation, as defined in Section 6008 of the Government Code, for the City of Moorpark, and which is hereby designated for that purpose.

PASSED AND ADOPTED this ____ day of ____, 2007.

Patrick Hunter, Mayor

ATTEST:

Deborah S. Traffenstedt, City Clerk

Attachment:
EXHIBIT A - Development Agreement No. 2004-03

000060

EXHIBIT A

Recording Requested By
And When Recorded Return to:

CITY CLERK
CITY OF MOORPARK
799 Moorpark Avenue
Moorpark, California 93021
EXEMPT FROM RECORDER'S FEES
Pursuant to Government Code
§ 6103

DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF MOORPARK
AND
ESSEX PORTFOLIO, L.P.

THIS AGREEMENT SHALL BE RECORDED WITHIN TEN DAYS
OF EXECUTION BY ALL PARTIES HERETO PURSUANT TO
THE REQUIREMENTS OF GOVERNMENT CODE §65868.84

07/12/2007

000061

DEVELOPMENT AGREEMENT

This Development Agreement ("the Agreement") is made and entered into on _____, 2007 by and between the CITY OF MOORPARK, a municipal corporation, (referred to hereinafter as "City") and Essex Portfolio, L.P., the owner of real property within the City of Moorpark generally referred to as Residential Planned Development Permit 2004-06 (referred to hereinafter individually as "Developer"). City and Developer are referred to hereinafter individually as "Party" and collectively as "Parties." In consideration of the mutual covenants and agreements contained in this Agreement, City and Developer agree as follows:

1. Recitals. This Agreement is made with respect to the following facts and for the following purposes, each of which is acknowledged as true and correct by the Parties:
 - 1.1. Pursuant to Government Code Section 65864 et seq. and Moorpark Municipal Code chapter 15.40, City is authorized to enter into a binding contractual agreement with any person having a legal or equitable interest in real property within its boundaries for the development of such property in order to establish certainty in the development process.
 - 1.2. Prior to approval of this Agreement, but after the approval of the Mitigated Negative Declaration (MND), Mitigation Measures, and Mitigation Monitoring and Reporting Program ("the MMRP") for the Project Approvals as defined in section 1.3 of this Agreement, the City Council of City ("the City Council") approved General Plan Amendment No. 2004-05 ("GPA 2004-05"), for approximately 10.57 acres of land within the City ("the Property"), as more specifically described in Exhibit "A" attached hereto and incorporated herein, and changed the zoning of the Property pursuant to Zone Change No. 2004-04 ("ZC 2004-04").
 - 1.3. GPA 2004-05, ZC 2004-04, and Residential Planned Development Permit No. 2004-06 (RPD 2004-06) [collectively "the Project Approvals"; individually "a Project Approval"] provide for the development of the Property and the construction of certain off-site improvements in connection therewith ("the Project").
 - 1.4. By this Agreement, City desires to obtain the binding agreement of Developer to develop the Property in accordance with the Project Approvals and this Agreement. In consideration thereof, City agrees to limit the future exercise of certain of its governmental and proprietary powers to the extent specified in this Agreement.
 - 1.5. By this Agreement, Developer desires to obtain the binding agreement of City to permit the development of the Property in accordance with the Project Approvals and this Agreement. Developer anticipates developing

the Property over a minimum of three (3) years. In consideration thereof, Developer agrees to waive its rights to legally challenge the limitations and conditions imposed upon the development of the Property pursuant to the Project Approvals and this Agreement and to provide the public benefits and improvements specified in this Agreement.

- 1.6. City and Developer acknowledge and agree that the consideration that is to be exchanged pursuant to this Agreement is fair, just and reasonable and that this Agreement is consistent with the General Plan of City, as amended by GPA 2004-05.
 - 1.7. On June 20, 2007, the Planning Commission commenced a duly noticed public hearing on this Agreement, and at the conclusion of the hearing on June 20, 2007 recommended approval of the Agreement.
 - 1.8. On July 18, 2007, the City Council commenced a duly noticed public hearing on this Agreement, and following the conclusion of the hearing approved the Agreement by adoption of Ordinance No. ("the Enabling Ordinance") on , _____.
2. Property Subject To This Agreement. All of the Property shall be subject to this Agreement. The Property may also be referred to hereinafter as "the site" or "the Project".
 3. Binding Effect. The burdens of this Agreement are binding upon, and the benefits of the Agreement inure to, each Party and each successive successor in interest thereto and constitute covenants that run with the Property. Whenever the terms "City" and "Developer" are used herein, such terms shall include every successive successor in interest thereto, except that the term "Developer" shall not include the purchaser or transferee of any lot within the Project that has been fully developed in accordance with the Project Approvals and this Agreement.
 - 3.1. Constructive Notice and Acceptance. Every person who acquires any right, title or interest in or to any portion of the Property except any lot within the Project that has been fully developed in accordance with the Project Approvals and this Agreement shall be, conclusively deemed to have consented and agreed to be bound by this Agreement, whether or not any reference to the Agreement is contained in the instrument by which such person acquired such right, title or interest.
 - 3.2. Release Upon Transfer. Upon the sale or transfer of any of Developer's interest in any portion of the Property, that Developer shall be released from its obligations with respect to the portion so sold or transferred subsequent to the operative date of the sale or transfer, provided that the Developer (i) was not in breach of this Agreement at the time of the sale or transfer and (ii) prior to the sale or transfer, delivered to City a written

assumption agreement, duly executed by the purchaser or transferee and notarized by a notary public, whereby the purchaser or transferee expressly assumes the obligations of Developer under this Agreement with respect to the sold or transferred portion of the Property. Failure to provide a written assumption agreement hereunder shall not negate, modify or otherwise affect the liability of the purchaser or transferee pursuant to this Agreement. Nothing contained herein shall be deemed to grant to City discretion to approve or deny any such sale or transfer, except as otherwise expressly provided in this Agreement.

3.3 In the event of a partial assignment or transfer, the assumption agreement referenced in section 3.2 shall include provisions acceptable to the City to ensure that the phased construction of affordable housing units contemplated by section 6.9 is achieved, regardless of the identity or number of developers of the Project.

4. Development of the Property. The following provisions shall govern the subdivision, development and use of the Property.

4.1. Permitted Uses. The permitted and conditionally permitted uses of the Property shall be limited to those that are allowed by the Project Approvals and this Agreement.

4.2. Development Standards. All design and development standards, including but not limited to density or intensity of use and maximum height and size of buildings, that shall be applicable to the Property are set forth in the Project Approvals and this Agreement.

4.3. Building Standards. All construction on the Property shall adhere to the Uniform Building Code, including the Fire Resistive Design Manual, the National Electrical Code, the Uniform Plumbing Code, the Uniform Mechanical Code, the Uniform Housing Code, the Uniform Code for the Abatement of Dangerous Buildings, the Uniform Code for Building Conservation and the Uniform Administrative Code in effect at the time the plan check or building permit is approved and to any federal or state building requirements that are then in effect (collectively "the Building Codes").

4.4. Reservations and Dedications. All reservations and dedications of land for public purposes that are applicable to the Property are set forth in the Project Approvals and this Agreement.

5. Vesting of Development Rights.

- 5.1. Timing of Development. In Pardee Construction Co. v. City of Camarillo, 37 Cal.3d 465 (1984), the California Supreme Court held that the failure of the parties therein to provide for the timing or rate of development resulted in a later-adopted initiative restricting the rate of development to prevail against the parties' agreement. City and Developer intend to avoid the result in Pardee by acknowledging and providing that Developer shall have the right, without obligation, to develop the Property in such order and at such rate and times as Developer deems appropriate within the exercise of its subjective business judgment.

In furtherance of the Parties intent, as set forth in this section, no future amendment of any existing City ordinance or resolution, or future adoption of any ordinance, resolution or other action, that purports to limit the rate or timing of development over time or alter the sequencing of development phases, whether adopted or imposed by the City Council or through the initiative or referendum process, shall apply to the Property provided the Property is developed in accordance with the Project Approvals and this Agreement. Nothing in this section shall be construed to limit City's right to insure that Developer timely provides all infrastructure required by the Project Approvals, Subsequent Approvals, and this Agreement.

- 5.2. Amendment of Project Approvals. No amendment of any of the Project Approvals, whether adopted or approved by the City Council or through the initiative or referendum process, shall apply to any portion of the Property, unless the Developer has agreed in writing to the amendment.
- 5.3. Issuance of Subsequent Approvals. Applications for land use approvals, entitlements and permits, including without limitation subdivision maps (e.g. tentative, vesting tentative, parcel, vesting parcel, and final maps), subdivision improvement agreements and other agreements relating to the Project, lot line adjustments, preliminary and final planned development permits, use permits, design review approvals (e.g. site plans, architectural plans and landscaping plans), encroachment permits, and sewer and water connections that are necessary to or desirable for the development of the Project (collectively "the Subsequent Approvals"; individually "a Subsequent Approval") shall be consistent with the Project Approvals and this Agreement. For purposes of this Agreement, Subsequent Approvals do not include building permits.

Subsequent Approvals shall be governed by the Project Approvals and by the applicable provisions of the Moorpark General Plan, the Moorpark Municipal Code and other City ordinances, resolutions, rules, regulations, policies, standards and requirements as most recently adopted or

approved by the City Council or through the initiative or referendum process and in effect at the time that the application for the Subsequent Approval is deemed complete by City (collectively "City Laws"), except City Laws that:

(a) change any permitted or conditionally permitted uses of the Property from what is allowed by the Project Approvals;

(b) limit or reduce the density or intensity of the Project, or any part thereof, or otherwise require any reduction in the number of proposed buildings or other improvements from what is allowed by the Project Approvals.

(c) limit or control the rate, timing, phasing or sequencing of the approval, development or construction of all or any part of the Project in any manner, provided that all infrastructure required by the Project Approvals to serve the portion of the Property covered by the Subsequent Approval is in place or is scheduled to be in place prior to completion of construction;

(d) are not uniformly applied on a City-wide basis to all substantially similar types of development projects or to all properties with similar land use designations;

(e) control residential rents;

(f) prohibit or regulate development on slopes with grades greater than 20 percent, including without limitation Moorpark Municipal Code Chapter 17.38 or any successor thereto, within the Property; or

(g) modify the land use from what is permitted by the City's General Plan Land Use Element at the operative date of this Agreement or that prohibits or restricts the establishment or expansion of urban services including but not limited to community sewer systems to the Project.

5.4. Term of Subsequent Approvals.

The term of any Subsequent Approval or other agreements relating to the Project, shall be one year; provided that the term may be extended by the decision maker for two (2) additional one (1) year periods upon application of the Developer holding the Subsequent Approval filed with City's Community Development Department prior to the expiration of that Subsequent Approval. Each such Subsequent Approval shall be deemed inaugurated, and no extension shall be necessary, if a building permit was issued and the foundation received final inspection by City's Building Inspector prior to the expiration of that Subsequent Approval.

It is understood by City and Developer that certain Subsequent Approvals may not remain valid for the term of this Agreement. Accordingly, throughout the term of this Agreement, any Developer shall have the right, at its election, to apply for a new permit to replace a permit that has expired or is about to expire.

- 5.5. Modification of Approvals. Throughout the term of this Agreement, Developer shall have the right, at its election and without risk to or waiver of any right that is vested in it pursuant to this section, to apply to City for modifications to Project Approvals and Subsequent Approvals. The approval or conditional approval of any such modification shall not require an amendment to this Agreement, provided that, in addition to any other findings that may be required in order to approve or conditionally approve the modification, a finding is made that the modification is consistent with this Agreement and does not alter the permitted uses, density, intensity, maximum height, size of buildings or reservations and dedications as contained in the Project Approvals.
- 5.6. Issuance of Building Permits. No Building Permit shall be unreasonably withheld or delayed from Developer. In addition, no Final Building Permit final inspection or certificate of occupancy will be unreasonably withheld or delayed from Developer if all infrastructure required by the Project Approvals, Subsequent Approvals, and this Agreement to serve the portion of the Property covered by the Final Building Permit is in place or is scheduled to be in place prior to completion of construction and all of the other relevant provisions of the Project Approvals, Subsequent Approvals and this Agreement have been satisfied. Consistent with section 5.1 of this Agreement, in no event shall building permits be allocated on any annual numerical basis or on any arbitrary allocation basis.
- 5.7. Moratorium on Development. Nothing in this Agreement shall prevent City, whether by the City Council or through the initiative or referendum process, from adopting or imposing a moratorium on the processing and issuance of Subsequent Approvals and building permits and on the finalizing of building permits by means of a final inspection or certificate of occupancy, provided that the moratorium is adopted or imposed (i) on a City-wide basis to all substantially similar types of development projects and properties with similar land use designations and (ii) as a result of a utility shortage or a reasonably foreseeable utility shortage including without limitation a shortage of water, sewer treatment capacity, electricity or natural gas.

6. Developer Agreements.

- 6.1. Developer shall comply with (i) this Agreement, (ii) the Project Approvals, (iii) all Subsequent Approvals for which it was the applicant or a successor in interest to the applicant and (iv) the MMRP of the MND and any subsequent or supplemental environmental actions. Developer agrees not to apply for any institutional uses on the Property. The clubhouse and leasing offices are not considered to be institutional uses.
- 6.2. All lands and interests in land dedicated to City shall be free and clear of liens and encumbrances other than easements or restrictions that do not preclude or interfere with use of the land or interest for its intended purpose, as reasonably determined by City.
- 6.3. As a condition of the issuance of a building permit for each residential use within the boundaries of the Property, Developer shall pay City a development fee as described herein (the "Development Fee"). The Development Fee may be expended by City in its sole and unfettered discretion. The amount of the Development Fee shall be Ten-Thousand Eight-Hundred Seventy-Four Dollars (\$10,874.00) per residential unit. The fee shall be adjusted annually commencing July 1, 2008 by the larger increase of a) or b) as follows:
- a) The Consumer Price Index (CPI) increase shall be determined by using the information provided by the U.S. Department of Labor, Bureau of Labor Statistics, for all urban consumers within the Los Angeles /Riverside/Orange County metropolitan area during the prior year. The calculation shall be made using the month of October over the prior October.
 - b) The calculation shall be made to reflect the change in the Caltrans Highway Bid Price Index for Selected California Construction Items for the twelve (12) month period available on December 31 of the preceding year.

In the event there is a decrease in both of the referenced Index for any annual indexing, the Development Fee shall remain at its then current amount until such time as the next subsequent annual indexing which results in an increase.

- 6.4. As a condition of the issuance of building permit for each residential use within the boundaries of the Property, Developer shall pay City a traffic mitigation fee as described herein ("Citywide Traffic Fee"). The Citywide Traffic Fee may be expended by City in its sole and unfettered discretion. The amount of the Citywide Traffic Fee shall be Five Thousand Seventy-Five Hundred Dollars (\$5,075.00) per residential unit. Commencing on July 1, 2008, and annually thereafter, the contribution amount shall be

increased to reflect the change in the Caltrans Highway Bid Price Index for Selected California Construction Items for the twelve (12) month period available on December 31 available on December 31 of the preceding year ("annual indexing"). In the event there is a decrease in the referenced Index for any annual indexing, the current amount of the fee shall remain until such time as the next subsequent annual indexing which results in an increase.

6.5. [THIS SECTION INTENTIONALLY LEFT BLANK.]

6.6. On the operative date of this Agreement, Developer shall pay all outstanding City processing costs related to preparation of this Agreement, Project Approvals, and MND.

6.7. Prior to the issuance of the building permit for each residential dwelling unit within the Property, Developer shall pay a fee in lieu of the dedication of parkland and related improvements (Park Fee). The amount of the Park Fee shall be Four-Thousand Nine-Hundred Eighty-One Dollars (\$4,981.00) for each residential dwelling unit within the Property. The fee shall be adjusted annually commencing July 1, 2008 by the larger increase of a) or b) as follows:

a) The CPI increase shall be determined by using the information provided by the U.S. Department of Labor, Bureau of Labor Statistics, for all urban consumers within the Los Angeles/Riverside/Orange County metropolitan area during the prior year. The calculation shall be made using the month of October over the prior October.

b) The calculation shall be made to reflect the change in the Caltrans Highway Bid Price Index for Selected California Construction Items for the twelve (12) month period available on December 31 of the preceding year.

