

Introduced by

\_\_\_\_\_  
Councilmember

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2008 JUN -5 AM 10:46

Approved for Form and Legality

*Kiran Jha*  
\_\_\_\_\_  
City Attorney

**OAKLAND CITY COUNCIL**

**Resolution No. 81350 C.M.S.**

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**RESOLUTION CONDITIONALLY APPROVING A FINAL MAP FOR TRACT  
No. 7754 TO CONVERT FIVE RENTAL HOUSING UNITS TO CONDOMINIUM  
OWNERSHIP AT 333 WAYNE AVENUE**

**WHEREAS**, the owners of five (5) residential apartment units, Russell Abel and Barbara Roessler, is the Subdivider of a parcel identified by the Alameda County Assessor as APN 022-0308-016-03, and by the Alameda County Recorder as Tract No. 7754, and by the City of Oakland as 333 Wayne Avenue; and

**WHEREAS**, the Subdivider has acquired the fee simple interest in the real property comprising Tract No. 7754 through a Grant Deed, series no. 2002031380, recorded January 23, 2002, by the Alameda County Clerk-Recorder; and

**WHEREAS**, the Subdivider has previously applied to the City of Oakland to subdivide the platted land into residential condominium ownership comprising Tract No. 7754; and

**WHEREAS**, the parcel is located within the secondary impact zone as identified in Oakland Municipal Code chapter 16.36; and

**WHEREAS**, the Planning Commission of the City of Oakland approved the environmental determination (categorically exempted – California Public Resources Code Section 15315) and the Tentative Map for Tract No. 7754 on May 17, 2006, which proposed the subdivision of the parcel into five (5) residential condominiums; and

**WHEREAS**, the Secretary of the Planning Commission has certified to the Council of the City of Oakland that the Planning Commission approved the Tentative Map for Tract No. 7754, upon which the Final Map for Tract No. 7754 is based; and

**WHEREAS**, the City must make specific findings before approving a final subdivision to convert residential real property to condominium ownership; and

**WHEREAS**, the Subdividers have certified that each tenant was given written notice of intent to convert at least 60 days before filing the Tentative Map for Tract No. 7754; as evidence by the affidavit signed by the applicant; and

**WHEREAS**, the Subdividers have certified each tenant received all applicable notices and rights acquired under Chapter 2 or 3 of the Map Act (Government Code Sections 66425-66472.1), dealing with requirements and procedures; and

**WHEREAS**, the Subdividers have certified that each tenant received ten (10) days written notice that an application was or will be submitted to the Department of Real Estate for a public report, pursuant to Government Code section 66427.1(a); and

**WHEREAS**, the Subdivider has certified that each tenant has been or will be given written notice within ten (10) days after approval of the final map, pursuant to Government Code section 66427.1(c); and

**WHEREAS**, the subdivider has certified that each tenant has been or will be given one-hundred eighty (180) days written notice of the intent to convert before termination of the tenancy owing to the conversion. This provision does not alter any right or obligation under the rental agreement or under Civil Code sections 1941-1941.2; and

**WHEREAS**, the Subdividers have certified that each tenant has been or will be given notice of an exclusive right to purchase his or her unit on the same or more favorable terms and conditions than the unit will be offered to the general public. This right of first refusal must run for at least ninety (90) days after the date of issuance of the public report by the Department of Real Estate, unless the tenant gives prior written notice of intent not to exercise the right, pursuant to Government Code Section 66427.1(d); and

**WHEREAS**, the City Engineer of the City of Oakland has determined that

- the Final Map for Tract No. 7754, attached hereto as *Exhibit A*, is substantially the same as the Tentative Map approved by the Planning Commission, and
- the Final Map complies in all manners with the provisions of the California Government Code (Section 66400, et seq. - Subdivision Map Act), and the City of Oakland's local ordinance (Municipal Code Title 16 - Subdivisions); and

**WHEREAS**, the City Engineer has further determined that the Final Map is technically correct and accurately delineates the metes and bounds of the lot, the limits of which have been established by field survey and can be re-established from the monuments, property corners, radii, bearings, and distances shown on the Final Map for Tract No. 7754; and

