

CITY OF OAKLAND
Agenda Report

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 JAN 10 PM 3:31

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: January 22, 2008

RE: A Report And Resolution Conditionally Relinquishing Turner Court As Public Right-Of-Way And Conditionally Accepting Easement Dedications From Turner Estates Partners LP For Public Utilities And Emergency Vehicle Access

SUMMARY

A resolution has been prepared conditionally relinquishing the public right-of-way for Turner Court (summary vacation) and conditionally accepting easement dedications over the full width of the roadway from the developer, Turner Estates Partners LP, a California limited partnership (no. 200716510137), for public utilities and emergency vehicle access. The right-of-way was dedicated to the City in 1983, but the street was never completed. Seven (7) streets in the vicinity of Turner Court are private easements that are maintained by the homeowners.

FISCAL IMPACT

Staff costs for processing the proposed street vacation are covered by fees set by the Master Fee Schedule. The fees were paid by the developer and deposited in the special revenue Development Service Fund (2415), Engineering Services organization (88432), Encroachment Permits account (42314), Engineering and Architectural Approval (PS30). Fee simple ownership of the vacated right-of-way will revert to the developer without additional charge.

PROJECT DESCRIPTION

Turner Court is located between Knowland Park and Lake Chabot Municipal Golf Course near Golf Links Road. The street is a fifty (50) feet wide cul-de-sac that serves ten (10) undeveloped lots, which were subdivided in 1984 as part of Tract No. 4726. The subdivider of the original eleven (11) lots abandoned the project with a partially completed roadway. The street and underground utilities were completed in August 2007 (permit PX0500079). No building permits have been issued yet for construction of future homes served by Turner Court.

Turner Court is the only public right-of-way in the immediate vicinity. Seven (7) other streets are private easements that are maintained by the property owners. Control and maintenance of Turner Court will be relinquished by the City to a future homeowners association.

KEY ISSUES AND IMPACTS

Determinations For Summary Vacation

Staff has determined that the City Council may make the following findings for summarily vacating the public right-of-way, as required by the statutes and ordinance indicated below:

Item No. _____
Public Works Committee
January 22, 2008

- Streets and Highways Code
 - ✓ the vacation conforms with the City's adopted General Plan; and
 - ✓ the vacation will not impact future access for non-motorized transportation; and
 - ✓ easements will be retained for public utility lines and emergency vehicle access; and
 - ✓ the vacation will not increase traffic and pedestrian inconvenience nor decrease traffic and pedestrian safety; and
 - ✓ the right-of-way has not been usable by vehicle traffic for five (5) preceding years, and no public money has been spent for maintenance of the right-of-way.

- Public Resources Code

Vacation of public right-of-way is categorically exempted from the requirements of the California Environmental Quality Act (CEQA).

- Government Code

The original subdivision map for Tract No. 4726 retained the underlying fee simple interest in the right-of-way for the abutting property owners. The vacated right-of-way will revert to the developer without valuable consideration at fair market value.

- Oakland Municipal Code - Section 16.32.020

The subdivision ordinance limits the number of lots served by a private access easement to four (4). Other streets in the vicinity of Turner Court are private access easements, and vacating the right-of-way would be consistent with other subdivision approvals in the area.

Conditions For Summary Vacation

The original subdivision map for Tract No. 4726 must be revised to show the relocation of the front yard property lines to the center of the vacated right-of-way, and to show the boundaries of the newly dedicated public easements (revised metes and bounds). Staff is proposing that the developer be allowed to file a new Parcel Map with the Alameda County Recorder within one (1) year or before a certificate of occupancy is issued, whichever occurs first. Approval of the Parcel Map does not require resubmission to the Planning Commission or the City Council.

SUSTAINABLE OPPORTUNITIES

Economic

The development will provide home ownership opportunities for Oakland residents.

Environmental

Construction permits for infrastructure improvements and new buildings require that the permittees comply with City ordinances and regional Best Management Practices for reducing noise, dust, construction debris disposal, and storm drainage pollutant runoff.

Social Equity

The development will assist the economic growth revitalization of the City, which will encourage the infusion and recurrence of diverse multi-cultural activities, businesses, and events.

DISABILITY AND SENIOR CITIZEN ACCESS

Construction permits for infrastructure improvements and new buildings will conform with State and City requirements for accessibility.