In the event there is a decrease in both of the referenced Indices for any annual indexing, the Park Fee shall remain at its then current amount until such time as the next subsequent annual indexing which results in an increase.

Developer agrees that the above-described payments shall be deemed to satisfy the parkland dedication requirement set forth at California Government Code Section 66477 et seq. for the Property.

6.8. Provided that prior to the approval by City of the utility plans for RPD 2004-06, , Ventura County Waterworks District No. 1 or any successor entity confirms that it has sufficient recycled water to serve the public and community owned landscaped areas within RPD 2004-06, then

Developer shall construct appropriately sized water lines, pumping facilities, and storage facilities for recycled water consistent with the requirements of the City, Waterworks District No. 1 and Calleguas Water District. Said lines shall be installed prior to the final cap being placed on all streets. Developer shall provide service including payment of any connection and meter charges and shall use recycled water for medians and parkways for all public streets adjacent to the Project, and any other public and commonly owned landscaping and recreation areas constructed by Developer as part of the Project Approvals. The amount of recycled water needed and areas to be irrigated by recycled water shall be determined by City at its sole discretion. The recycled water line(s) shall be installed for each City approved phase of development of the Project, and the recycled water shall be in use prior to the first occupancy approval for each City approved phase of the Project. Developer shall install dual water meters and services for all locations in the Project determined necessary by City at its sole discretion to insure that both potable and recycled water are available where restroom and drinking fountains are planned.

- 6.9. Developer agrees that densities vested and incentives and concessions received in the Project Approvals include all densities available as density bonuses and all incentives and concessions to which Developer is entitled under the Moorpark Municipal Code and Government Code Sections 65915 through 65917.5; Developer shall not be entitled to further density bonuses or incentives or concessions and further agrees, in consideration for the density bonus obtained through the Project Approvals that is greater than would otherwise be available to guarantee the affordability of forty (40) rental units (16 for very low income households and 24 for low income households) for the life of the Project. These forty (40) affordable units shall be rented to eligible tenants as shown in the table below. If bonds are issued by City, at its sole discretion, through an "Inducement Resolution" and after a Tax Equity and Fiscal Responsibility Act (TEFRA) hearing and used by Developer for the Project, then Developer will be deemed to have a "City Issued Bond Financed Project," in which case, in addition to the aforementioned forty (40) units Developer shall provide ten (10) additional units for moderate income households for the life of the Project as provided in the table below.

Unit Type	1 Bedroom 1 Bath	2 Bedroom 1 Bath	2 Bedroom 2 Bath	3 Bedroom
Moderate (for a City Issued Bond Financed Project only)		1	4	5
Low	11	4	8	1
Very Low	8	2	5	1
TOTAL	19	6	13	2
TOTAL (for a City Issued Bond Financed Project)	19	7	17	7

Four (4) of the nineteen (19) one-bedroom one bath affordable Low and Very Low Income units shall be handicap accessible and shall be reserved for and occupied by persons eligible for such accommodations, to the extent there is a qualified handicapped affordable person ready to occupy such unit. Should there be a qualified low or very low income prospective tenant desiring to rent such units but all such units are rented Developer shall add such prospective tenant to the waiting list for such affordable handicap accessible units. At the earliest possible time a low or very low income non-handicap affordable unit becomes available the non-handicapped affordable tenant who occupies the affordable handicap unit shall be relocated to another affordable unit in order to allow the qualified handicap tenant to occupy the handicap accessible unit. Developer shall include a provision in the non-handicap affordable lease that the non-handicap affordable tenant agrees to be relocated, at Developer cost, as soon as a non-handicap unit becomes available.

Low income households shall meet the criteria of sixty percent (60%) or less of median income for Ventura County. Very low income households shall meet the criteria of 50 percent (50%) or less of median income for Ventura County. For a City Issued Bond Financed Project households for moderate income units shall meet the criteria of one hundred twenty percent (120%) or less of median income, low sixty percent (60%) and or

very low income fifty percent (50%) or less of median income. The aforementioned forty (40) units (fifty units if it's a City Issued Bond Financed Project, including the additional ten units to be for moderate income tenants) are collectively referred to as the affordable housing units or affordable units. The household income limit, affordability thresholds and the affordable rent for Very Low Income and Low Income affordable units (and Moderate Income affordable units in the event of a City Issued Bond Financed Project), may, if required by the issuer of any such bonds, be based on an income equal to or less than (but in no event greater than) the amounts stated in this paragraph, in accordance with the provisions of the Affordable Housing Agreement executed for the Project.

Concurrent with the City Council's approval of this Agreement Developer agrees to enter into an Affordable Housing Agreement with City and agree that it shall include, but not be limited to all terms addressed in this section 6.9:

In addition to the units referenced above, Developer agrees, at Developer's option, to either provide four (4) additional low income units during the term of the Affordable Housing Agreement, or to pay an in-lieu fee for any years during which the additional four low income units are not continuously provided. The in lieu fee shall be used by the City for any purposes, in the City's sole discretion.

The in-lieu fee shall be Twenty Three Thousand Four Hundred Dollars (\$23,400.00) if paid in calendar year 2008. ("Initial In-lieu Fee Amount") The annual in-lieu payment shall increase by two percent (2%) each year above the prior year amount. In no event shall there be a decrease in the amount paid in any year compared to the prior year.

Payments shall be made on March 10 of each year beginning March 10, 2008, or the first March 10 of any year in which the Project is occupied with one or more residential units, whichever is later. If March 10 falls on a Saturday, Sunday, or City Holiday then payment shall be due on the City's next business day. A late payment penalty equal to 10% of the payment due shall be added to payments received three (3) days or more after the due date as stated herein or when a deficient check has been given for payment. Payments received more than ten (10) days after the due date shall, in addition to the 10% penalty, accrue interest at a rate of 12% from the due date through and including the date the payment is received by the City.

In the event of a sale, transfer, assignment of any type or any portion of the Project or Property by Developer to any other entity not owned in whole or in part by Developer, the fee amount referenced above shall be increased based on the new value of the Property as if it had been

reassessed by the Ventura County Assessor and not exempt from the payment of new property taxes. The calculation shall provide the City 0.08% (equivalent to \$800.00 per \$1 million of assessed value) of the assessed value or such higher percentage of the total new property taxes if the City portion has been increased by action of the State of California or by a statewide initiative or referendum. (For example, if the sale results in a value of \$36,000,000.00 then the annual fee to the City would be $\$36,000,000.00 \times .0008 = \$28,800.00$ or if the City portion of the property taxes has been increased to 0.09% by the State of California on a statewide initiative or referendum then the amount would be \$32,400.00). In the event the payment to the City under this calculation would be less than the Initial In-lieu Fee Amount, inclusive of any 2% adjustments applied as of the date of sale, transfer or assignment, then such adjusted Initial In-lieu Fee Amount shall continue until such time as the calculation in this paragraph would yield a higher annual fee.

Developer agrees not to convert the Project to for-sale condominiums, community apartments, planned development, stock cooperative, or other common interest development, hotel/motel, or as congregate care or assisted living facility for the life of the Project. Developer further agrees it shall not permit any of the units (affordable and market rate) to be used on a transient basis and shall not rent any unit for a period of less than monthly.

Developer agrees that the units used to house the qualified low and very low income tenants (and ten units for qualified moderate income tenants if it's a City Issued Bond Financed Project) shall at all times and in all manner be the same as the market rate units including, but not limited to the quality and maintenance of flooring, window covers, appliances, HVAC, storage space and type, and the number and location of required parking spaces.

Developer further agrees that it has the obligation to provide the required number of affordable housing units as specified above regardless of the cost to acquire or construct said housing units. Developer further agrees that City has no obligation to use eminent domain proceedings to acquire any of the required affordable housing units and that this subsection 6.9 is specifically exempt from the requirements of subsection 7.2 of this Agreement.

At no time shall any of the affordable units be rented to an employee, agent, officer, contractor, subcontractor, affiliated company or subsidiary of Developer.

Developer shall pay an annual fee to City of Ten Thousand Dollars (\$10,000.00) to administer the affordability provisions and other requirements of the Affordable Housing Agreement. The fee shall be

paid on or before February 1 of each year commencing after the first residential occupancy for the Project and adjusted annually commencing each subsequent January by the larger increase of a) or b) as follows:

- a. The CPI increase shall be determined by using the information provided by the U.S. Department of Labor, Bureau of Labor Statistics, for all urban consumers within the Los Angeles/Riverside/Orange County metropolitan area during the prior year. The calculation shall be made using the month of October over the prior October.
- b. The annual percentage amount paid to City by the Local Agency Investment Fund (LAIF) calculated as follows: The sum of the quarterly effective yield amounts paid by LAIF for the City's Pooled Money Investment Account for the most recent four (4) calendar quarters divided by four (4).

Developer agrees City may at any time assign or transfer or substitute the Moorpark Redevelopment Agency for City relative to affordable housing matters, including the issuance of bonds.

Developer agrees to the greatest extent permitted by state and federal law to grant priority to eligible Moorpark residents for the life of the Project to the extent it does not (i) jeopardize Developer's rights pursuant to this Agreement or the Project Approvals, or (ii) jeopardize or materially affect any bond financing desired by Developer. In the event Developer obtains a legal opinion letter from bond counsel which confirms that granting priority to Moorpark residents may be in violation of any state or federal laws Developer shall not grant priority to Moorpark residents.

All units shall meet the criteria of all applicable State laws to qualify as newly affordable to low income and very low income persons (in the quantity as specified in this Agreement) to satisfy a portion of the City's RHNA obligation and the Moorpark Redevelopment Agency's affordable housing goals. None of the affordable units required by this Agreement shall duplicate or substitute for the affordable housing requirement of any other developer or development project. All Subsequent Approvals required of City under this section 6.9 shall be made at City's sole discretion. If any conflict exists between this Agreement and the Affordable Housing Agreement or the conditions of approval for RPD No. 2004-06 or state and federal laws and regulations, then the provision providing the City the most favorable language for assisting eligible renters who meet the qualification of low and very low income (and moderate income for the ten (10) units in the event bond financing is used) shall prevail.

Developer must submit its request, in writing, to City for approval and processing of City Issued Bond Financing for the Project. If City concurs

with Developer's request and Developer proceeds with City Issued Bond Financing, then City approval and processing of all documents, agreements, hearings and anything else required specifically for a City Issued Bond Financed Project shall not be unreasonably withheld or delayed.

For a City Issued Bond Financed Project, Developer agrees that City may at its sole discretion select the bond counsel, underwriter, financial advisor and other professional service providers that City deems necessary to effectuate City Issued Bond Financing. Developer further agrees to fund all costs actually incurred by City in connection with such City Issued Bond Financing by providing City with deposits for all such bond financing related costs not contingent on the sale of bonds. In addition, Developer will pay for all city attorney and city staff time at applicable rates. With the exception of city staff costs all other costs including, but not limited to out of pocket and professional services costs shall have City overhead expense of fifteen percent (15%) added to said costs.

In the event of a City Issued Bond Financed Project, Developer shall also pay an initial issuer fee to City of Forty Thousand Dollars (\$40,000.00). The fee shall be paid upon funding of the City Issued Bond Financing.

- 6.10. Developer agrees that the Mitigation Measures included in the City Council approved MND and MMRP, or subsequent environmental clearance document approved by the Council, set forth the mitigation requirements for air quality impacts. Developer agrees to pay to City an air quality mitigation fee, as described herein (Air Quality Fee), in satisfaction of the Transportation Demand Management Fund mitigation requirement for the Project. The Air Quality Fee may be expended by City in its sole discretion for reduction of regional air pollution emissions and to mitigate residual Project air quality impacts.

The Air Quality Fee shall be Nine-Hundred Twenty-Nine (\$929.00) per residential unit to be paid prior to the issuance of each building permit for the first residential building in RPD 2004-06. Commencing on July 1, 2008, and annually thereafter the Air Quality Fee shall be adjusted by any increase in the Consumer Price Index (CPI) until all fees have been paid. The CPI increase shall be determined by using the information provided by the U.S. Department of Labor, Bureau of Labor Statistics, for all urban consumers within the Los Angeles/Riverside/Orange County metropolitan area during the prior year. The calculation shall be made using the month of December over the prior month of December. In the event there is a decrease in the CPI for any annual indexing, the fee shall remain at its then current amount until such time as the next subsequent annual indexing which results in an increase.

- 6.11. Developer agrees to cast affirmative ballots for the formation of one or more assessment districts and levying of assessments, for the maintenance of parkway and median landscaping, street lighting, including but not limited to all water and electricity costs, and if requested by the City Council, parks for the provision of special benefits conferred by same upon properties within the Project.
- 6.12. In addition to fees specifically mentioned in this Agreement, Developer agrees to pay all City capital improvement, development, and processing fees at the rate and amount in effect at the time the fee is required to be paid. Said fees include but are not limited to Library Facilities Fees, Police Facilities Fees, Fire Facilities Fees, drainage, entitlement processing fees, and plan check and permit fees for buildings and public improvements. Developer further agrees that unless specifically exempted by this Agreement, it is subject to all fees imposed by City at the operative date of this Agreement and such future fees imposed as determined by City in its sole discretion so long as said fee is imposed on similarly situated properties.
- 6.13. Developer shall pay the Los Angeles Avenue Area of Contribution (AOC) fee of Three-Thousand Seven-Hundred Sixty Dollars (\$3,760.00) for each residential unit prior to the issuance of a building permit for each residential building within the Project.
- 6.14. The street improvements for all streets scheduled for dedication to the City shall be designed and constructed by Developer to provide for a 50-year life as determined by the City Engineer.
- 6.15. Developer agrees that any fees and payments pursuant to this Agreement and for RPD 2004-06 shall be made without reservation, and Developer expressly waives the right to payment of any such fees under protest pursuant to California Government Code Section 66020 and statutes amendatory or supplementary thereto. Developer further agrees that the fees it has agreed to pay pursuant to section 6.3 of this Agreement are not public improvement fees collected pursuant to Government Code Section 66006 and statutes amendatory or supplementary thereto.
- 6.16. Developer agrees to comply with Section 15.40.150 of the Moorpark Municipal Code and any provision amendatory or supplementary thereto for annual review of this Agreement and further agrees that the annual review shall include evaluation of its compliance with the approved MND and MMRP.

- 6.17. Developer agrees that the Art in Public Places Fee shall not apply to this Project since negotiations for the Development Agreement were begun prior to the effective date of the ordinance adopting the Fee.
- 6.18. Developer agrees that any election to acquire property by eminent domain shall be at City's sole discretion, and only after compliance with all legally required procedures including but not limited to a hearing on a proposed resolution of necessity.
- 6.19. Developer agrees that in the case of failure to comply with the terms and conditions of the early grading agreement after the expiration of all cure periods provided for in the early grading agreement, the City Council may by resolution declare its surety forfeited.
- 6.20. In the event either or both of the "CPI" referred to in sections 6.3, 6.5, 6.7, 6.9, and 6.10, above, the "referenced Index and/or LAIF" referred to in section 6.4, above and LAIF referred to in section 6.9 are discontinued or revised, such successor index with which the "CPI" and or "referenced Index and/or LAIF" are replaced shall be used in order to obtain substantially the same result as would otherwise have been obtained if either or both the "CPI" and "referenced Index" had not been discontinued or revised.
- 6.21. Prior to the issuance of the final building permit for the last residential building in the Project Developer agrees to sell City an approximate 8.84 acre site (hereinafter referred to as City Site) as shown in Exhibit B pursuant to the Purchase and Sale Agreement attached hereto as Exhibit C (the "Purchase and Sale Agreement") for the amount of One Million Two Hundred Thirty-Eight Thousand Six Hundred Dollars (\$1,238,600.00). Developer shall pay all escrow and related costs for the sale of the City Site to City. Developer further agrees that prior to the Final Building Permit for the last residential building, to return the City Site ground elevation to the same elevation that was in place at the time of issuance of a grading permit for the Project. Verification of the elevation shall be determined by the City Engineer in his/her sole discretion.
- 6.22. Developer agrees to enclose the flood control channel located on the eastern portion of the Project as shown on the approved Project Site Plan and City Site to the satisfaction of the City Engineer and the Ventura County Watershed Protection District. Developer shall be responsible for any aesthetic or landscape improvements over and around the channel as required by Ventura County Watershed Protection District and as part of the Project Approvals.
- 6.23. Developer agrees, prior to issuance of the final building permit for the first residential building, within the Project to improve High Street within its existing right-of-way from its intersection with Moorpark Avenue up to the

point of the temporary fire access to the extent required by Ventura County Fire Department, and the City Engineer in accordance with the approved Site Plan for the Project, for emergency secondary access to the Project.