**WHEREAS**, the Subdividers are not required to construct any surface or subsurface public infrastructure improvements within the existing public right-of-way of Wayne Avenue or within existing or proposed public easements on-site; and

**WHEREAS**, the provisions of Government Code section 66462 and Oakland Municipal Code Section 16.20.100 governing construction of required public infrastructure improvements before the recording of a Final Map are not applicable to Tract No. 7754; and

**WHEREAS**, pursuant to Oakland Municipal Code Section 16.36.130, the Subdividers are required to install methods and mechanisms to limit the transmission of interior sound between adjoining living units before a unit offered for sale; and

**WHEREAS**, pursuant to Oakland Municipal Code Sections 16.36.050 and 16.36.060, the Planning Commission has found that the Subdivider complied with the requirements of part one and part two of the Preliminary Tenant Assistance Program (PTAP) to minimize tenant displacement and provide tenant relocation assistance; and

**WHEREAS**, pursuant to Oakland Municipal Code Section 16.36.080, the Director of City Planning has determined that the Subdividers have complied with the requirements for a Final Tenant Assistance Program (FTAP) to minimize tenant displacement and provide tenant relocation assistance; and

**WHEREAS**, pursuant to Oakland Municipal Code Sections 16.36.080, no appeal of the FTAP to the City Council from any of the tenants residing at 333 Wayne Avenue was received by the Clerk of the City of Oakland within fifteen (15) days following approval of the Tentative Map for Tract No. 7754 by the Planning Commission of the City of Oakland; and

**WHEREAS**, pursuant to Oakland Municipal Code Sections 16.36.090 and 16.36.120, the Director of City Planning of the City of Oakland has determined that the Subdividers have provided copies of a structural pest report and a property report prepared by contractors or engineers licensed by the State of California and a building systems report describing utility meters and valves, storage space, and laundry facilities; and

**WHEREAS**, the Planning Commission has found that the Subdividers have complied with Oakland Municipal Code Sections 16.36.050 and 16.36.060 by obtaining "conversion rights" for five (5) units from 553 Merritt Avenue (APN 023-0419-010-00, 610 Beacon Street (APN 023-0419-004-00), and 15 Whitmore Place (APN 013-1108-002-01) that prohibit the conversion to residential condominium ownership and that the Planning Department has confirmed that the Subdivider has recorded restrictions against these properties documenting that they cannot generate further conversion rights; and

**WHEREAS**, pursuant to Oakland Municipal Code Section 16.36.110, the Director of City Planning has determined that the Subdividers have provided written notification to the City of Oakland and all tenants in the building with five (5) days of receipt from the State of California indicating that the final subdivision public report described in California Business and Professions Code Section 11018 was issued by the Real Estate Commissioner; and

**WHEREAS**, pursuant to Oakland Municipal Code Section 16.36.110, the Director of City Planning has determined that the Subdividers have provided additional written notification to the City of Oakland and all tenants in the building of the restrictions on the remodeling of occupied units and the rights of the tenants to occupy and purchase units; and

**WHEREAS**, pursuant to Oakland Municipal Code Sections 16.36.090 and 15.08.150 (Oakland Building Maintenance Code), the Subdividers have obtained a renewal Certificate of Occupancy issued by the Building Official of the City of Oakland for the multiple family dwelling (group R, division 2 occupancy); now, therefore, be it

**RESOLVED:** That the Final Map for Tract No. 7754 is hereby conditionally approved; and be it

**FURTHER RESOLVED:** That pursuant to Oakland Municipal Code Section 16.36.120, the approval of the Final Map for Tract No. 7754 is hereby conditioned upon the performance by the Subdividers of their obligations to provide written notices to all prospective buyers of converted units advising the following:

- the existence of a seventy-two (72) hour period following an agreement to purchase, during which period a prospective buyer may withdraw from the agreement to purchase without penalty or cost, and
- the availability of the property report, structural pest report, and building systems report, and
- the availability of a statement signed by person experienced in the field of acoustical testing and engineering certifying that the converted unit conforms to the noise insulation standards of the 2007 edition of the California Building Code; and be it