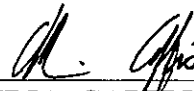
RECOMMENDATIONS

Staff recommends the Committee accept this report and forward it to the City Council to adopt the proposed resolution conditionally vacating Turner Court and accepting public easements.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council accept this report and adopt the proposed resolution vacating Turner Court and accepting easement dedications for public utilities and emergency vehicle access, conditioned upon Turner Estates Partners LP recording a Parcel Map within one (1) year to adjust the property boundaries of the adjoining lots and to define the limits of the public easements.

Respectfully submitted,



CLAUDIA CAPPIO

Development Director

Community and Economic Development Agency

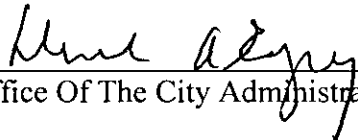
Prepared by:

Raymond M. Derania

Interim City Engineer

Building Services Division

APPROVED FOR FORWARDING TO
THE PUBLIC WORKS COMMITTEE:



Office Of The City Administrator

Introduced by

FILED
OFFICE OF THE CITY CLERK Approved for Form and Legality
OAKLAND

Councilmember

2008 JAN 10 PM 3: 31

City Attorney

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION SUMMARILY AND CONDITIONALLY VACATING TURNER COURT TO TURNER ESTATES PARTNERS LP AND CONDITIONALLY ACCEPTING PUBLIC SERVICE EASEMENT DEDICATIONS

WHEREAS, pursuant to California Streets and Highways Code Section 8330 et seq., the owner, Turner Estates Partners LP, a California limited partnership (no.200716510137), of ten (10) of the original eleven (11) lots comprising Tract No. 4726, as identified by the Alameda County Assessor with parcel numbers 048-6264-004-00 through 048-6264-013-00, inclusive, has made an application to the Council of the City for the summary vacation all of the public right-of-way identified as Turner Court on the Final Map for said Tract, recorded February 16, 1984, book of maps 142, pages 83 and 84, by the Alameda County Recorder; and

WHEREAS, the City Clerk and Clerk of the Council of the City of Oakland accepted the dedication of Turner Court as public right-of-way without conditions in 1983, as shown on said Final Map and in Resolution No. 61836 C.M.S. of the Council of the City of Oakland; and

WHEREAS, pursuant to said sections of the California Streets and Highways Code, the City Engineer of the City of Oakland has determined the following:

- the owner of said ten (10) undeveloped properties abutting Turner Court owns the underlying fee simple interest in the public right-of-way proposed to be vacated; and
- the proposed vacation, which does not encumber a fifty (50) feet wide public access easement crossing the rear of lot 4 (048-6264-007-00) and lot 6 (048-6264-009-00) and identified as Trail C on said Final Map, does not limit public use or impede public access for non-motorized transportation; and
- the proposed vacation will not increase traffic and pedestrian inconvenience nor decrease traffic and pedestrian safety; and
- the proposed vacation requires a dedication of a public service easement for existing and future publicly maintained utilities; and that
- the proposed vacation requires a dedication of a public service easement for access by emergency vehicles and personnel; and that
- Turner Court has been impassable for vehicular traffic in the twenty-four (24) intervening years since said Final Map was recorded, and no public money has been expended for maintenance on the street during this period of time; and, therefore,
- Turner Court may be vacated summarily by Resolution of the Council of the City of Oakland; and

WHEREAS, pursuant to California Government Code Section 65402, the Secretary of the Planning Commission of the City of Oakland has determined the proposed vacation conforms with the adopted General Plan of the City of Oakland; and

WHEREAS, the Secretary of the Planning Commission has further determined that the proposed vacation conforms with the conditions and requirements of the Tentative Map for Tract No. 4726, as approved on November 19, 1980; and

WHEREAS, the owner has filed an application (PPE 070003) with the City Engineer, as required by the Oakland Municipal Code, and paid all fees to the City of Oakland, as required by the Master Fee Schedule, for the administrative processing of said vacation; and

WHEREAS, the Final Map for Tract No. 4726 delineating the metes and bounds of the extent and location of Turner Court is attached hereto as Exhibit A; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA), the Guidelines as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act: City of Oakland, have been satisfied, and that in accordance with CEQA Guidelines Section 15301 (existing facilities) this project is categorically exempted; now, therefore, be it