- 6.24 The Developer agrees, at its sole cost and expense to relocate the existing 66 KV overhead power lines within the Project and City Site and connect to the Civic Center adjacent to the City Site in accordance with the map attached hereto as Exhibit D. Said relocation shall be completed prior to the first residential occupancy of the Project.
- 6.25 Developer agrees to provide one parking space in a (i) garage or "gang garage" as provided in the podium designed buildings, or (ii) within the thirty parking spaces covered by a carport, for each of the two hundred (200) units, with the remaining parking uncovered. The parking ratio provided on-site shall in no case be less than 2.13 parking spaces per unit. At least two parking spaces per unit shall be designated for each unit, guest parking shall be designated and there shall be no extra charges for required parking for the affordable units.
- 6.26 Developer agrees that if "cable services" (as defined by the federal Cable Act) or their equivalent (including, but not limited to, "video services" as defined in Public Utilities Code 5800 et seq., programming provided over a wireless or satellite system contained within the Project, including Satellite Master Antenna Television) are provided to the Project other than by a City Cable Franchisee or a State Video Services Franchisee, the apartment management entity shall pay monthly to City a fee of the highest of (1) five percent (5%) of the gross revenue generated by the provision of those services, (2) the highest franchise fee required from any City Cable Franchisee or (3) the highest franchise fee required by any State Video Franchisee. In that event, except as otherwise provided herein, Developer also agrees to comply with all other requirements applicable to state video franchisees, including, but not limited to, customer service, PEG access, and PEG fees. "Gross revenue" as used herein is defined in Chapter 5.06 of the Moorpark Municipal Code and any successor amendment or supplementary provision thereto. Developer further agrees that if cable services or their equivalent are provided to the Project by any means other than by a City Cable Franchisee or a State Video Services Franchisee. Developer will add this language to any Regulatory Agreement as part of the sale of any bonds issued by the City for Project and the Affordable Housing Agreement.
- 6.27 Developer shall, prior to the issuance of the final building permit for the last building within the Project restore the City Site to a reasonable condition, free of construction debris, piles of construction related dirt and other construction (including construction landscape) material to the satisfaction of the City Engineer and Community Development Director.

6.28 Developer agrees for the life of the Project to cast affirmative ballots for the increase of any assessments for existing assessment districts for the maintenance of parkway and median landscaping, street lighting, and parks conferring special benefits, and for the formation of any new assessment district for the purposes listed above in order to supplement then existing assessments upon properties within the Project. Developer also agrees to add this language to any Regulatory Agreement as part of the sale of any bonds issued by the City for this Project and to the Affordable Housing Agreement.

7. City Agreements.

7.1 City shall commit reasonable time and resources of City staff to work with Developer on the expedited and parallel processing of applications for Project Approvals and all Subsequent Approvals and Building Permits for the Project area and if requested in writing by Developer shall use overtime and independent contractors whenever possible. Developer shall assume any risk related to, and shall pay the additional costs incurred by City for, the expedited and parallel processing. City shall also commit reasonable time and resources of City staff to work with the Ventura County Water Protection District for the processing and permitting of the plans for the undergrounding of the channel.

7.2 If requested in writing by Developer and limited to City's legal authority, City at its sole discretion shall proceed to acquire, at Developer's sole cost and expense, easements or fee title to land in which Developer does not have title or interest in order to allow construction of public improvements required of Developer including any land which is outside City's legal boundaries. The process shall generally follow Government Code Section 66462.5 et seq. and shall include the obligation of Developer to enter into an agreement with City, guaranteed by cash deposits and other security as the City may require, to pay all City costs including but not limited to, acquisition of the interest, attorney fees, appraisal fees, engineering fees, City staff costs, and City overhead expenses of fifteen percent (15%) on all out-of-pocket costs.

7.3 The City Manager is authorized to sign an early grading agreement on behalf of City to allow rough grading of the Project after City Council approval of all Project Approvals. Said early grading agreement shall be consistent with the conditions of approval for RPD 2004-06 and contingent on City Engineer and Director of Community Development acceptance of a performance bond in a form and amount satisfactory to them to guarantee implementation of the erosion control plan and

completion of the rough grading and construction of on-site and off-site improvements.

- 7.4 City agrees that whenever possible as determined by City in its sole discretion to process concurrently all land use entitlements for the Project so long as the application for such entitlements are "deemed complete" in compliance with the requirements of Chapter 4.5 Review and approval of Development Projects (Permit Streamlining Act) of the California Government Code.
- 7.5 City agrees that the Park Fee required under section 6.7 of this Agreement meets all of Developer's obligation for park land dedication provisions of state law and City codes.
- 7.6 The City agrees to appoint an affordable housing staff person to oversee the implementation of the affordable housing requirements for the Project required herein for the duration such units are required to be maintained as affordable consistent with the provisions of section 6.9 of this Agreement.
- 7.7. City shall facilitate the reimbursement to Developer of any costs incurred by Developer that may be subject to partial reimbursement from other developers as a condition of approval of a tract map, development permit or development agreement with one or more other developers and at City's discretion may include provisions requiring such reimbursement to Developer for the same in such other development project conditions of approval.
- 7.8. City agrees that the Los Angeles Avenue Area of Contribution (AOC) fee shall be Three-Thousand Seven-Hundred Sixty Dollars (\$3,760.00) per residential unit.
- 7.9. City shall acquire the City Site for One Million Two Hundred Thirty-Eight Thousand Six Hundred Dollars (\$1,238,600.00) prior to issuance of the final building permit for the last residential building in the Project.
- 7.10. City will allow the use of the City Site for the staging for the construction of the Project.
- 7.11. City will allow one parking space in a (i) garage or "gang garage" as provided in the podium designed buildings, or (ii) within the thirty parking spaces covered by a carport, for each of the two hundred (200) units, with the remaining parking uncovered. The parking ratio provided on-site shall in no case be less than 2.13 parking spaces per unit. At least two parking spaces per unit shall be designated for each unit, guest parking shall be designated and there shall be no extra charges for required parking for the affordable units.

- 7.12. City agrees that the Art in Public Places Fee shall not apply to this Project since negotiations for this Development Agreement were begun prior to the effective date of the ordinance adopting the Fee.
- 7.13. City acknowledges Developer may want to use Bond Financing for the Project. If City, at its sole and unfettered discretion, authorizes bond financing then City agrees to use all good faith best efforts to accommodate any request by Developer for an inducement resolution allowing the use by Developer of city issued bond financing for the Project.
- 7.14. City agrees that payment of the Development Fee required under section 6.3 of this Agreement also meets Developers' Casey Road/Gabbert Road Area of Contribution obligation.
8. Supersession of Agreement by Change of Law. In the event that any state or federal law or regulation enacted after the date the Enabling Ordinance was adopted by the City Council prevents or precludes compliance with any provision of the Agreement, such provision shall be deemed modified or suspended to comply with such state or federal law or regulation, as reasonably determined necessary by City.
9. Demonstration of Good Faith Compliance. In order to ascertain compliance by Developer with the provisions of this Agreement, the Agreement shall be reviewed annually in accordance with Moorpark Municipal Code Chapter 15.40. of City or any successor thereof then in effect. The failure of City to conduct any such annual review shall not, in any manner, constitute a breach of this Agreement by City, diminish, impede, or abrogate the obligations of Developer hereunder or render this Agreement invalid or void. At the same time as the referenced annual review, City shall also review Developer's compliance with the MMRP.
10. Authorized Delays. Performance by any Party of its obligations hereunder, other than payment of fees, shall be excused during any period of "Excusable Delay", as hereinafter defined, provided that the Party claiming the delay gives written notice of the delay to the other Parties as soon as possible after the same has been ascertained. For purposes hereof, Excusable Delay shall mean delay that directly affects, and is beyond the reasonable control of, the Party claiming the delay, including without limitation: (a) act of God; (b) civil commotion; (c) riot; (d) strike, picketing or other labor dispute; (e) shortage of materials or supplies; (f) damage to work in progress by reason of fire, flood, earthquake or other casualty; (g) failure, delay or inability of City to provide adequate levels of public services, facilities or infrastructure to the Property including, by way of example only, the lack of water to serve any portion of the Property due to drought; (h) delay caused by a delay by other third party entities which are required to approve plans or documents for Developer to construct the Project, or restrictions imposed or mandated by such other third party entities or governmental entities other than City, (including but not

limited to, Ventura County Watershed Protection District); or (i) litigation brought by a third party attacking the validity of this Agreement, a Project Approval, a Subsequent Approval or any other action necessary for development of the Project.

11. Default Provisions.

11.1. Default by Developer. The Developer shall be deemed to have breached this Agreement if it:

- (a) practices, or attempts to practice, any fraud or deceit upon City; or willfully violates any order, ruling or decision of any regulatory or judicial body having jurisdiction over the Property or the Project, provided that Developer may contest any such order, ruling or decision by appropriate proceedings conducted in good faith, in which event no breach of this Agreement shall be deemed to have occurred unless and until there is a final adjudication adverse to Developer; or
- (b) fails to make any payments required under this Agreement within five (5) days of receipt of written notice from City that the same is due and payable; or
- (c) breaches any of the provisions of the Agreement and fails to cure the same within five (5) days of receipt of written notice from City of such breach (or, if the breach is not able to be cured within such five (5) day period, fails to start to cure the same with five (5) days of receipt of written notice from City of such breach).

11.2. Default by City. City shall be deemed in breach of this Agreement if it breaches any of the provisions of this Agreement.

11.3. Content of Notice of Violation. Every notice of violation shall state with specificity that it is given pursuant to this section of this Agreement, the nature of the alleged breach, and the manner in which the breach may be satisfactorily cured. Every notice shall include a period to cure, which period of time shall not be less than ten (10) days from the date that the notice is deemed received, provided if the defaulting party cannot reasonably cure the breach within the time set forth in the notice such party must commence to cure the breach within such time limit and diligently effect such cure thereafter. The notice shall be deemed given on the date that it is personally delivered or on the date that it is deposited in the United States mail, in accordance with section 20 hereof.

11.4. Remedies for Breach. The Parties acknowledge that remedies at law, including without limitation money damages, would be inadequate for breach of this Agreement by any Party due to the size, nature and scope

of the Project. The Parties also acknowledge that it would not be feasible or possible to restore the Property to its natural condition once implementation of the Agreement has begun. Therefore, the Parties agree that the remedies for breach of the Agreement shall be limited to the remedies expressly set forth in this section. Prior to pursuing the remedies set forth herein, notice and an opportunity to cure shall be provided as required by this Agreement.

The remedies for breach of the Agreement by City shall be injunctive relief and/or specific performance.

The remedies for breach of the Agreement by Developer shall be injunctive relief and/or specific performance. In addition, if the breach is of sections 6.9, 6.10, 6.11, 6.12, 6.13, 6.14, 6.15, 6.16, 6.17, 6.21, 6.26, or section 6.28 of this Agreement, City shall have the right to withhold the issuance of building permits to Developer throughout the Project from the date that the notice of violation was given pursuant to section 11.3 hereof until the date that the breach is cured as provided in the notice of violation. If the violation is of section 6.9, injunctive relief, specific performance and/or monetary damages shall be available.

Nothing in this section shall be deemed to preclude City from prosecuting a criminal action against any Developer who violates any City ordinance or state statute.

12. Mortgage Protection. At the same time that City gives notice to Developer of a breach, City shall send a copy of the notice to each holder of record of any deed of trust on the portion of the Property in which Developer has a legal interest ("Financier"), provided that the Financier has given prior written notice of its name and mailing address to City and the notice makes specific reference to this section. The copies shall be sent by United States mail, registered or certified, postage prepaid, return receipt requested, and shall be deemed received upon the third (3rd) day after deposit.

Each Financier that has given prior notice to City pursuant to this section shall have the right, at its option and insofar as the rights of City are concerned, to cure any such breach within fifteen (15) days after the receipt of the notice from City. If such breach cannot be cured within such time period, the Financier shall have such additional period as may be reasonably required to cure the same, provided that the Financier gives notice to City of its intention to cure and commences the cure within fifteen (15) days after receipt of the notice from City and thereafter diligently prosecutes the same to completion. City shall not commence legal action against Developer by reason of Developer's breach without allowing the Financier to cure the same as specified herein. Notwithstanding any cure by Financier, this Agreement shall be binding and effective against the Financier and every owner of the Property, or part thereof, whose title thereto is acquired by foreclosure, trustee

sale or otherwise; provided, however, Financier and such owner shall not be responsible for any matters that occurred prior to their acquisition of the Project.

13. Estoppel Certificate. At any time and from time to time, Developer may deliver written notice to City and City may deliver written notice to Developer requesting that such Party certify in writing that, to the knowledge of the certifying Party, (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended, or if amended, the identity of each amendment, and (iii) the requesting Party is not in breach of this Agreement, or if in breach, a description of each such breach. The Party receiving such a request shall execute and return the certificate within ten (10) days following receipt of the notice. City acknowledges that a certificate may be relied upon by successors in interest to the Developer who requested the certificate and by holders of record of deeds of trust on the portion of the Property in which that Developer has a legal interest.
14. Administration of Agreement. Any decision by City staff concerning the interpretation and administration of this Agreement and development of the Property in accordance herewith may be appealed by the Developer to the City Council, provided that any such appeal shall be filed with the City Clerk of City within ten (10) days after the affected Developer receives written notice of the staff decision. The City Council shall render its decision to affirm, reverse or modify the staff decision within thirty (30) days after the appeal was filed. The Developer shall not seek judicial review of any staff decision without first having exhausted its remedies pursuant to this section.
15. Amendment or Termination by Mutual Consent. In accordance with the provisions of Chapter 15.40 of the Moorpark Municipal Code of City or any successor thereof then in effect, this Agreement may be amended or terminated, in whole or in part, by mutual consent of City and the affected Developer.
 - 15.1 Exemption for Amendments of Project Approvals. No amendment to a Project Approval or Subsequent Approvals shall require an amendment to this Agreement and any such amendment shall be deemed to be incorporated into this Agreement at the time that the amendment becomes effective, provided that the amendment is consistent with this Agreement and does not alter the permitted uses, density, intensity, maximum height, size of buildings or reservations and dedications as contained in the Project Approvals or Subsequent Approvals.
16. Indemnification. Developer shall indemnify, defend with counsel approved by City, and hold harmless City and its officers, employees and agents from and against any and all losses, liabilities, fines, penalties, costs, claims, demands, damages, injuries or judgments arising out of, or resulting in any way from, Developer's performance pursuant to this Agreement.

Developer shall indemnify, defend with counsel approved by City, and hold harmless City and its officers, employees and agents from and against any action or proceeding to attack, review, set aside, void or annul this Agreement, or any provision thereof, or any Project Approval or Subsequent Approval or modifications thereto, or any other subsequent entitlements for the project and including any related environmental approval.

17. Time of Essence. Time is of the essence for each provision of this Agreement of which time is an element.
18. Operative Date. This Agreement shall become operative on the date the Enabling Ordinance becomes effective pursuant to Government Code Section 36937.
19. Term. This Agreement shall remain in full force and effect for a term of seven (7) years commencing on the operative date or until one year after the issuance of the final building permit for occupancy of the last building of the Project whichever occurs last, unless said term is amended or the Agreement is sooner terminated as otherwise provided herein.

Expiration of the term or earlier termination of this Agreement shall not automatically affect any Project Approval or Subsequent Approval or Building Permit or Final Building Permit that has been granted or any right or obligation arising independently from such Project Approval or Subsequent Approval or Building Permit or Final Building Permit.

Upon expiration of the term or earlier termination of this Agreement, the Parties shall execute any document reasonably requested by any Party to remove this Agreement from the public records as to the Property, and every portion thereof, to the extent permitted by applicable laws.

20. Notices. All notices and other communications given pursuant to this Agreement shall be in writing and shall be deemed received when personally delivered or upon the third (3rd) day after deposit in the United States mail, registered or certified, postage prepaid, return receipt requested, to the Parties at the addresses set forth in Exhibit "E" attached hereto and incorporated herein.

Any Party may, from time to time, by written notice to the other, designate a different address which shall be substituted for the one above specified.