RESOLVED: That the action of the Council of the City of Oakland approving the summary vacation of Turner Court, as conditioned herein, complies with the California Environmental Quality Act; and be it

FURTHER RESOLVED: That the summary vacation of Turner Court, as delineated in the attached Exhibit A, is hereby ordered; and be it

FURTHER RESOLVED: That, pursuant to California Government Code Section 66412, said vacation is hereby conditioned upon the filing of a Parcel Map with the City Engineer; and be it

FURTHER RESOLVED: That, pursuant to Oakland Municipal Code Section 16.24.020, the Director of City Planning may waive the requirement for filing a Tentative Parcel Map: and be it

FURTHER RESOLVED: That, pursuant to Oakland Municipal Code Section 16.32.020, the Director of City Planning may waive the lot limitation for private access easements: and be it

FURTHER RESOLVED: That said Parcel Map shall be filed with the City Engineer with sufficient time for review before the expiration of said vacation as set forth herein; and be it

FURTHER RESOLVED: That said Parcel Map shall identify the vacation of the public right-of-way of Turner Court and delineate the metes and bounds of the extent and locations of the adjustments of the boundaries of the properties adjoining said vacation; and be it

FURTHER RESOLVED: That said Parcel Map shall also identify and delineate the dedication of a subsurface, surface, and overhead public service easement across the full width and along the full length of Turner Court for the installation, repair, replacement, and removal of and access to publicly maintained utilities; and be it

FURTHER RESOLVED: That said Parcel Map shall also identify and delineate the dedication of a public service easement across the full width and along the full length of Turner Court for access by emergency vehicles and personnel; and be it

FURTHER RESOLVED: That said dedication on said Parcel Map shall also set forth that the adjoining property owners shall be responsible in perpetuity for the installation, maintenance, repair, and removal of all infrastructure improvements located within the vacated public right-of-way, including but not limited to roadway pavement, sidewalks, curbs, gutters, trees and landscaping, irrigation, electrical lighting, sanitary sewer piping, and storm water piping, but excepting from said responsibility infrastructure improvements that are otherwise regulated by California Public Utilities Commission; and be it

FURTHER RESOLVED: That no Certificate of Occupancy or temporary Certificate of Occupancy shall be issued by the Building Official of the City of Oakland for any residence or other building requiring said document unless and until said parcel Map has been filed with and recorded by the Alameda County Recorder; and be it

FURTHER RESOLVED: That the conditions of this Resolution shall equally bind the representatives of the owner and its heirs, successors, assigns, beneficiaries, and successors in interest; and be it

FURTHER RESOLVED: That, pursuant to California Streets and Highways Code Section 8336, said vacation shall not be complete unless and until this Resolution has been filed with and recorded by the Alameda County Recorder; and be it

FURTHER RESOLVED: That said vacation shall expire by limitation and become void should said Parcel Map, as reviewed and approved by the City Engineer, fail to be filed with and recorded by the Alameda County Recorder within three-hundred and sixty-five (365) consecutive days following approval of this Resolution by the Council of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT A

Location Map For Turner Court

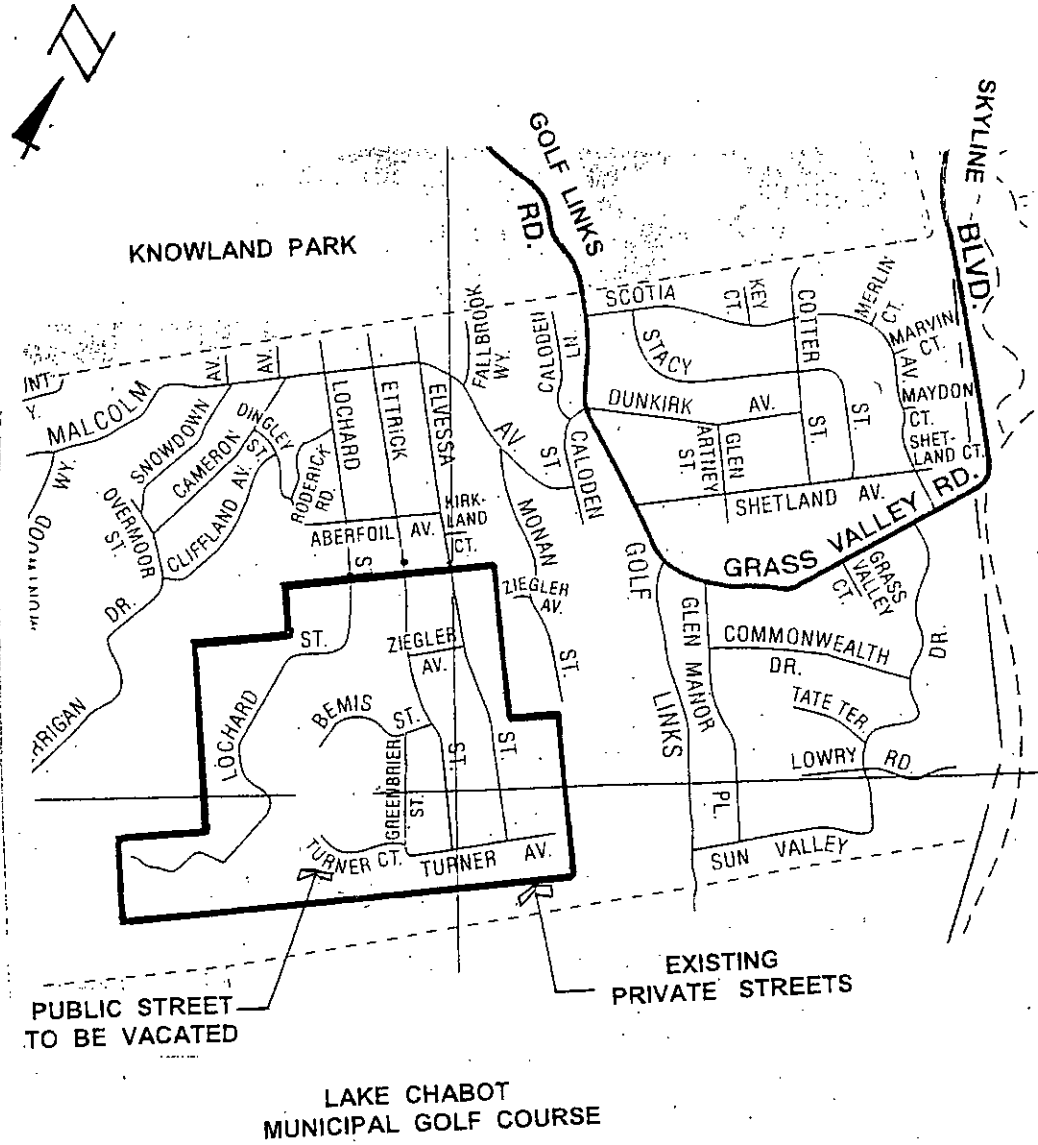


EXHIBIT A

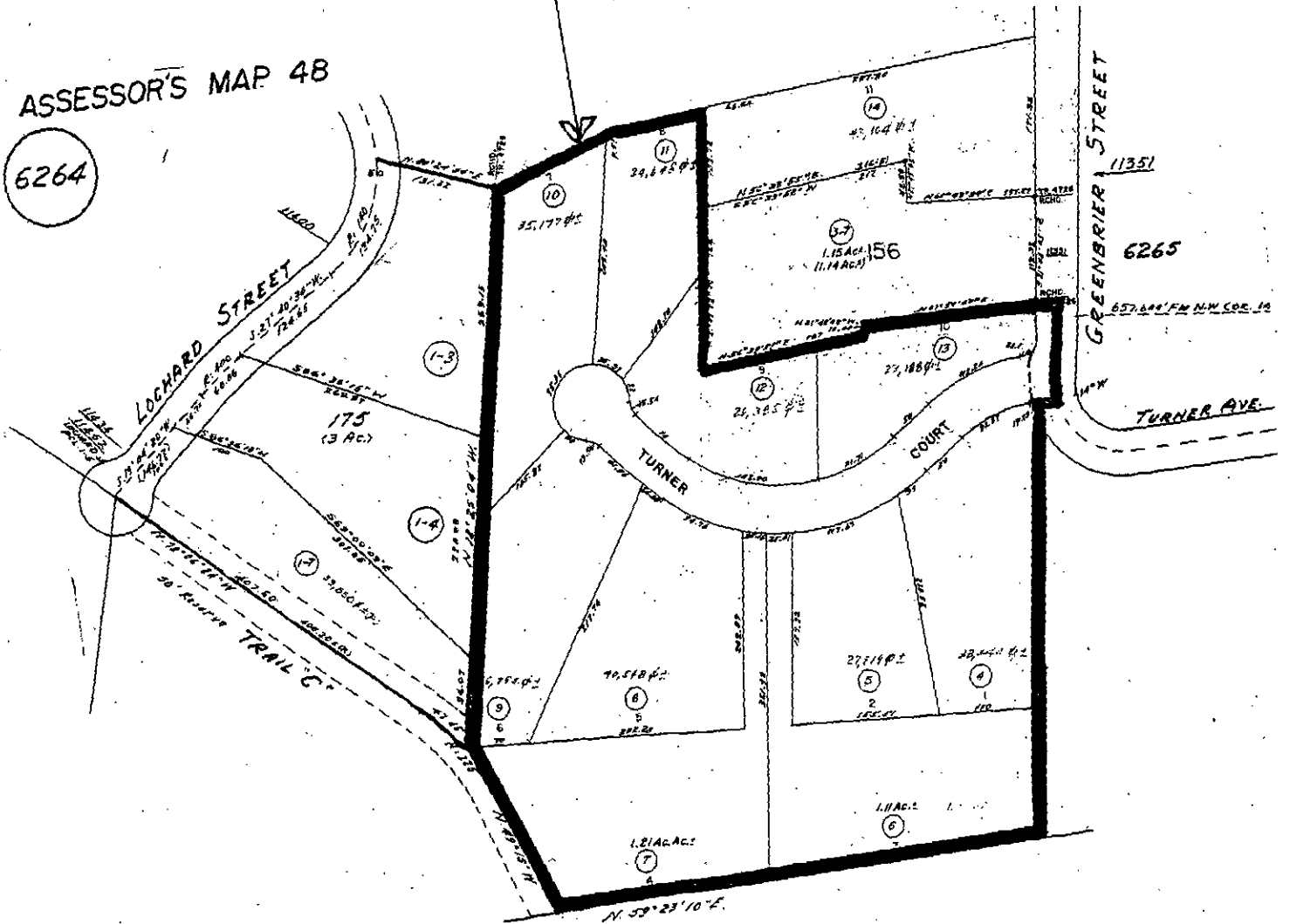
Location Map For Assessor's Parcels - Tract 4726



PROPERTIES OWNED BY
TURNER ESTATES PARTNERS

ASSESSOR'S MAP 48

6264



OWNER'S CERTIFICATE

B. S. & T. CONSTRUCTION COMPANY, INC., A CALIFORNIA CORPORATION, CERTIFIES IT IS THE OWNER OF ALL THE LAND DELINEATED AND EMBRACED WITHIN THE EXTERIOR BOUNDARY LINES OF THE HEREIN EMBODIED FINAL MAP ENTITLED "TRACT 4726, OAKLAND, ALAMEDA COUNTY, CALIFORNIA", CONSISTING OF 2 SHEETS, THIS CERTIFICATE BEING ON SHEET 1 THEREOF...

AND, THE UNDERSIGNED, HEREBY DEDICATES TO THE PUBLIC FOREVER THE PARCELS OF LAND LYING WITHIN THE BOUNDARIES OF TURNER COURT AS SO DESIGNATED, DELINEATED AND EMBRACED WITHIN THE ABOVE AND FOREGOING MAP, FOR USES AND PURPOSES AS PUBLIC HIGHWAYS

AND, THE UNDERSIGNED, HEREBY DEDICATES TO THE PUBLIC FOREVER THE RIGHT TO CONSTRUCT AND MAINTAIN PUBLIC UTILITIES AND ALL APPURTENANCES UNDER, ON AND OVER THE STRIPS OF LAND DESIGNATED AS "SEMI-ANNUAL RENT RESERVATION" IS S. 6.1 AND "STORM DRAIN RESERVATION" IS D. 6.1 ON SAID MAP AND THE RIGHT TO ENTER UPON SAID STRIPS OF LAND FOR THE PURPOSES OF CONSTRUCTING, MAINTAINING, RECONSTRUCTING OR REPAIRING SAID PUBLIC UTILITIES AND THEIR APPURTENANCES