21. Entire Agreement. This Agreement and those exhibits and documents referenced herein contain the entire agreement between the Parties regarding the subject matter hereof, and all prior agreements or understandings, oral or written, are hereby merged herein. This Agreement shall not be amended, except as expressly provided herein.

22. Waiver. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar; nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless it is executed in writing by a duly authorized representative of the Party against whom enforcement of the waiver is sought.
23. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall be effective to the extent the remaining provisions are not rendered impractical to perform, taking into consideration the purposes of this Agreement.
24. Relationship of the Parties. Each Party acknowledges that, in entering into and performing under this Agreement, it is acting as an independent entity and not as an agent of any of the other Parties in any respect. Nothing contained herein or in any document executed in connection herewith shall be construed as creating the relationship of partners, joint ventures or any other association of any kind or nature between City and Developer, jointly or severally.
25. No Third Party Beneficiaries. This Agreement is made and entered into for the sole benefit of the Parties and their successors in interest. No other person shall have any right of action based upon any provision of this Agreement.
26. Recordation of Agreement and Amendments. This Agreement and any amendment thereof shall be recorded with the County Recorder of the County of Ventura by the City Clerk of City within the period required by Chapter 15.40 of the Moorpark Municipal Code of City or any successor thereof then in effect.
27. Cooperation Between City and Developer. City and Developer shall execute and deliver to the other all such other and further instruments and documents as may be necessary to carry out the purposes of this Agreement.
28. Rules of Construction. The captions and headings of the various sections and subsections of this Agreement are for convenience of reference only, and they shall not constitute a part of this Agreement for any other purpose or affect interpretation of the Agreement. Should any provision of this Agreement be found to be in conflict with any provision of the Purchase and Sale Agreement, the Project Approvals or the Subsequent Approvals, the provision of this Agreement shall prevail.
29. Joint Preparation. This Agreement shall be deemed to have been prepared jointly and equally by the Parties, and it shall not be construed against any Party on the ground that the Party prepared the Agreement or caused it to be prepared.
30. Governing Law and Venue. This Agreement is made, entered into, and executed in the County of Ventura, California, and the laws of the State of California shall govern its interpretation and enforcement. Any action, suit or proceeding related to, or arising from, this Agreement shall

be filed in the appropriate court having jurisdiction in the County of Ventura.

31. Attorneys' Fees. In the event any action, suit or proceeding is brought for the enforcement or declaration of any right or obligation pursuant to, or as a result of any alleged breach of, this Agreement, the prevailing Party shall be entitled to its reasonable attorneys' fees and litigation expenses and costs, and any judgment, order or decree rendered in such action, suit or proceeding shall include an award thereof.
32. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which constitute one and the same instrument.

IN WITNESS WHEREOF, Essex Portfolio, L.P., and City of Moorpark have executed this Development Agreement on the date first above written.

CITY OF MOORPARK

Patrick Hunter
Mayor

OWNER/DEVELOPER
Essex Portfolio, L.P.

By: Essex Property Trust, Inc.,
Its General Partner

By: _____
Its: _____

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT B

LEGAL DESCRIPTION OF CITY SITE

EXHIBIT C

Real Estate Purchase Agreement

Essex Portfolio L.P., a California limited partnership (the "Seller"), hereby agrees to sell to the City of Moorpark ("Buyer") for a price of One Million Two Hundred Thirty-Eight Thousand Six Hundred Dollars (\$1,238,600.00), and on the terms and conditions stated herein, the following real property located in the City of Moorpark, County of Ventura, State of California (the "Property"): approximately eight and eighty-four one hundredths (8.84) acres of land further described in Exhibit "A" attached hereto. Exact legal description to follow in escrow. In addition, as additional purchase price, Buyer shall also pay to Seller at closing an amount equal to the actual Costs (as defined below) of any site improvements required by any governmental authority to be constructed on the Property, including, without limitation, flood control channel improvements, to the extent same do not solely and directly benefit that certain property adjacent to the Property which is also owned by Seller, such adjacent property being more particularly described in Exhibit "B" attached hereto (the "Adjacent Property"). The term "Costs" shall mean all direct and actual costs incurred by Seller, including, without limitation, consultants' costs, fees and permit costs, to construct improvements on the Property.

- 1) **ESCROW:** Escrow shall be opened within three (3) days after the Effective Date (as defined in Section 16 E. below). Escrow shall close on the date which is five (5) days from and after the date that a final certificate of occupancy, or its equivalent, is issued by the City of Moorpark for all residential apartment units to be built on the Adjacent Property. Escrow shall be held by LandAmerica Lawyer's Title, 2535 townsgate Road, Suite 207, Westlake Village, California, 91361 Attention: Connie Ferraro, Phone: 805.446.6465, Fax: 805.446.6469 (the "Escrow Agent"). The entire balance of the purchase price shall be paid in cash by Buyer at closing. The provisions hereof shall constitute joint instructions to the Escrow Agent to consummate the purchase in accordance with the terms and provisions hereof; provided, however, that the parties shall execute such additional escrow instructions, not inconsistent with the provisions hereof, as may be deemed reasonably necessary to carry out the intentions of the parties as expressed herein. The cost of escrow shall be paid by Seller. The cost of documentary transfer tax, or other taxes imposed upon the sale, if any, shall be paid by Buyer. All other costs shall be paid in accordance with the custom in the County in which the Property is located.
- 2) **TITLE:** No later than thirty (30) business days after the Effective Date, Seller shall procure and deliver to Buyer a preliminary title report or title insurance commitment for the Property. Within twenty (20) business days following receipt thereof, Buyer shall either approve in writing the exceptions contained in said title report or commitment or specify in writing any exceptions to which Buyer objects; provided, however, those certain exceptions shown on Exhibit "C" attached hereto are hereby approved by Buyer. Failure by Buyer to object to any such exceptions in said title report or commitment within such twenty (20) business day period shall be deemed to mean that Buyer has waived any objections to the exceptions in such title report or commitment. In addition, Buyer agrees to grant to Seller or to any public utility, or permit Seller to place or have placed on the Property, prior to the issuance of a Grading Permit for the Project, certain easements over the Property for certain [construction of the Project, water detention basin, electrical and other utility overhead lines and related items], which easement agreements shall be in form and substance reasonably satisfactory to Buyer, Seller and/or any such applicable public utility. If any such exception which is objected to by Buyer cannot be removed or Seller does not wish to remove same, Buyer may terminate this Agreement by providing written notice of same to Seller and Escrow Agent not later than ten (10) days after its receipt of written notice from Seller advising Buyer that it cannot or will not remove such exception, in which event Buyer and Seller shall have no further obligations under this Agreement; or, alternatively, Buyer may purchase the Property subject to such exceptions. Failure by Buyer to provide such written notice of termination within such ten (10) day period shall be deemed to mean that Buyer has waived its objection to such title exception. Seller shall convey to Buyer marketable fee title subject only to the items approved by Buyer in accordance with this Agreement. Title shall be insured by a CLTA standard owner's policy of title insurance issued by LandAmerica Lawyer's Title Insurance Company, in an amount equal to the purchase price with the premium for same to be paid by Seller; provided, however, the cost of any title endorsements shall be paid for by Buyer. Title will be conveyed by Grant Deed. Seller shall also execute and/or deliver to Buyer at closing (i) a FIRPTA Affidavit and California Form 593-C, and (ii) any other documents or instruments reasonably requested by Buyer and/or Escrow Agent, all in form and substance reasonably satisfactory to Buyer and Escrow Agent. Buyer shall execute and deliver to Seller at closing any documents or instruments reasonably requested by Seller or Escrow Agent.
- 3) **RISK OF LOSS:** In the event that any improvements on the Property are destroyed or damaged by any casualty, or the Property becomes the subject of any condemnation proceeding or if any such condemnation proceeding is threatened, between the date this Agreement is executed by the Seller and the date title is conveyed to Buyer, Buyer shall accept the Property in its then condition, all insurance proceeds payable to Seller by reason of the damage to the Property, or, as the case may be, all condemnation proceeds payable by reason of such condemnation, shall be paid and/or assigned, as the case may be, to Buyer.
- 4) **PRORATIONS:** Real estate taxes for the fiscal year in which escrow closes and other expenses of the Property shall be prorated as of the close of escrow. All prorations shall be credited against the purchase price.
- 5) **POSSESSION:** Possession of the Property is to be delivered to Buyer as of the date of close of escrow.
- 6) **SELLER'S REPRESENTATIONS AND WARRANTIES:** Seller hereby warrants and represents, for the benefit of Buyer, the following both as of the date hereof and as of the date of the closing of escrow:
 - A. This Agreement and all documents delivered by Seller to Buyer, now or at the closing, have been or will be duly authorized and executed and delivered by Seller, and are legal, valid and binding obligations of Seller, sufficient to convey title to the Property, and enforceable.
- 7) **BUYER'S REPRESENTATIONS AND WARRANTIES:** Buyer hereby warrants and represents, for the benefit of Seller, the following both as of the date hereof and as of the date of the closing of escrow:
 - A. This Agreement and all documents delivered by Buyer to Seller now or at closing, have been or will be duly authorized and executed by Buyer, and are legal, valid and binding obligations of Buyer sufficient to accept conveyance of title to the Property, and enforceable.All representations and warranties contained in this Agreement or implied by law shall be deemed to survive the date of closing and shall not merge with the deed.
- 8) **AS IS, WHERE IS SALE:** Buyer acknowledges and agrees that except for the representations and warranties of Seller expressly set forth in this Agreement, that Buyer is purchasing the Property in its existing "As Is" "Where Is" condition and "With All Faults", and that (i) Seller makes no representations or warranties concerning the Property, and (ii) Seller has no liability with respect to (x) the value of the Property or its financial

EXHIBIT C

condition, (y) projections or estimates regarding size, income or expenses of the Property as provided by Seller or Seller's broker, or (z) the completeness or accuracy of any third party documents, information, market or other data or reports it has provided or shall provide to Buyer. Buyer acknowledges and represents to Seller that Buyer will have during the investigation period ample opportunity to inspect and evaluate the Property; that Buyer is experienced in the ownership of real estate; and to the extent that Buyer's own expertise with respect to any matter is insufficient to enable Buyer to reach an informed conclusion, Buyer has or will have engaged the services of persons qualified to advise Buyer with respect to such matters. Therefore, it is understood and agreed that, with respect to the physical and environmental condition of the Property and its suitability for Buyer's proposed use or development, the Property is being sold and conveyed and Buyer agrees to accept the Property "As Is", "Where Is" and "With All Faults" and subject to any physical or environmental condition which may exist, without any representation or warranty by Seller except as expressly set forth in this Agreement or in any documents executed by Seller in connection with the closing. Buyer hereby expressly acknowledges and agrees that (i) Buyer shall be solely responsible for determining the physical condition of the Property, the legal restrictions applicable to the development and use of the Property, and the suitability of the Property for Buyer's proposed use, and Buyer, prior to the end of the investigation period, will have thoroughly inspected and examined the Property to the extent deemed necessary by Buyer in order to enable Buyer to evaluate the purchase of the Property, and (ii) Buyer is relying solely upon such inspections, examination and evaluation of the Property by Buyer in purchasing the Property on an "As-Is", "Where-Is" and "With All Faults" basis. Except for a breach by Seller of a warranty or representation of Seller expressly set forth in this Agreement, in the event that closing occurs hereunder, Buyer hereby assumes the risk that physical and environmental conditions may exist on the Property. To the extent that the foregoing imposes any risk to Buyer, the same is reflected in the purchase price. Buyer, on behalf of itself and its successors and/or assigns, or anyone claiming by, through or under Buyer, hereby fully releases Seller and its subsidiaries and affiliates, and each of their respective employees, shareholders, officers, directors, partners, representatives and agents from any and all claims that it may have now or in the future against Seller and/or any of its subsidiaries and/or affiliates, and/or any of their respective employees, shareholders, officers, directors, partners, representatives or agents for any cost, loss, liability, damage, expense (including, without limitation, attorneys' fees and costs and court costs), demand, action or cause of action arising from or related to any adverse physical or other condition affecting the Property (including, without limitation, any adverse conditions as to environmental matters, including, without limitation, soils and groundwater conditions). Seller agrees to indemnify Buyer as a condition of this Agreement, that in the event of any adverse physical or other condition (including, without limitation, regarding any adverse conditions as to environmental matters, including, without limitation, soils and groundwater conditions) affecting the Property, Seller shall be responsible therefor, for any cause of action any judgment, however obtained, executed against Seller and/or any of its subsidiaries and/or affiliates, and/or any of their respective employees, shareholders, officers, directors, partners, representatives, contractors, subcontractors or agents on account thereof.

With respect to the claims released in this Section 8, Buyer expressly waives any rights or benefits available to it under the provisions of Section 1542 of the California Civil Code, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Buyer acknowledges that its attorney at law has explained to it the meaning and effect of this statute. Buyer understands fully the statutory language of Civil Code Section 1542, and, with this understanding, Buyer nevertheless elects to, and does, assume all risk for claims released under this Agreement whether arising before or after the date of this Agreement and whether now known or unknown, and Buyer specifically waives any rights it may have under California Civil Code Section 1542. Buyer fully understands that if the facts with respect to which this Agreement is executed are later found to be other than or different from the facts now believed by it to be true, it expressly accepts and assumes the risk of that possible difference in facts and agrees that this Agreement shall be and remain effective notwithstanding that difference in facts.

The provisions of this Section 8 shall survive the termination of this Agreement and/or the Closing.

_____ Buyer's Initials

- 9) **BROKERS:** No broker or other party has a claim for brokerage commission, finder's fee, or like payment arising out of or in connection with Buyer's purchase of the Property. Each party shall indemnify, defend, protect and hold the other harmless from and against any liability, cause of action, claim, loss, cost, damage and/or expense, including, without limitation, attorneys' fees and costs and court costs arising out of or incurred in connection with any claim by any broker or finder for any such commission, fee or like payment provided the person or entity making any such claim alleges that such claim arose out of acts or dealings of the indemnifying party.
- 10) **FOREIGN INVESTOR DISCLOSURE:** Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code of 1986 ("IRC"), or under any similar sections of any similar laws of the State of California, i.e., Seller is not a nonresident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined in the IRC and Income Tax Regulations or similar California laws or regulations. Seller shall sign under penalty of perjury and deliver to Buyer at close of escrow a certification thereof indicating thereon Seller's U.S. taxpayer identification number and address.
- 11) **EXCHANGE:** Buyer agrees to cooperate should the Seller elect to sell the Property as part of a like-kind exchange under IRC Section 1031. Such cooperation may include the assignment of all or a portion of this Agreement to a third party, the substitution of such third party as the Seller and the execution of all documents reasonably necessary to complete the exchange in accordance with applicable laws and regulations. Seller agrees that the consummation of this Agreement is not predicated or conditioned upon the completion of any such exchange. Buyer shall not incur any additional liability or financial obligation as a consequence of the Seller's contemplated exchange, nor shall Buyer be obligated to take title to any property other than the Property.
- 12) **ADDENDA:** Any addendum attached hereto and either signed or initialed by the parties shall be deemed a part hereof. This writing, including addenda if any, expresses the entire agreement of the parties. There are no other understandings, oral or written, which in any manner alter its terms. This Agreement supersedes any and all prior oral or written agreements between the parties hereto regarding the Property. Seller and Buyer agree to execute such additional documents as may be reasonable and necessary to carry out the provisions of this Agreement.
- 13) **ATTORNEY FEES:** If this Agreement or the transactions contemplated herein gives rise to a lawsuit, arbitration or other legal proceeding between the parties hereto, the prevailing party shall be entitled to recover its costs and reasonable attorney fees in addition to any other judgment of the court or arbitrator(s).