B. S. & T. CONSTRUCTION COMPANY, INC.

BY: [Signature]

TRUSTEE'S CERTIFICATE

TRANSAMERICA TITLE INSURANCE COMPANY, A CALIFORNIA CORPORATION, TRUSTEE UNDER THE DEED OF TRUST RECORDED MARCH 31, 1962, SERIES NO. 83-046214, OFFICIAL RECORDS OF ALAMEDA COUNTY, DOES HEREBY JOIN IN AND CONSENT TO THE EXECUTION OF THE FOREGOING OWNERS CERTIFICATE.

BY: [Signature]

ACKNOWLEDGEMENT

STATE OF CALIFORNIA COUNTY OF ALAMEDA

ON June 22 1968 BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED [Name]

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSONS THAT EXECUTED THE WITHIN INSTRUMENT AS PRESIDENT AND SECRETARY, ON BEHALF OF B. S. & T. CONSTRUCTION COMPANY, INC. A CALIFORNIA CORPORATION, THE CORPORATION THEREIN NAMED, AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION EXECUTED THE WITHIN INSTRUMENT PURSUANT TO ITS BY-LAWS OR A RESOLUTION OF ITS BOARD OF DIRECTORS.

WITNESS MY HAND AND OFFICIAL SEAL.

BY: [Signature]

ACKNOWLEDGEMENT

STATE OF CALIFORNIA COUNTY OF ALAMEDA

ON June 22 1968 BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED [Name]

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSONS THAT EXECUTED THE WITHIN INSTRUMENT AS PRESIDENT AND ASSISTANT SECRETARY, ON BEHALF OF TRANSAMERICA TITLE INSURANCE COMPANY, A CALIFORNIA CORPORATION, THE CORPORATION THEREIN NAMED, AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION EXECUTED THE WITHIN INSTRUMENT PURSUANT TO ITS BY-LAWS OR A RESOLUTION OF ITS BOARD OF DIRECTORS AS TRUSTEES.

WITNESS MY HAND AND OFFICIAL SEAL.

BY: [Signature]

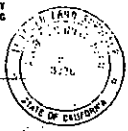
TRACT 4726 OAKLAND, ALAMEDA COUNTY, CALIFORNIA BEING A PORTION OF THE LAND SHOWN ON RECORD OF SURVEY, FILED JUNE 3, 1947, L.S. BOOK 2, PAGES 31-36, ALAMEDA COUNTY RECORDS APRIL, 1963

M & M Consultants ENGINEERS - SURVEYORS - PLANNERS

SURVEYOR'S CERTIFICATE

I, ALVIN POREL CHRISTENSEN, HEREBY CERTIFY THAT THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION. I FURTHER STATE THAT THIS MAP WAS BASED UPON A TRUE AND COMPLETE SURVEY MADE BY ME OR UNDER MY DIRECTION IN MARCH, 1961...

AT: May 29 1963 ALVIN POREL CHRISTENSEN, L.S. 43936



CITY ENGINEER'S CERTIFICATE

STATE OF CALIFORNIA COUNTY OF ALAMEDA

I, Angelo J. Loran, DIRECTOR OF PUBLIC WORKS AND CITY ENGINEER OF THE CITY OF OAKLAND, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE FINAL MAP ENTITLED "TRACT 4726, OAKLAND, ALAMEDA COUNTY, CALIFORNIA", THAT THE FINAL MAP IS SUBSTANTIALLY THE SAME AS THE TENTATIVE MAP APPROVED BY THE CITY PLANNING COMMISSION ON THE 19TH DAY OF NOVEMBER, 1960...

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 20 DAY OF July A. D. 1962

Angelo J. Loran, Director of Public Works and City Engineer of the City of Oakland, State of California

CITY CLERK'S CERTIFICATE

STATE OF CALIFORNIA COUNTY OF ALAMEDA

I, ANNEK JAMISON, CITY CLERK AND CLERK OF THE COUNCIL OF THE CITY OF OAKLAND, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT THE HEREIN EMBODIED MAP ENTITLED "TRACT 4726, OAKLAND, ALAMEDA COUNTY, CALIFORNIA" WAS PRESENTED TO THE COUNCIL OF THE CITY OF OAKLAND AT A REGULAR MEETING THEREOF HELD ON THE 13th DAY OF December, 1962...