EXHIBIT C

- 14) **SELLER'S DEFAULT:** If Seller fails to perform its obligations pursuant to this Agreement for any reason except failure by Buyer to perform hereunder, or if prior to the close of escrow any of Seller's representations or warranties are breached in any materially adverse respect, and any such failure or breach is not cured by Seller within ten (10) days after receipt of written notice from Buyer specifying the nature of any such failure and/or breach, Buyer shall elect, as its sole remedy, either to (i) terminate this Agreement by giving Seller timely written notice of such election prior to or at closing, (ii) enforce specific performance, or (iii) waive said failure and/or breach and proceed to closing. IN NO EVENT SHALL SELLER'S DIRECT OR INDIRECT PARTNERS, SHAREHOLDERS, OWNERS OR AFFILIATES, OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS HAVE ANY LIABILITY FOR ANY CLAIM, CAUSE OF ACTION OR OTHER LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PROPERTY, WHETHER BASED ON CONTRACT, COMMON LAW, STATUTE, EQUITY OR OTHERWISE.
- 15) **ACCESS:** Seller hereby grants to Buyer, its employees, agents, contractors and nominees (collectively, "Buyer's Agents"), the right to enter onto the Property during the term of this Agreement to conduct such engineering, soils, geological, surveying, environmental investigation and assessment, and other tests as Buyer desires; provided that (i) Buyer provides Seller at least five (5) business days prior written notice of same and affords Seller the opportunity to have its representative present, and (ii) Buyer shall not conduct any invasive testing, including, without limitation, Phase II environmental testing, without first obtaining Seller's prior written consent, which consent may be withheld, or granted on conditions, in Seller's sole discretion. Buyer shall (i) indemnify, defend, protect, and hold harmless Seller and the Property from and against all loss, claim, injury, liability, damage, cost and/or expense (including, without limitation, attorneys' fees and costs and court costs) for injury to persons or property incurred as a result of or in connection with any such entry by Buyer or any of Buyer's Agents, and (ii) promptly and properly repair any damage to the Property caused by any such entry by Buyer or any of Buyer's agents. In addition, prior to any entry upon the Property, Buyer shall deliver certificates or other reasonable proof of a commercial general liability insurance policy written on an occurrence basis with a combined single limit of not less than Two Million Dollars (\$2,000,000), under which Seller is named as an additional insured, with an insurance company reasonably acceptable to Seller. The certificate shall require at least thirty (30) days' written notice to Seller prior to any termination of that insurance. The provisions of this Section 15 shall survive the closing and/or the termination of this Agreement.
- 16) **MISCELLANEOUS:**
- A. All notices or tenders required or permitted hereunder shall be made and given in writing and sent to the parties at the respective addresses set forth below by either overnight mail (by a nationally recognized overnight courier) or telecopy and shall be effective as of the date of mailing or telecopying, as the case may be. Should any act or notice required hereunder fall due on a weekend or holiday, the time for performance shall be extended to the next business day.
 - B. This Agreement shall be governed by the law of the state in which the Property is located, without regard to any choice of law principles.
 - C. Paragraph headings contained herein are included solely for convenience of reference and shall in no way affect the construction of this Agreement.
 - D. The provisions of this Agreement are to be construed in accordance with the normal interpretation thereof, and, since both parties are sophisticated real estate investors and have employed counsel to review this Agreement, the party who has actually drafted this Agreement shall be deemed to be irrelevant in determining the meaning of any such provision.
 - E. The date that this Agreement has been executed by all parties hereto shall be known as the "Effective Date".
 - F. The individuals executing this Agreement represent and warrant that they are fully authorized to execute this Agreement on behalf of their respective entities.
 - G. This Agreement may be executed in two or more counterparts, each of which shall constitute a separate document but all of which taken together shall constitute one and the same instrument.
 - H. Escrow Holder agrees to be the designated "reporting person" under Section 6045(e) of the U.S. Internal Revenue Code with respect to the real estate transactions described in this Agreement and to prepare, file and deliver such information, returns, and statements as the U.S. Treasury Department may require by regulations or forms in connection therewith, including Form 1099-B. The provisions of this Section 15 H. shall survive the closing.
 - I. Each party and its counsel has reviewed and revised this Agreement and any rule of contract interpretation to the effect that ambiguities or uncertainties are to be interpreted against the drafting party or the party who caused it to exist shall not be employed in the interpretation of this Agreement or any document executed in connection herewith.
 - J. This Agreement shall not be construed as creating a partnership or joint venture between Seller and Buyer or between either of them and any third party or cause either of them to be responsible in any manner for the other's or any third party's debts or obligations.
 - K. Buyer and Seller shall each promptly sign and deliver all additional documents and perform all acts reasonably necessary to perform its obligations and carry out the intent expressed in this Agreement.
 - L. If any part of this Agreement is invalid or unenforceable, then the remainder of this Agreement shall remain valid and enforceable and in force and effect.
 - M. No party besides Buyer, Seller, their permitted successors and assigns and Escrow Holder has any rights or remedies under this Agreement.

EXHIBIT C

- N. Neither this Agreement nor any interest herein may be assigned by Buyer without the prior written consent of Seller, which consent may be granted or withheld in Seller's sole and absolute discretion.
- O. Time is of the essence with respect to the performance by Buyer and Seller of each and every obligation under any provision of this Agreement.
- P. No document or other memorandum relating to the subject matter hereof shall be recorded without the prior written consent and approval thereof by Seller, and any attempt to record same shall be deemed a material default hereunder and thereupon, at the sole option of Seller, this Agreement shall be deemed cancelled and Seller shall have any and all remedies for default by Buyer as provided for in this Agreement.
- Q. Buyer and Seller acknowledge that Seller may be required to disclose if the Property lies within the following natural hazard areas or zones: (i) a special flood hazard area designated by the Federal Emergency Management Agency; (ii) an area of potential flooding; (iii) a very high fire hazard severity zone; (iv) a wild land area that may contain substantial forest fire risks and hazards; (v) earthquake fault zone; or (vi) a seismic hazard zone (sometimes all of the preceding are herein collectively called the "Natural Hazard Matters"). Seller has engaged the services of Disclosure Source or any other entity that provides such reports (who, in such capacity, is herein called the "Natural Hazard Expert") to examine the maps and other information specifically made available to the public by government agencies for the purposes of enabling Seller to fulfill its disclosure obligations, if and to the extent such obligations exist, with respect to the natural hazards referred to in California Civil Code Section 1103 et seq. and to report the result of its examination to Buyer and Seller in writing, which report has been delivered to Buyer. The written report prepared by the Natural Hazard Expert regarding the results of its full examination will fully and completely discharge Seller from its obligations referred to herein, if and to the extent any such obligations exist, and, for the purpose of this Agreement, the provisions of Civil Code Section 1103 et seq. regarding non-liability of Seller for errors or omissions not within its personal knowledge shall be deemed to apply and the Natural Hazard Expert shall be deemed to be an expert, dealing with matters within the scope of its expertise with respect to the examination and written report regarding the natural hazards referred to above. Buyer acknowledges that the Real Property may be within a special study zone as designated under the Alquist-Priolo Geologic Hazard Act (Section 2621 et seq. of California Public Resources Code); if the real property is so located, construction or development on the real property of any structures intended for human occupancy may be subject to the findings of a geological report prepared by a geologist registered in the State of California. Buyer hereby expressly assumes such risk and hereby releases Seller and its subsidiaries, affiliates, partners and/or constituent entities, and each of their respective employees, shareholders, officers and directors from any and all loss, injury or damage which will or may be sustained by Buyer as a consequence of the Property being within any such special study zone.
- R. Except to the extent otherwise expressly limited by the provisions of this Agreement, the provisions of Paragraphs 6, 7, 8, 9, 13, 15 and 16 shall survive the closing or the termination of this Agreement.

The undersigned Buyer and Seller agree to sell the above-described Property to Buyer for the price and upon the terms and conditions herein stated.

SELLER

Essex Portfolio, L.P.,
a California limited partnership

By: Essex Property Trust, Inc.,
a Maryland corporation,
its general partner

By: _____
Its: _____

Address: 925 East Meadow Drive
Palo Alto, CA 94303
Attention: John Eudy, Maura Lederer
and Jordan E. Ritter, Esq.

Telephone: (650) 849-1600

Telecopy: (650) 858-1372 / Ritter
(650) 494-1671 / Eudy
(818) 593-5857 / Lederer

DATE: _____

BUYER:

The City of Moorpark

By: _____
Patrick Hunter,
Mayor

Address: 799 Moorpark Avenue
Moorpark, California 93021
Attention: Deborah Traffenstedt, City Clerk

Telephone: 805-517-6213

Telecopy: _____

DATE: _____

EXHIBIT C
Exhibit "A"

Legal Description of Property

[To Be Attached]

Ex. "A"

000094

EXHIBIT C
Exhibit "B"

Legal Description of Adjacent Property

[To Be Attached]

000095

Ex. "A"

EXHIBIT C

Exhibit "C"

Permitted Exceptions

[To Be Attached]

Ex. "C"

000096

EXHIBIT D

MAP FOR RELOCATED POWER LINES

Will be provided at a later date.

EXHIBIT "E"

ADDRESSES OF PARTIES

To City:

City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021
Attn: City Manager

To Developer:

ESSEX PORTFOLIO, L.P.
Attention John D. Eudy
925 East Meadow Drive
Palo Alto, CA 94303

With a Copy To:

ESSEX PORTFOLIO, L.P.
Attention Jordan Ritter
925 East Meadow Drive
Palo Alto, CA 94303

And

ESSEX PORTFOLIO, L.P.
22120 Clarendon Street, Suite 200
Woodland Hills, CA 91367
Attention: Maura Lederer

000098

RESOLUTION NO. 2007-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING RESIDENTIAL PLANNED DEVELOPMENT PERMIT NO. 2004-06 FOR A TWO-HUNDRED (200) UNIT APARTMENT COMPLEX ON 10.57 ACRES SOUTH OF CASEY ROAD AND WEST OF WALNUT CANYON ROAD, ON THE APPLICATION OF ESSEX PORTFOLIO, L.P.

WHEREAS, on June 26, 2007, the Planning Commission adopted Resolution No. PC-2007-518, recommending approval to the City Council of Residential Planned Development Permit No. 2004-06 for a two-hundred (200) unit apartment complex on 10.57 acres south of Casey Road and west of Walnut Canyon Road, on the application of Essex Portfolio, L.P.; and

WHEREAS, at a duly noticed public hearing on July 18, 2007, the City Council considered the agenda report for Residential Planned Development Permit No. 2004-06 and any supplements thereto and written public comments; opened the public hearing and 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 has read, reviewed considered, and adopted the proposed Mitigated Negative Declaration prepared for the project referenced above.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. PLANNED DEVELOPMENT 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 17.44.040:

- A. The proposed project site design, including structure location, size, height, setbacks, massing, scale, architectural style and colors, and landscaping is consistent with the provisions of the City's General Plan and Zoning Ordinance, if amended by General Plan Amendment No. 2004-05 and Zone Change No. 2004-04, in that the proposed project will provide an appropriate density development for the site given its proximity to the downtown area and that the project will contribute substantially toward the City's Housing Element goal to expand and protect housing opportunities for lower income households and special needs groups.
- B. The site design of the proposed project would not create negative impacts on or impair the utility of properties, structures or uses in the surrounding area, in that the buildings proposed are appropriate in height, scale, and setback given the proximity of the site to the downtown area and the traffic improvement conditions of approval will avoid negative traffic impacts.

- C. The proposed project is compatible with existing and permitted uses in the surrounding area, in that the surrounding existing and future development includes a variety of housing types, along with public and school uses.

SECTION 3. CITY COUNCIL APPROVAL: The City Council approves Residential Planned Development Permit No. 2004-06, subject to the special and standard Conditions of Approval included in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 4. The effective date of this resolution and Residential Planned Development Permit No. 2004-06 shall be concurrent with the effective date of the Ordinance for Zone Change No. 2004-04 and the Ordinance for Development Agreement No. 2004-03, whichever occurs last.

SECTION 5. 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 18th day of July, 2007.

Patrick Hunter, Mayor

ATTEST:

Deborah S. Traffenstedt, City Clerk

Exhibit A – Special and Standard Conditions of Approval for Residential Planned Development Permit No. 2004-06

000100

EXHIBIT A

**SPECIAL AND STANDARD CONDITIONS OF APPROVAL
FOR RESIDENTIAL PLANNED DEVELOPMENT PERMIT NO. 2004-06**

SPECIAL CONDITIONS OF APPROVAL

1. Prior to the issuance of a Zoning Clearance for the first building permit, a plan for the improvement of Casey Road with a 200-foot left-turn lane, including a standard 90-foot transition, must be submitted for review and approval by the City Engineer and Community Development Director, consistent with the recommendations of the Austin-Foust traffic study dated April 13, 2005. The street improvement plans must include provisions for the minimization of impacts to Walnut Canyon School as a result of street construction activities. Prior to the issuance of a zoning clearance for the first final building permit that would allow for occupancy, the improvements must be installed to City public road standards to the satisfaction of the City Engineer and Community Development Director. The improvements may include, but not be limited to curb, gutter, sidewalk, raised median, restriping, moving of and reinstallation of traffic sensors, and landscaping.
2. Prior to the issuance of a Zoning Clearance for a grading permit, a construction traffic and staging plan must be provided for review and approval by the City Engineer and Community Development Director. Access to the site for grading and construction must be through High Street. No construction traffic may be permitted on Casey Road, except as needed to improve Casey Road. Temporary construction fencing must be installed prior to the commencement of grading with a safe path of pedestrian travel and maintained until construction is complete and occupancy has been given.
3. Any gates to control vehicle access must be located in a manner that would allow a vehicle waiting for entrance to be completely off the intersecting roadway and consistent with city standards. A minimum clear open width of fifteen (15') feet in each direction must be provided for separate entry/exit gates and a minimum twenty feet (20') for combined entry/exit gates. If gates are to be locked, a Knox Box system must be installed or an EKey system, subject to the approval of the Community Development Director and the City Engineer. The method of gate control, including operation during power failure, is subject to review by the Fire Protection District. Gate plan details must be submitted to the Fire Protection District for approval prior to installation. A final acceptance inspection by the Fire Protection District is required prior to placing any gate into service.
4. Prior to the issuance of a grading permit, plans showing permanent two-way emergency vehicular access from High Street to the southwestern corner of the property must be provided for review and approval by the City Engineer, Fire Protection District, and Community Development Director. All improvements must be installed prior to the issuance of a Zoning Clearance for the first final

building permit that would allow for occupancy. As an alternative to improving the permanent secondary access prior to the issuance of occupancy permits, temporary paved two-way emergency vehicular access from High Street to the eastern edge of the property that meets Fire Protection District and City requirements may be installed, provided that sufficient sureties are deposited with the City Engineer/Public Works Director for the construction of the permanent emergency vehicular access. Any temporary or permanent emergency access to High Street must meet all Fire Protection District and City requirements. At any time if determined necessary by the City, the emergency access will be converted by the property owner at their expense to a full-time permanent access. Any improvements to High Street to meet Fire Protection District access requirements must be completed at the applicant's expense and must be within the existing High Street right-of-way.

5. A maximum of one gate is allowed on the emergency vehicular access unless an alternative is agreed upon by the Ventura County Fire Protection District, the Community Development Director and City Engineer/Public Works Director. An auto exit loop is required that would activate in the event of an emergency to allow residents exit.
6. All pedestrian paths crossing the drive aisles on the project site must be colored decorative concrete or other durable decorative material to the satisfaction of the Community Development Director.
7. Parking spaces must be assigned to the individual apartment units or reserved for guests in a manner to the satisfaction of the Community Development Director. Individual garage units must have automatic garage door openers and must be maintained to be accessible for parking operable vehicles at all times.
8. Two color schemes are required for each building type. Colors on the various stucco planes and cornices must be distinct, but compatible with the building colors. Changes of color should generally take place on the inside corners. The applicant shall submit all of the proposed colors, materials and building finish textures for review and approval to the satisfaction of the Community Development Director prior to the issuance of building permits.
9. Roof appurtenances are limited to necessary vents, and must be the same color as the roofing material and must be to the satisfaction of the Community Development Director.
10. Downspouts must either be internal (not visible from the exterior of the building), or of an architectural design that complements the overall design of the buildings to the satisfaction of the Community Development Director.
11. All windows on the apartment buildings and accessory buildings must have decorative trim. Window surrounds on the first floor must be constructed out of durable materials and may not have foam cores and must be to the satisfaction of the Community Development Director.