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 13th DAY OF December A. D. 1962

ANNEK JAMISON, City Clerk and Clerk of the Council of the City of Oakland, State of California

CITY CLERK'S CERTIFICATE

STATE OF CALIFORNIA COUNTY OF ALAMEDA

I, WILLIAM HENRWEIN, CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, HEREBY CERTIFY, AS CHECKED BELOW THAT:

- AN APPROVED BOND HAS BEEN FILED WITH THE CLERK OF THE BOARD OF SUPERVISORS OF THE SAID COUNTY AND STATE IN THE AMOUNT OF \$5000.00 FOR THE PAYMENT OF ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES WHICH ARE NOW A LIEN AGAINST SAID LAND OR ANY PART THEREOF BUT NOT YET PAYABLE AND WAS FULLY APPROVED BY SAID LOCAL BOARD IN SAID AMOUNT.
ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES HAVE BEEN PAID, AS CERTIFIED BY THE TREASURER/AT COLLECTOR OF THE COUNTY OF ALAMEDA.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 16th DAY of February 1962

WILLIAM HENRWEIN, Clerk of the Board of Supervisors, County of Alameda, State of California

SOILS REPORT

A SOILS REPORT ON THIS SITE HAS BEEN PREPARED BY ABEL R. SOARES AND ASSOCIATES, INC., JOB NO. 707-141 OCTOBER 29, 1961, RE NO. 18260, AND IS ON FILE AT THE ENGINEERING INFORMATION CENTER, OAKLAND CITY HALL.

PLANNING COMMISSION'S CERTIFICATE

STATE OF CALIFORNIA COUNTY OF ALAMEDA

I, MARCEL L. HERBERT, SECRETARY OF THE CITY PLANNING COMMISSION OF THE CITY OF OAKLAND, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT "TRACT 4726, OAKLAND, ALAMEDA COUNTY, CALIFORNIA" WAS PRESENTED TO THE CITY PLANNING COMMISSION AS PROVIDED BY THE "SUBDIVISION MAP ACT"; THAT AT A MEETING OF THE SAID CITY PLANNING COMMISSION, HELD ON THE 19TH OF NOVEMBER A. D. 1960, SAID TENTATIVE MAP WAS APPROVED.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 19th DAY of July A. D. 1962

MARCEL L. HERBERT, Secretary of the City Planning Commission of the City of Oakland, State of California

RECORDER'S CERTIFICATE

I HAVE THIS 14th DAY OF February, 1964, AT 3:30 P.M., RECORDED'S SERIES NUMBER 19333 IN BOOK 1111 OF MAPS AT PAGE 62-27 AT THE REQUEST OF TRANSAMERICA TITLE INSURANCE COMPANY.

RENE C. DAVIDSON, County Recorder in and for the County of Alameda, State of California