12. Window design must be consistent with the plans as submitted. Any mullions must be external.
13. Accessory buildings, including but not limited to the leasing office, recreation building, trash/recycling structures, and carports must incorporate compatible design and materials, including roof design and materials, as the apartment buildings to the satisfaction of the Community Development Director. The leasing office must have enhanced design elements as it is the closest building to Casey Road, and a sidewalk must be provided around this building. The pool must be of sufficient size to serve all residents of the complex as determined by the Community Development Director. The pool shall be open and ready for use prior to the final building permit for the third residential building. Plans for these buildings must be reviewed and approved prior to the issuance of a Zoning Clearance for the first building permit for any construction under this entitlement.
14. All ground mounted utility boxes must be screened with landscaping and all gas, electric, and water meters must also be screened to the degree allowable by the utility companies, to the satisfaction of the Community Development Director. The Community Development Director may require that the meters and/or boxes be painted to match the exterior color of the building.
15. Any required railing at the top of slopes or retaining walls must be decorative, with detailed plans to be submitted for review and approval of the Community Development Director prior to issuance of building permits.
16. Storage on the balconies, except for that which is integral to the design of the unit, must be prohibited and enforced by the apartment manager.
17. None of the prohibited plants indicated in the Provisionally Acceptable Plant List and the Invasive and Prohibited Plant List contained in the city's Landscape Guidelines may be used in this development.
18. Prior to issuance of the first building permit, a public pedestrian trail improvement plan showing a trail along the eastern edge of the property must be provided for review and approval by the Community Development Director. This plan must include the covering of the existing flood control channel through the project site boundaries, including the 8.84-acre property south of the apartment construction. All pedestrian trail improvements must be completed to the satisfaction of the Community Development Director and all necessary public trail easements must be irrevocably offered to the City prior to the issuance of a Zoning Clearance for the first final building permit that would allow for occupancy. Trail fencing is required to be installed by the applicant of a design to the satisfaction of the Community Development Director.
19. All requirements of Development Agreement 2004-03 shall apply. If there is a conflict in the requirements of the Development Agreement and these conditions of approval the requirements of the Development Agreement shall take precedence.

STANDARD CONDITIONS OF APPROVAL

A. *The following conditions shall be required of all projects:*

GENERAL REQUIREMENTS

1. 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.
2. The Final Map shall include the final Conditions of Approval and a reference to the adopted City Council resolution in a format acceptable to the Community Development Director.
3. This subdivision shall expire three (3) years from the date of its approval. The Community Development Director may, at his/her discretion, grant up to two (2) additional one-year extensions for map recordation, if there have been no changes in the adjacent areas and if the applicant can document that he/she has diligently worked towards Map recordation during the initial period of time. The request for extension of this Map shall be made in writing, at least thirty (30) days prior to the expiration date of the map and shall be accompanied by applicable entitlement processing deposits.
4. This planned development permit shall expire 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 shall be made in writing, at least thirty (30) days prior to the expiration date of the permit and shall be accompanied by applicable entitlement processing deposits.
5. The Conditions of Approval of this entitlement and all provisions of the Subdivision Map Act, City of Moorpark Municipal Code and adopted City policies at the time of the entitlement approval, supersede all conflicting notations, specifications, dimensions, typical sections and the like which may be shown on said Map and/or plans.
6. Conditions of this entitlement shall not be interpreted as permitting or requiring any violation of law or any unlawful rules or regulations or orders of an authorized governmental agency.
7. All mitigation measures required as part of an approved Mitigation Monitoring Report and Program (MMRP) for this project are hereby adopted and included as

requirements of this entitlement. Where conflict or duplication between the MMRP and the Conditions of Approval occurs the Community Development Director shall determine compliance.

8. If any archeological or historical finds are uncovered during grading or excavation operations, all grading or excavation shall cease in the immediate area and the find shall be left untouched. The applicant shall assure the preservation of the site and immediately contact the Community Development Director informing the Director of the find. The applicant shall be required to obtain the services of a qualified paleontologist or archeologist, whichever is appropriate to recommend disposition of the site. The paleontologist or archeologist selected shall be approved by the Community Development Director. The applicant shall pay for all costs associated with the investigation and disposition of the find.
9. Paleontological Mitigation Plan: Prior to issuance of a Zoning Clearance for a grading permit, a paleontological mitigation plan outlining procedures for paleontological data recovery shall be prepared and submitted to the Community Development Director for review and approval. The development and implementation of this Plan shall include consultations with the Applicant's engineering geologist as well as a requirement that the curation of all specimens recovered under any scenario will be through the Los Angeles County Museum of Natural History (LACMNH) or other curator acceptable to the City. All specimens shall be the property of the City of Moorpark unless the City chooses otherwise. The monitoring and data recovery should include periodic inspections of excavations to recover exposed fossil materials. The cost of this data recovery shall be limited to the discovery of a reasonable sample of available material. The interpretation of reasonableness shall rest with the Community Development Director.
10. 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. 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.
 - a. The City may, within its unlimited discretion, participate in the defense of any such claim, action or proceeding if both of the following occur:
 - i. The City bears its own attorney fees and costs;
 - ii. The City defends the claim, action or proceeding in good faith.

- b. 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.
11. If any of the conditions or limitations of this approval are held to be invalid, that holding shall not invalidate any of the remaining conditions or limitations set forth.
12. All facilities and uses, other than those specifically requested in the application 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.

FEES

13. Entitlement Processing: Prior to the issuance of any Zoning Clearance, entitlement, building permit, grading permit, or advanced grading permit the applicant shall submit to the Community Development Department all outstanding entitlement case processing fees, including all applicable City legal service fees. This payment shall be made within sixty (60) calendar days of approval of this entitlement.
14. Condition Compliance: Prior to the issuance of any Zoning Clearance, building permit, grading permit, or advanced grading permit, the applicant shall submit to the Community Development Department the Condition Compliance review deposit.
15. Capital Improvements and Facilities, and Processing: Prior to the issuance of any Zoning Clearance, the applicant shall submit to the Community Development Department, capital improvement, development, and processing fees at the current rate in effect. Said fees include, but are not limited to building and public improvement plan checks and permits. Unless specifically exempted by City Council, the applicant is subject to all fees imposed by the City as of the issuance of the first permit for construction and such future fees imposed as determined by City in its sole discretion so long as said fee is imposed on similarly situated properties.
16. Parks: Prior to issuance of Zoning Clearance for a building permit, the applicant shall submit to the Community Development Department Park and Recreation Fees in accordance with the Moorpark Municipal Code and to the satisfaction of the Director of Parks, Recreation, and Community Services.
17. Tree and Landscape: Prior to or concurrently with the issuance of a building permit the Tree and Landscape Fee shall be paid to the Building and Safety Division. The fee shall be paid in accordance with City Council adopted Tree and

Landscape Fee requirements in effect at the time of building permit application.
(This Condition Applies to Commercial and Industrial Projects)

18. Fire Protection Facilities: Prior to or concurrently with the issuance of a building permit, current Fire Protection Facilities Fees shall be paid to the Building and Safety Division. The fee shall be paid in accordance with City Council adopted Fire Protection Facilities Fee requirements in effect at the time of building permit application.
19. Library Facilities: Prior to or concurrently with the issuance of a building permit the Library Facilities Fee shall be paid to the Building and Safety Division. The fee shall be paid in accordance with City Council adopted Library Facilities Fee requirements in effect at the time of building permit application.
20. Police Facilities: Prior to or concurrently with the issuance of a building permit the Police Facilities Fee shall be paid to the Building and Safety Division. The fee shall be paid in accordance with City Council adopted Police Facilities Fee requirements in effect at the time of building permit application.
21. Traffic Systems Management: Prior to the issuance of a Zoning Clearance for each building permit, the applicant shall submit to the Community Development Department the established Moorpark Traffic Systems Management (TSM) Fee for the approved development consistent with adopted City policy for calculating such fee.
22. Intersection Improvements: Prior to issuance of the first Zoning Clearance for a building permit, the applicant shall submit to the Community Development Department a fair-share contribution for intersection improvements relating to the project. The level of fair-share participation will be to the satisfaction of the City Engineer based on the traffic report prepared for the project and the extent of the impact to these intersections.
23. Citywide Traffic: Prior to issuance of a Zoning Clearance for each building permit, the applicant shall submit to the Community Development Department the Citywide Traffic Fee as required by the adopted Development Agreement.
24. Area of Contribution: Prior to the issuance of a Zoning Clearance for each building permit, the applicant shall pay to the Community Development Department the Area of Contribution (AOC) Fee for the area in which the project is located. The fee shall be paid in accordance with City Council adopted AOC fee requirements in effect at the time of building permit application.
25. Street Lighting Energy Costs: Prior to recordation of Final Map, or issuance of a building permit, whichever occurs first the applicant shall pay to the Community Development Department all energy costs associated with public street lighting for a period of one year from the acceptance of the street improvements.
26. Schools: Prior to issuance of building permits for each building, the applicant shall provide written proof to the Community Development Department that all

legally mandated school impact fees applicable at the time of issuance of a building permit have been paid to the Moorpark Unified School District.

27. Art in Public Places: Prior to or concurrently with the issuance of a Zoning Clearance for building permit, the applicant shall contribute to the Art in Public Places Fund in accordance with the adopted Development Agreement. Contribution is to be submitted to the Community Development Department. If the applicant is required to provide a public art project on or off-site in lieu of contributing to the Art in Public Places Fund, the art work shall have a value corresponding to, or greater than, the contribution, and shall be approved, constructed and maintained in accordance with Chapter 17.50.
28. Electronic Conversion: In accordance with City policy, the applicant shall submit to the Community Development Department, City Engineer and the Building and Safety Division the City's electronic image conversion fee for entitlement/condition compliance documents; Final Map/ engineering improvement plans/permit documents; and building plans/permit documents, respectively.
29. Fish and Game: Within two (2) business days after the City Council/Planning Commission adoption of a resolution approving this project, the applicant shall submit to the City of Moorpark two separate checks for Negative Declaration or Environmental Impact Report, and Administrative Fee, both made payable to the County of Ventura, in compliance with Assembly Bill 3158 for the management and protection of Statewide Fish and Wildlife Trust Resources. Pursuant to Public Resources Code Section 21089, and Fish and Game Code Section 711.4, the project is not operative, vested or final until the filing fees are paid.
30. Crossing Guard: Prior to recordation of Final Map or prior to the issuance of a building permit, whichever occurs first, the applicant shall pay to the Community Development Department an amount to cover the costs associated with a crossing guard for five years at the then current rate, plus the pro-rata cost of direct supervision of the crossing guard location and staff's administrative costs (calculated at fifteen percent (15%) of the above costs).
31. Affordable Housing Agreement/Plan: Prior to the preparation of an Affordable Housing Agreement and/or an Affordable Housing Implementation and Resale Restriction Plan, the applicant shall pay to the City the City's cost to prepare the required Plan and Agreement. **(This Condition Applies to Residential Projects)**
32. Storm Drain Discharge Maintenance Fee: Prior to or concurrently with the issuance of a Zoning Clearance for building permit, the applicant shall pay to the Community Development Department citywide Storm Drain Discharge Maintenance Fee. The fee shall be paid in accordance with City Council adopted Storm Drain Discharge Maintenance Fee requirements in effect at the time of building permit application.

CABLE TELEVISION (These Conditions Apply to Residential Projects)

33. Prior to commencement of project construction the applicant shall provide notice of its construction schedule to all persons holding a valid cable television franchise issued by the City of Moorpark (Cable Franchisees) sufficiently in advance of construction to allow the Cable Franchisees to coordinate installation of their equipment and infrastructure with that schedule. The City shall provide the applicant a list of Cable Franchisees upon request. During construction, the applicant shall allow the Cable Franchisees to install any equipment or infrastructure (including conduit, power supplies, and switching equipment) necessary to provide Franchisee's services to all parcels and lots in the Project.
34. In the event the cable television services or their equivalent are provided to the project or individual lots under collective arrangement or any collective means other than a Cable Franchisee (including, but not limited to, programming provided over a wireless or satellite system contained within the Project), the Home Owners Association (HOA) shall pay monthly to City an access fee of five percent (5%) of gross revenue generated by the provision of those services, or the highest franchise fee required from any City Cable Franchisee, whichever is greater. "Gross revenue" is as defined in Chapter 5.06 of the Moorpark Municipal Code and any successor amendment or supplementary provision thereto.
35. In the event cable television services or their equivalent are provided to the project by any means other than by a City Cable Franchise, the City's government channel shall be available to all units as part of any such service, on the same basis and cost as if the project was served by a City Cable Franchise.

AFFORDABLE HOUSING REQUIREMENTS (These Conditions Apply to Residential Projects)

36. Prior to or concurrently with the first Final Map approval, the applicant shall enter into an Affordable Housing Agreement and/or an Affordable Housing Implementation and Resale Restriction Plan. Consistent with the City's General Plan Housing Element, State law and Moorpark Redevelopment Agency Implementation Plan, this subdivision is subject to execution of an Affordable Housing Agreement between the City of Moorpark and the applicant. The Affordable Housing Agreement shall set forth the procedure for meeting an affordable housing requirement of ten percent of the total number of approved dwelling units for properties outside of a Redevelopment Project Area and fifteen percent of the total number of approved dwelling units for projects which are in a Redevelopment Project Area. The Agreement may be part of a Development Agreement.
37. Prior to the preparation of an Affordable Housing Agreement and/or an Affordable Housing Implementation and Resale Restriction Plan, the applicant shall agree to provide low income and very low income units as specified in the

Special Conditions of Approval, included herein, to meet the requirements of California Health and Safety Code 33410 et seq.

38. Prior to the recordation of the first Final Map for this project, the applicant and the City shall execute an Affordable Housing Agreement that incorporates a Council approved Affordable Housing Implementation and Resale Restriction Plan consistent with the Conditions of Approval of this subdivision. The initial sales price, location of the affordable units, buyer eligibility, and resale restrictions, respective role of the City and the applicant, and any other item determined necessary by the City shall be set forth in the Plan.

B. *Please contact the PLANNING DIVISION for compliance with the following conditions:*

DEVELOPMENT REQUIREMENTS

39. Prior to the issuance of a certificate of occupancy for any building, the applicant shall submit a Master Sign Program to the Community Development Director for review and approval. The Master Sign Program shall be designed to provide comprehensive on-site sign arrangement and design consistent with the commercial/industrial center architecture and the City's Sign Ordinance requirements. **(This Condition Applies to Commercial/Industrial Projects)**
40. For all flat roofed portions of buildings, a minimum eighteen-inch (18") parapet wall above the highest point of the flat roof shall be provided on all sides. **(This Condition Applies to Commercial/Industrial Projects)**
41. Skylights are prohibited unless approved through the Planned Development Permit process or as a Modification to the Planned Development Permit. **(This Condition Applies to Commercial/Industrial Projects)**
42. Exterior downspouts shall not be permitted unless designed as an integral part of the overall architecture and approved by the city as part of the planned development permit. **(This Condition Applies to Commercial/Industrial and Multi-Family Residential Projects)**
43. Mechanical equipment for the operation of the buildings shall be Ground-mounted and screened to the satisfaction of the Community Development Director. The Community Development Director may approve Roof-mounted equipment, in which case, the height of roof mounted equipment (such as vents, stacks, blowers, air conditioning equipment, etc.) shall be below the lowest parapet on the roof; and shall be painted the same color as the roofing material; and there shall not be any piping, visible roof ladders, equipment, vents, exterior drains and scuppers or any other exposed equipment on the roof. **(This Condition Applies to Commercial/Industrial Projects)**
44. Roof-mounted equipment and other noise generation sources on-site shall be attenuated to 45 decibels (dBA) or to the ambient noise level at the property line measured at the time of the occupancy, whichever is greater. Prior to the issuance of a Zoning Clearance for initial occupancy or any subsequent

occupancy, the Community Development Director may request the submittal of a noise study for review and approval. The noise study would need to show that the current project attenuates all on-site noise generation sources to the required level or provide recommendations as to how the project could be modified to comply. The noise study must be prepared by a licensed acoustical engineer in accordance with accepted engineering standards. **(This Condition Applies to Commercial/Industrial Projects)**