Subdivision Map For Tract No. 4762 EXHIBIT A

EXHIBIT A

Subdivision Map For Tract No. 4762

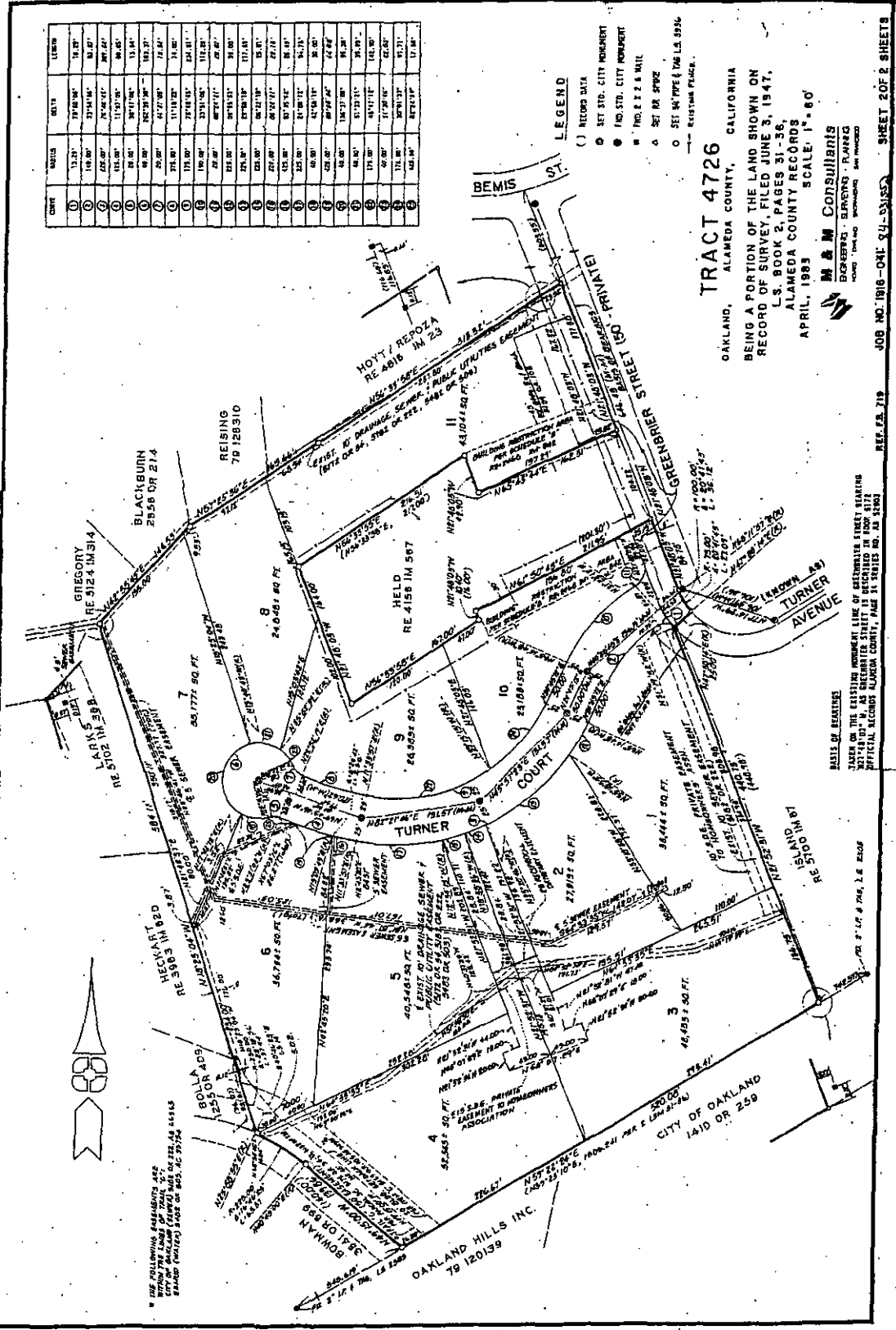
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99	13.21	13.21	100.00
100	13.21	13.21	100.00

- LEGEND**
- () RECORD DATA
 - SET STD. CITY MONUMENT
 - FND. STD. CITY MONUMENT
 - 1" = 20' & 2" = 1" MILE
 - △ SET RR SPRING
 - SET MONUMENT (TOL. L.S. 1936)

TRACT 4762
 OAKLAND, ALAMEDA COUNTY, CALIFORNIA
 BEING A PORTION OF THE LAND SHOWN ON
 RECORD OF SURVEY, FILED JUNE 3, 1947,
 L.S. BOOK 2, PAGES 31-36,
 ALAMEDA COUNTY RECORDS
 APRIL, 1983
 SCALE: 1" = 60'

M & M Consultants
 ENGINEERS - SURVEYORS - PLANNERS
 1400 17TH AVENUE, SUITE 100
 OAKLAND, CALIFORNIA 94612

JOB NO. 1916-041 94-53185 SHEET 20F 2 SHEETS



BASEL OF RECORDING
 BASED ON THE EXISTING MONUMENT LINE OF GREENBRIER STREET BEARING
 10° 10' 00" N 148° 50' 00" W 127.00' AS SHOWN IN BOOK 1172
 OFFICIAL RECORDS ALAMEDA COUNTY, PAGE 11 BEING 10, 11, 12, 13

FOR 2" OF 1/4" 1.6 2500'