45. Any outdoor ground level equipment, facilities or storage areas including, but not limited to loading docks, trash enclosures, cooling towers, generators, shall be architecturally screened from view with masonry wall and/or landscaping as determined by the Community Development Director. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
46. A utility room with common access to house all meters and the roof access ladder shall be provided unless an alternative is approved by the Community Development Director. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
47. No exterior access ladders of any kind to the roof shall be permitted. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
48. Prior to issuance of a grading permit, the Applicant shall provide an Irrevocable Offer of Dedication to the City of an easement for the purpose of providing ingress/egress access, drainage and parking to the adjacent commercial/industrial properties. The City of Moorpark shall not assume any responsibility for the offered property or any improvements to the property until this action has been accepted by the City Council. If accepted by the City of Moorpark, this easement may be fully assignable to the adjacent property owners, as an easement appurtenant for parking, ingress/egress access purposes and all uses appurtenant thereto. The form of the Irrevocable Offer of Dedication and other required pertinent documents required to satisfy the above requirements shall be to the satisfaction of the Community Development Director, City Engineer and the City Attorney. **(This Condition Applies to Commercial/Industrial Projects)**
49. Parking areas shall be developed and maintained in accordance with the requirements of the Moorpark Municipal Code. All parking space and loading bay striping shall be maintained so that it remains clearly visible during the life of the development. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
50. Prior to any re-striping of the parking area a Zoning Clearance shall be required. All disabled parking spaces and paths of travel shall be re-striped and maintained in their original approved locations unless new locations are approved by the community development director. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**

51. All parking areas shall be surfaced with asphalt or concrete and shall include adequate provisions for drainage, National Pollution Discharge Elimination System (NPDES) compliance, striping and appropriate wheel blocks, curbs, or posts in parking areas adjacent to landscaped areas. All parking and loading areas shall be maintained at all times to insure safe access and use by employees, public agencies and service vehicles. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
52. The Building Plans shall be in substantial conformance to the plans approved under this entitlement and shall specifically reflect the following:
 - a. Transformer and cross connection water control devices (subject to approval by Ventura County Waterworks District No. 1) shall be shown on the site plan and landscaping and irrigation plan and screened from street view with masonry wall and/or landscaping as determined by the Community Development Director. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
 - b. Bicycle racks or storage facilities, in quantities as required by the Community Development Director. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
 - c. Required loading areas with 45-foot turning radii shall be provided for loading zones consistent with the AASHO WB-50 design vehicle and as required by the Community Development Director. If drains from the loading area are connected to the sewer system, they are subject to the approval of Ventura County Waterworks District No. 1. **(This Condition Applies to Commercial/Industrial Projects)**
 - d. Final exterior building materials and paint colors shall be consistent with the approved plans under this permit. Any changes to the building materials and paint colors are subject to the review and approval of the Community Development Director.
 - e. All exterior metal building surfaces, including roofing, shall be coated or sealed with rust inhibitive paint to prevent corrosion and release of metal contaminants into the storm drain system. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
 - f. Trash disposal and recycling areas shall be provided in a location which will not interfere with circulation, parking or access to the building. Exterior trash areas and recycling bins shall use impermeable pavement, be designed to have a cover and so that no other area drains into it, The trash areas and recycling bins shall be depicted on the final construction plans, the size of which shall be approved by the Community Development Director, City Engineer and the City's Solid Waste Management staff. When deemed appropriate, drains from the disposal and recycling areas shall be connected to the sewer system, and are subject to the approval of Ventura County Waterworks District No. 1.

Review and approval shall be accomplished prior to the issuance of a Zoning Clearance for building permit. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**

53. Prior to issuance of a Zoning Clearance for final building permit (occupancy), the applicant shall install U.S. Postal Service approved mailboxes in accordance with the requirements of the local Postmaster.
54. Any expansion, alteration or change in architectural elements requires prior approval of the Community Development Director. Those changes in architectural elements that the Director determines would be visible from abutting street(s) shall only be allowed, if, in the judgment of the Community Development Director such change is compatible with the surrounding area. Any approval granted by the Director shall be consistent with the approved Design Guidelines (if any) for the planned development and applicable Zoning Code requirements.
55. All air conditioning or air exchange equipment shall be ground mounted. The equipment shall be located in a side yard in such a manner that it is not within 15-feet of an opening window at ground floor level of any residential structure, and shall be located to maintain a minimum 5-foot yard area. The Director may approve rear yard locations where side yard locations are not possible. **(This Condition Applies to Single-family Residential Projects)**
56. A minimum twenty-foot (20') by twenty-foot (20') clear and unobstructed parking area for two (2) vehicles shall be provided in a garage for each dwelling unit. Single garages shall measure a minimum of twelve-foot (12') wide by twenty-foot (20') deep clear and unobstructed area. Steel roll-up garage doors shall be provided. Garage doors shall be a minimum of sixteen feet (16') wide by seven feet (7') high for double doors and nine feet (9') wide by seven feet (7') high for single doors. A minimum twenty-foot (20') long concrete paved driveway shall be provided in front of the garage door outside of the street right-of-way. **(This Condition Applies to Single-family Residential Projects)**
57. All homes/units shall be constructed employing energy saving devices. These devices shall include, but not be limited to ultra low flush toilets (to not exceed 1.6 gallons), low water use shower controllers, natural gas fueled stoves, pilotless ovens and ranges, night set back features for thermostats connected to the main space-heating source, kitchen ventilation systems with automatic dampers, hot water solar panel stub-outs. **(This Condition Applies to Residential Projects)**
58. When required by Title 15 of the Moorpark Municipal Code, rain gutters and downspouts shall be provided on all sides of the structure for all structures where there is a directional roof flow. Water shall be conveyed to an appropriate drainage system, consistent with NPDES requirements, as determined by the City Engineer.

OPERATIONAL REQUIREMENTS

59. Loading and unloading operations are allowed only between the hours of 6:00 a.m. and 10:00 p.m. More restrictive hours for loading and unloading may be imposed by the Community Development Director if there are noise and other issues that make the loading and unloading incompatible with the adjacent residential uses. There shall be no idling of trucks while loading or unloading. **(This Condition Applies to Commercial/Industrial Projects)**
60. All uses and activities shall be conducted inside the building(s) unless otherwise authorized by the Community Development Director and consistent with applicable Zoning Code provisions. **(This Condition Applies to Commercial/Industrial Projects)**
61. Prior to the issuance of a Zoning Clearance for any use which requires handling of hazardous or potentially hazardous materials, the applicant shall provide proof that he/she has obtained the necessary permits from Ventura County Environmental Health Division. Should the Community Development Director determine that a compatibility study is required; the applicant shall apply for a Modification to the entitlement. **(This Condition Applies to Commercial/Industrial Projects)**
62. The applicant agrees not to protest the formation of an underground Utility Assessment District.
63. The continued maintenance of the subject site and facilities shall be subject to periodic inspection by the City. The Applicant and his/her successors, heirs, and assigns shall be required to remedy any defects in ground or building maintenance, as indicated by the City within five (5) days from written notification. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
64. No noxious odors shall be generated from any use on the subject site. **(This Condition Applies to Commercial/Industrial Projects)**
65. The applicant and his/her successors, heirs, and assigns shall remove any graffiti within five (5) days from written notification by the City of Moorpark. All such graffiti removal shall be accomplished to the satisfaction of the Community Development Director. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
66. Should continued compliance with these Conditions of Approval not be met the Community Development Director may 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 1.12.080). **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**

67. Prior to the issuance of a Zoning Clearance for tenant occupancy, the prospective tenant shall obtain a Business Registration Permit from the City of Moorpark. All contractors doing work in Moorpark shall have or obtain a current Business Registration Permit. **(This Condition Applies to Commercial/Industrial Projects)**
68. Prior to or concurrently with the issuance of a Zoning Clearance for occupancy of any of the buildings, the applicant shall request that the City Council approve a resolution to enforce Vehicle Codes on the subject property as permitted by the Vehicle Code. **(This Condition Applies to Commercial/Industrial Projects)**
69. Prior to or concurrently with the issuance of a Zoning Clearance for a grading permit, the applicant shall submit the construction phasing plan for approval by the Community Development Director and City Engineer. Phasing shall avoid, to the extent possible, construction traffic impacts to existing adjacent residential, commercial and industrial areas, if any.
70. Prior to issuance of Zoning Clearance for the first building permit, the applicant shall submit a Waste Reduction and Recycling Plan to the City's Solid Waste Management staff and the Community Development Director for review and approval. The Plan shall include a designated building manager, who is responsible for initiating on-site waste materials recycling programs, including acquiring storage bins for the separation of recyclable materials and coordination and maintenance of a curbside pickup schedule. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
71. The building manager or designee shall be required to conduct a routine on-site waste management education program to educating and alerting employees and/or residents to any new developments or requirements for solid waste management. This condition shall be coordinated through the City's Solid Waste Management staff. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
72. No overnight parking, repair operations or maintenance of trucks shall occur on site.
73. Prior to occupancy of any of the buildings, the Developer shall request that the City Council approve a resolution to enforce Vehicle Codes on the subject property as permitted by Vehicle Code Section 21107.7. **(This Condition Applies to Commercial/Industrial Projects)**

LANDSCAPING, LIGHTING AND MAINTENANCE REQUIREMENTS

74. Prior to the issuance of a Zoning Clearance for building permits the applicant shall submit to the Community Development Director for review and approval, with the required deposit, three full sets of Landscaping and Irrigation Plans prepared by a licensed landscape architect and drawn on a plan that reflects final grading configuration, in conformance with the City of Moorpark Landscape Standards and Guidelines, policies and NPDES requirements; including, but not limited to, all specifications and details and a maintenance plan. Fences and walls shall be shown on the Landscape and Irrigation Plans, including connection, at the applicant's expense, of property line walls with existing fences and or walls on any adjacent residential, commercial or industrial properties. The plan shall maintain proper vehicle sight distances subject to the review of the City Engineer, and encompass all required planting areas consistent with these Conditions of Approval. Review by the City's Landscape Architect Consultant and City Engineer, and approval by the Community Development Director prior to issuance of a Zoning Clearance for building permit, is required.
75. The landscape plan shall incorporate specimen size trees and other substantial features subject to the review and approval of the Community Development Director. Prior to the issuance of a grading permit, a tree survey shall be prepared to determine the valuation of the mature trees to be removed. Enhanced replacement landscaping of equal or greater value, as determined by the Community Development Director, shall be installed in accordance with the Tree Ordinance.
76. Prior to or concurrently with the submittal of the Landscaping and Irrigation Plans the specific design and location of the neighborhood identification monument sign shall be submitted for review and approval by the Community Development Director. The sign shall be installed concurrent with perimeter project wall installation. **(This Condition Applies to Single-family Residential Projects)**
77. Prior to the issuance of a Zoning Clearance for final building permit (occupancy) the applicant shall install front yard landscaping, including sod and an automatic irrigation system, as approved on the landscape plans. **(This Condition Applies to Single-family Residential Projects)**
78. Prior to or concurrently with the submittal of the landscape and irrigation plan, a lighting plan, along with required deposit, shall be submitted to the Community Development Director for review and approval. The lighting plan, prepared by an electrical engineer registered in the State of California, shall be in conformance with the Moorpark Municipal Code. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
79. Unless otherwise stipulated in the Special Conditions of Approval, the applicant shall be responsible for the maintenance of any and all parkway landscaping constructed as a requirement of the project, whether said parkway landscaping is within the street right-of-way or outside of the street right-of-way. Any parkway

landscaping outside of the street right-of-way shall be within a landscape easement.

80. All required landscape easements shall be clearly shown on the Final Map or on other recorded documents if there is no Final Map.
81. Tree pruning, consisting of trimming to limit the height and/or width of tree canopy and resulting in a reduction of required shade coverage for the parking lot area, is prohibited and will be considered a violation of the Conditions of Approval. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
82. When available, use of reclaimed water shall be required for landscape areas subject to the approval of the Community Development Director, the City Engineer and Ventura County Waterworks District No. 1.
83. Landscaped areas shall be designed with efficient irrigation to reduce runoff and promote surface filtration and minimize the use of fertilizers and pesticides, which can contribute to urban runoff pollution. Parking and associated drive areas with five (5) or more spaces shall be designed to minimize degradation of storm water quality. Best Management Practice landscaped areas for infiltration and biological remediation or approved equals, shall be installed to intercept and effectively prohibit pollutants from discharging to the storm drain system. The design shall be submitted to the Community Development Director and City Engineer for review and approval prior to the issuance of a building permit.
84. All landscaping shall be maintained in a healthy and thriving condition, free of weeds, litter and debris.
85. Prior to the issuance of Zoning Clearance for occupancy all fences/walls along lot boundaries shall be in place, unless an alternative installation is approved by the Community Development Director.
86. Prior to the issuance of a Zoning Clearance for occupancy, the applicant shall enter into the standard Caltrans tri-party maintenance agreement to maintain any landscaping within Caltrans right-of-way.

C. *Please contact the ENGINEERING DEPARTMENT for compliance with the following conditions:*

GENERAL

87. Grading, drainage and improvement plans and supporting reports and calculations shall be prepared in conformance with the "Land Development Manual" and "Road Standards" as promulgated by Ventura County; "Hydrology Manual" and "Design Manual" as promulgated by Ventura County Watershed Protection District; "Standard Specifications for Public Works Construction" as published by BNI (except for signs, traffic signals and appurtenances thereto; for signs, traffic signals and appurtenances thereto, the provisions of Chapter 56 for signs and Chapter 86 for traffic signals, and appurtenances thereto, of the "Standard Specifications," most recent edition, including revisions and errata

thereto, as published by the State of California Department of Transportation); "Engineering Policies and Standards" of the City of Moorpark, "Policy of Geometric Design of Highways and Streets," most recent edition, as published by the American Association of State Highway and Transportation Officials. In the case of conflict between the standards, specifications and design manuals listed above, the criteria that provide the higher lever of quality and safety shall prevail. Any standard specification or design criteria that conflicts with a Standard or Special Condition of Approval of this project shall be modified to conform with the Standard or Special Condition to the satisfaction of the City Engineer.

88. The applicant and/or property owner shall provide verification to the City Engineer that all on-site storm drains have been cleaned at least twice a year, once immediately prior to October 1st (the rainy season) and once in January. The City Engineer may require additional cleaning depending upon site and weather conditions. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
89. All paved surfaces; including, but not limited to, the parking area and aisles, drive-through lanes, on-site walkways shall be maintained free of litter/debris. Walkways, parking areas and aisles and drive-through lanes shall be swept, washed or vacuumed regularly. When swept or washed, debris shall be trapped and collected to prevent entry to the storm drain system in accordance with NPDES requirements. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
90. Prior to improvement plan approval the applicant shall obtain the written approval on the improvement plans Mylar® sheets for the location of fire hydrants by the Ventura County Fire Prevention Division. (Water and Sewer improvements plans shall be submitted to Ventura County Waterworks District No. 1 for approval.)
91. Prior to any work being conducted within any State, County, or City right of way, the applicant shall obtain all necessary encroachment permits from the appropriate agencies and provide copies of these approved permits and the plans associated with the permits to the City Engineer.
92. Reactive organic compounds, Nitrogen oxides (ozone/smog precursor), and particulate matter (aerosols/dust) generated during construction operations shall be minimized in accordance with the City of Moorpark standards and the standards of the Ventura County Air Pollution Control District (APCD). When an air pollution Health Advisory has been issued, construction equipment operations (including but not limited to grading, excavating, earthmoving, trenching, material hauling, and roadway construction) and related activities shall cease in order to minimize associated air pollutant emissions.
93. The applicant shall comply with Chapters 9.28, 10.04, 12.24, 17.53 of the Moorpark Municipal Code standard requirements for construction noise reduction.

94. The applicant shall utilize all prudent and reasonable measures (including installation of a 6-foot high chain link fence around the construction sites or provision of a full time licensed security guard) to prevent unauthorized persons from entering the work site at any time and to protect the public from accidents and injury.
95. The applicant shall post in a conspicuous location the construction hour limitation and make each construction trade aware of the construction hour limitations.

GRADING

96. Prior to the issuance of a grading permit (should an early grading agreement be approved for this project) or prior to Final Map the applicant shall post sufficient surety, in a form acceptable to the City Engineer, guaranteeing completion of all onsite and offsite improvements required by these Conditions of Approval or the Municipal Code including, but not limited to grading, street improvements, storm drain improvements, temporary and permanent Best Management Practice (BMP) for the control of non-point water discharges, landscaping, fencing, and bridges. Grading and improvements shall be designed, bonded and constructed as a single project.
97. Prior to the issuance of a grading permit (should an early grading agreement be approved for this project) or prior to Final Map, whichever occurs first, the applicant shall provide written proof to the City Engineer that any and all wells that may exist or have existed within the project have been properly sealed or have been destroyed or abandoned per Ventura County Ordinance No. 2372 or Ordinance No. 3991 and per Division of Oil and Gas requirements.

FINAL MAP

98. Prior to Final Map approval, the applicant shall obtain City Engineer approval of all required public improvement and grading plans. The applicant shall enter into an agreement with the City of Moorpark to complete grading, public improvements and subdivision monumentation and post sufficient surety guaranteeing the construction and maintenance of grading, all public improvements, and private street and storm drain improvements; construction and post construction NPDES Best Management Practice; and subdivision monumentation in a form and in an amount acceptable to the City Engineer. Said plans shall be prepared by a California Registered Civil Engineer. Said sureties shall meet the City's requirements for sureties and shall remain in place for one year following final acceptance of the improvements by the City or until such time that the City Council shall approve their redemption, whichever is the longer.
99. Prior to Final Map approval the applicant shall post sufficient surety in a form and in an amount acceptable to the City Engineer guaranteeing the payment of laborers and materialsmen in an amount no less than fifty percent (50%) of the faithful performance surety.

PUBLIC AND PRIVATE STREETS

100. Prior to construction of any public improvement the applicant shall submit to the City Engineer, for review and approval, street improvement plans prepared by a California Registered Civil Engineer, enter into an agreement with the City of Moorpark to complete public improvements and post sufficient surety guaranteeing the construction of all improvements. Unless specifically noted in these Standard Conditions or Special Conditions of Approval.
101. Prior to issuance of the first building permit, all existing and proposed utilities that are less than 66Kv shall be under-grounded as approved by the City Engineer.

DRAINAGE AND HYDROLOGY

102. For a 10-year frequency storm, local, residential and private streets shall be designed to have one dry travel lane available on interior residential streets. Collector streets shall be designed to have a minimum of one dry travel lane in each direction.
103. Drainage and improvement plans shall be designed so that after-development, drainage to adjacent parcels would not be increased above pre-development drainage quantities for any stormwater model between and including the 10 year and 100 year storms, nor will surface runoff be concentrated by this project. Acceptance of storm drain waters by the project and discharge of storm drain waters from the project shall be in type, kind and nature of predevelopment flows unless the affected upstream and/or downstream owners provide permanent easement to accept such changed storm drainage water flow. All drainage measures necessary to mitigate stormwater flows shall be provided to the satisfaction of the City Engineer. The applicant shall make any on-site and downstream improvements, required by the City, to support the proposed development.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

104. The applicant shall submit to the City Engineer a Stormwater Pollution Control Plan (SWPCP) and a Stormwater Pollution Prevention Plan (SWPPP) in accordance with requirements of the Ventura Countywide Stormwater Quality Management Program, Technical Guidance Manual for Stormwater Quality Control Measures, NPDES Permit No. CAS004002. The Plans shall identify potential pollutant sources that may affect the quality of discharges to stormwater and shall include the design and placement of recommended Best Management Practice (BMP) to effectively prohibit the entry of pollutants from the construction site into the storm drain system streets and water courses. The Plans shall be implemented as part of the grading, improvements and development of the project.
105. Prior to the issuance of any construction/grading permit and/or the commencement of any clearing, grading or excavation, the applicant shall submit a Notice of Intent (NOI) to the California State Water Resources Control Board,

Stormwater Permit Unit in accordance with the NPDES Construction General Permit (No. CASQ00002): Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activities). The applicant shall also provide a copy of the Notice of Intent (NOI) to the City Engineer as proof of permit application. The improvement plans and grading plans shall contain the WDID number for the project.

106. Prior to the starting of grading or any ground disturbance the applicant shall identify a qualified superintendent for NPDES compliance. The NPDES superintendent shall be present, on the project site Monday through Friday and on all other days when the probability of rain is 40% or higher and prior to the start of and during all grading or clearing operations until the release of grading bonds. The NPDES superintendent shall have full authority to rent equipment and purchase materials to the extent needed to effectuate Best Management Practice. The NPDES superintendent shall provide proof of attendance and satisfactory completion of courses satisfactory to the City Engineer totaling no less than 8 hours directed specifically to NPDES compliance and effective use of Best Management Practice. In addition, an NPDES superintendent shall be designated to assume NPDES compliance during the construction of streets, storm drainage systems, all utilities, buildings and final landscaping of the site.

MAINTENANCE

107. Unless otherwise stipulated in the Special Conditions of Approval, any median landscaping constructed by the project shall be maintained by the City. An Assessment District shall be formed to fund the City maintenance costs for any such median landscaping.
108. Unless otherwise stipulated in the Special Conditions of Approval, parkway landscaping shall be maintained by a Home Owners' Association, a Property Owners' Association or by the property owner [collectively herein "Private Responsible Party"]. In such case, any required landscape easements, shall be conveyed to the Private Responsible Party.
109. Unless otherwise stipulated in the Special Conditions of Approval, all required on-site drainage improvements and/or stormwater quality [NPDES] features or facilities shall be maintained by the Private Responsible Party.
110. When, and if stipulated in the Special Conditions of Approval, that certain identified parkway landscaping and/or drainage improvements are to be maintained by the City, an Assessment District shall be formed to fund City costs for such maintenance. In such event, any required landscaping and/or drainage improvements shall be conveyed to the City in easements for such purposes.
111. Any Final Map identifying any landscape easement or drainage easement granted to a Private Responsible Party shall also be irrevocably offered for dedication to the City and shown on said Final Map. The City reserves the right to assume the maintenance of parkway landscaping, median landscaping or drainage improvements being maintained by a Private Responsible Party, should

it be determined by the City, at its sole discretion, that the maintenance being provided by the Private Responsible Party is inadequate.

112. If required by a Special Condition of Approval, an Assessment District [herein "Back-Up District"] shall be formed to fund future City costs, should they occur, for the maintenance of parkway landscaping, median landscaping or drainage improvements previously maintained by a Private Responsible Party and then assumed by the City. If a Back-Up District is formed, it shall be the intent of the City to approve the required assessment each year, but to only levy that portion of the assessment necessary to recover any past City costs or any anticipated City costs for the following fiscal year. In the event the City is never required to assume the maintenance of any such improvements maintained by a Private Responsible Party, the amount of the annual assessment actually levied upon the affected properties would be minor amount, possibly zero. The City shall administer the annual renewal of the Back-Up District and any costs related to such administration shall be charged to the Fund established for such district revenues and expenses.
113. When it has been determined that it is necessary to form an Assessment District (including a Back-Up District), the applicant shall be required to undertake and complete the following:
 - a. At least one-hundred-twenty (120) days prior to the planned recordation of any Final Map or the issuance of any zoning clearance for building permit, which ever comes first:
 - i. submit the final draft plans for any irrigation, landscaping or Drainage Improvements [herein "Maintained Areas"] to be maintained by the Assessment District (including a required Back-Up District), along with any required plan checking fees;
 - ii. submit a check in the amount of \$5,000 as an advance to cover the cost of Assessment Engineering for the formation of the Assessment District [Note: Developer shall be required to pay for all final actual assessment engineering costs related to the Assessment District formation along with City administrative costs.];
 - b. At least sixty (60) days prior to the planned recordation of any Final Map or the issuance of any zoning clearance for building permit, which ever comes first, submit to the City the completed, "City approved" plans for the Maintained Areas (landscaping, irrigation and NPDES Drainage Improvements);
 - c. Prior to the planned recordation of any Final Map or the issuance of any zoning clearance for building permit, which ever comes first, submit to the City a signed Petition and Waiver requesting formation of the Assessment District [Note: The Petition and Waiver shall have attached to it as Exhibit 'A' the City approved final draft Engineer's Report prepared by the Assessment Engineer retained by the City.]

D. Please contact the BUILDING DIVISION for compliance with the following conditions:

114. Prior to the issuance of a Building Permit, the applicant shall provide written proof that an "Unconditional Will Serve Letter" for water and sewer service has been obtained from the Ventura County Waterworks District No. 1.

E. Please contact the VENTURA COUNTY AIR POLLUTION CONTROL DISTRICT for compliance with the following conditions:

115. Prior to issuance of a Zoning Clearance for building permit, a Ventura County Air Pollution Control District (APCD) "Authority to Construct" shall be obtained for all equipment subject to APCD Permit (see APCD Questionnaire, AB3205). Final Certificate of Occupancy shall not be granted until compliance with all applicable APCD Rules & Regulations has been satisfactorily demonstrated. **(This Condition Applies to Commercial/Industrial Projects)**
116. Facilities shall be operated in accordance with the Rules and Regulations of the Ventura County Air Pollution Control District, with emphasis on Rule 51, Nuisance. Rule 51 states: "A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endangers the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property."

F. Please contact the VENTURA COUNTY FIRE PROTECTION DISTRICT for compliance with the following conditions:

GENERAL

117. Prior to combustible construction, an all weather access road/driveway and the first lift of the access road pavement shall be installed. Once combustible construction starts a minimum twenty-foot (20') clear width access road/driveway shall remain free of obstruction during any construction activities within the development. All access roads/driveways shall have a minimum vertical clearance of thirteen feet-six inches (13'-6") and a minimum outside turning radius of forty feet (40').
118. Approved turnaround areas for fire apparatus shall be provided when dead-end Fire District access roads/driveways exceed 150-feet. Turnaround areas shall not exceed a five percent cross slope in any direction and shall be located within one-hundred-fifty feet (150') of the end of the access road/driveway.
119. The access road/driveway shall be extended to within one-hundred-fifty feet (150') of all portions of the exterior wall of the first story of any building and shall be in accordance with Fire District access standards. Where the access roadway cannot be provided, approved fire protection system or systems shall be installed as required and acceptable to the Fire District.

120. When only one (1) access point is provided, the maximum length shall not exceed eight-hundred feet (800').
121. Public and private roads shall be named if serving more than four (4) parcels or as required by the Fire District.
122. Approved walkways shall be provided from all building openings to the public way or Fire District access road/driveway.
123. Structures exceeding three stories or forty-eight-feet (48') in height shall meet current VCFPD Ordinance for building requirements. Structures exceeding seventy-five-feet (75') in height shall be subject to Fire District high rise building requirements. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
124. Structures greater than 5,000 square feet and/or five (5) miles from a fire station shall be provided with an automatic fire sprinkler system in accordance with current Ventura County Fire Protection District Ordinance.
125. Commercial trash dumpsters and containers with an individual capacity of 1.5 cubic yards or greater shall not be stored or placed within five feet of openings, combustible walls, or combustible roof eave lines unless protected by approved automatic sprinklers. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**

FINAL MAP

126. Prior to recordation of the Final Map(s) proposed street name(s) shall be submitted to the Community Development Director and the Fire District's Mapping Unit for review and approval. Approved street names shall be shown on the Final Map(s). Street name signs shall be installed in conjunction with the road improvements. The type of sign shall be in accordance with Plate F-4 of the Ventura County Road Standards.
127. At least fourteen (14) days prior to recordation of any maps, including parcel map waivers, the applicant shall submit two (2) copies of the map to the Fire Prevention Division for approval.
128. Within seven (7) days of the recordation of the Final Map(s) an electronic version of the map shall be provided to the Fire District.
129. Prior to Final Map or prior to the issuance of a building permit, whichever comes first, the applicant shall provide to the Fire District, written verification from the water purveyor that the water purveyor can provide the required fire flow as determined by the Fire District.

DEVELOPMENT REQUIREMENTS

130. Prior to the issuance of a certificate of occupancy by the Building Division the applicant shall submit a plan to the Fire District for review and approval indicating the method by which this project will be addressed.

131. Minimum six-inch (6") high address numbers shall be installed prior to occupancy, shall be contrasting color to the background, and shall be readily visible at night Brass, chrome, silver or gold plated numbers shall not be used. Where structures are set back more than one-hundred-fifty feet (150') from the street, larger numbers will be required so that they are distinguishable from the street. In the event a structure(s) is(are) not visible from the street, the address numbers(s) shall be posted adjacent to the driveway entrance on an elevated post.
132. Prior to combustible construction, fire hydrants shall be installed to the minimum standards of the City of Moorpark and the Fire District, and shall be in service.
133. Prior to occupancy of any structure, blue reflective hydrant location markers shall be placed on the access roads in accordance with Fire District standards. If the final asphalt cap is not in place at time of occupancy, hydrant location markers shall still be installed and shall be replaced when the final asphalt cap is completed.
134. Prior to the issuance of a building permit, building plans for all A, E, H, I, R-1 and R-2 Occupancies shall be submitted, with payment for plan check, to the Fire District for review and approval. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
135. Prior to issuance of a building permit the applicant shall submit a phasing plan and two (2) site plans (for the review and approval of the location of fire lanes) to the Fire District.
136. Prior to occupancy the fire lanes shall be posted "NO PARKING FIRE LANE TOW-AWAY" in accordance with California Vehicle Code and the Fire District.
137. Prior to or concurrently with the issuance of a building permit the applicant shall submit plans to the Fire District showing the location of the existing hydrants within three-hundred feet (300') of the proposed project and showing the location, type and number of proposed hydrants, and the size of the outlets. Fire hydrant(s) shall be provided in accordance with current adopted edition of the Uniform Fire Code, Appendix 111-B and adopted amendments. On-site fire hydrants may be required as determined by the Fire District. Fire hydrants, if required, shall be installed and in service prior to combustible construction and shall conform to the minimum standard of the Ventura County Waterworks Manual and the Fire District.
138. Prior to installation of any fire protection system; including, but not limited to sprinklers, dry chemical, hood systems, the applicant shall submit plans, along with the required fee for plan check, to the Fire District for review and approval. Fire sprinkler systems with one-hundred or more heads shall be supervised by a fire alarm system in accordance with Fire District requirements.
139. Prior to installation of the fire alarm system (if required), the applicant shall submit plans, along with the required fee for plan check, to the Fire District for

review and approval. The fire alarm system shall be installed in all buildings in accordance with California Building and Fire Code.

140. Prior to the issuance of a certificate of occupancy by the Building Division the applicant shall obtain all applicable Uniform Fire Code (UFC) permits.
141. Prior to the issuance of a building permit the applicant shall obtain a copy of Ventura County Fire District Form No. 126 "Requirements for Construction."
142. Prior to the issuance of a certificate of occupancy by the Building Division the applicant shall install fire extinguishers in accordance with the Uniform Fire Code. The placement of extinguishers shall be subject to review and approval by the Fire District. **(This Condition Applies to Commercial/Industrial and Multi-family Residential Projects)**
143. Prior to framing the applicant shall clear for a distance of one hundred feet all grass or brush exposing any structure(s) to fire hazards.

G. *Please contact the VENTURA COUNTY WATERWORKS DISTRICT NO. 1 for compliance with the following conditions:*

144. The applicant shall comply with the applicable provisions of Ventura County Waterworks District No. 1 standard procedures for obtaining domestic water and sewer services for applicant's projects within the District.
145. Prior to issuance of a building permit, provide Ventura County Waterworks District:
 - a. Water and sewer improvement plans in the format required.
 - b. Hydraulic analysis by a registered Civil Engineer to determine the adequacy of the proposed and existing water and sewer lines.
 - c. Copy of approval of fire hydrant locations by Ventura County Fire Protection District.
 - d. Copy of District Release and Receipt from Calleguas Municipal Water District.
 - e. Cost estimates for water and sewer improvements.
 - f. Plan check, construction inspection, capital improvement charge, sewer connection fee and water meter charge.
 - g. Signed Contract to install all improvements and a Surety Bond.
146. At the time water service connection is made, cross connection control devices shall be installed on the water system in a manner approved by the Ventura County Waterworks District No. 1.
147. Gating of private streets or parking areas shall meet the requirements of Chapter 17.32 of the Moorpark Municipal Code and of the Ventura County Fire Protection District.

H. *Please contact the VENTURA COUNTY WATERSHED PROTECTION DISTRICT for compliance with the following conditions:*

148. Direct storm drain connections to Ventura County Flood Control District facilities are subject to Ventura County Watershed Protection District permit requirements.

I. *Please contact the POLICE DEPARTMENT for compliance with the following condition:*

149. Prior to initiation of the building plan check process for the project, the applicant shall submit plans in sufficient detail to the Police Department for review and approval of defensible space concepts to reduce demands on police services. To the degree feasible and to the satisfaction of the Community Development Director and the Police Chief, public safety planning recommendations shall be incorporated into the project plans. The applicant shall prepare a list of project features and design components that demonstrate responsiveness to defensible space design concepts.

- END -