**FURTHER RESOLVED:** That pursuant to Oakland Municipal Code Section 16.36.140, the approval of the Final Map for Tract No. 7754 is hereby conditioned upon submittal by the Subdividers and receipt by the Director of City Planning within thirty (30) days following the issuance of the final subdivision public report and annually thereafter an informational report pertaining to tenants displaced since the filing of the Tentative Map for Tract No. 7754 and to buyers of the units being converted; and be it

**FURTHER RESOLVED:** That the City Engineer is hereby authorized to endorse the Final Map for Tract No. 7754; and be it

**FURTHER RESOLVED:** That the City Clerk of the City of Oakland is hereby authorized to endorse the Final Map for Tract No. 7754, upon its execution by the City Engineer, and directed to file the fully endorsed Final Map with the Alameda County Recorder for simultaneous recordation; and be it

**FURTHER RESOLVED:** That this Resolution shall become effective upon the recordation of the Final Map for Tract No. 7754 by the Alameda County Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 17 2008, 2008

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and  
PRESIDENT DE LA FUENTE ~ 8

NOES -  $\phi$   
 ABSENT -  $\phi$   
 ABSTENTION -  $\phi$

ATTEST: \_\_\_\_\_  
 LATONDA SIMMONS  
 City Clerk and Clerk of the Council  
 of the City of Oakland, California

EXHIBIT A

OWNERS STATEMENT: THE UNDERSIGNED HEREBY STATE THAT THEY ARE THE OWNERS OF THE LAND DESCRIBED AND SURVEYED WITHIN THE EXTENSIVE SURVEY MAP...

TRUSTEE'S STATEMENT: THE UNDERSIGNED AS TRUSTEE, UNDER THE DEED OF TRUST RECORDED ON MAP 7754, CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA...

TRUSTEE'S ACKNOWLEDGEMENT: I, [NAME], DO HEREBY ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE CONTENTS OF THE INSTRUMENT...

CITY ENGINEER'S STATEMENT: THE CITY ENGINEER OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, HAS REVIEWED THE INSTRUMENT...

CITY CLERK'S STATEMENT: I, THE CITY CLERK OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY CERTIFY...

OWNER'S ACKNOWLEDGEMENT: I, [NAME], DO HEREBY ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE CONTENTS OF THE INSTRUMENT...

SECRETARY OF THE PLANNING COMMISSION'S STATEMENT: I, [NAME], SECRETARY OF THE CITY PLANNING COMMISSION OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA...

CLERK OF THE BOARD OF SUPERVISORS STATEMENT: I, [NAME], CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA...

SURVEYOR'S STATEMENT: THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY...

DEPOTTY CLERK: [NAME], DEPOTTY CLERK OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

DEPOTTY COUNTY RECORDER: [NAME], DEPOTTY COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

RECORDER'S STATEMENT: I, [NAME], RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY CERTIFY...

TRACT MAP 7754 A ONE LOT SUBDIVISION FOR CONDOMINIUM CONVERSION PURPOSES - FIVE UNITS

A PORTION OF LOTS 11 & 12, IMPERIAL HEIGHTS, (18 M. 86), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

APRIL 2007 BAY AREA LAND SURVEYING INC. 1828 BONITA ROAD RICHMOND, CALIFORNIA 94806

(510) 232-3095 APN 022-0308-016-03 SHT. 1 OF 2 F.B. NO. 204 & 208 /WAYNE10B7FPMCP.DWG JOB NO. 05-1087

# EXHIBIT A

## TRACT MAP 7754 A ONE LOT SUBDIVISION FOR CONDOMINIUM CONVERSION PURPOSES — FIVE UNITS

A PORTION OF LOTS 11 & 12, IMPERIAL HEIGHTS,  
(18 M. 86),  
CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA.  
APRIL 2007 - SCALE: 1" = 30'

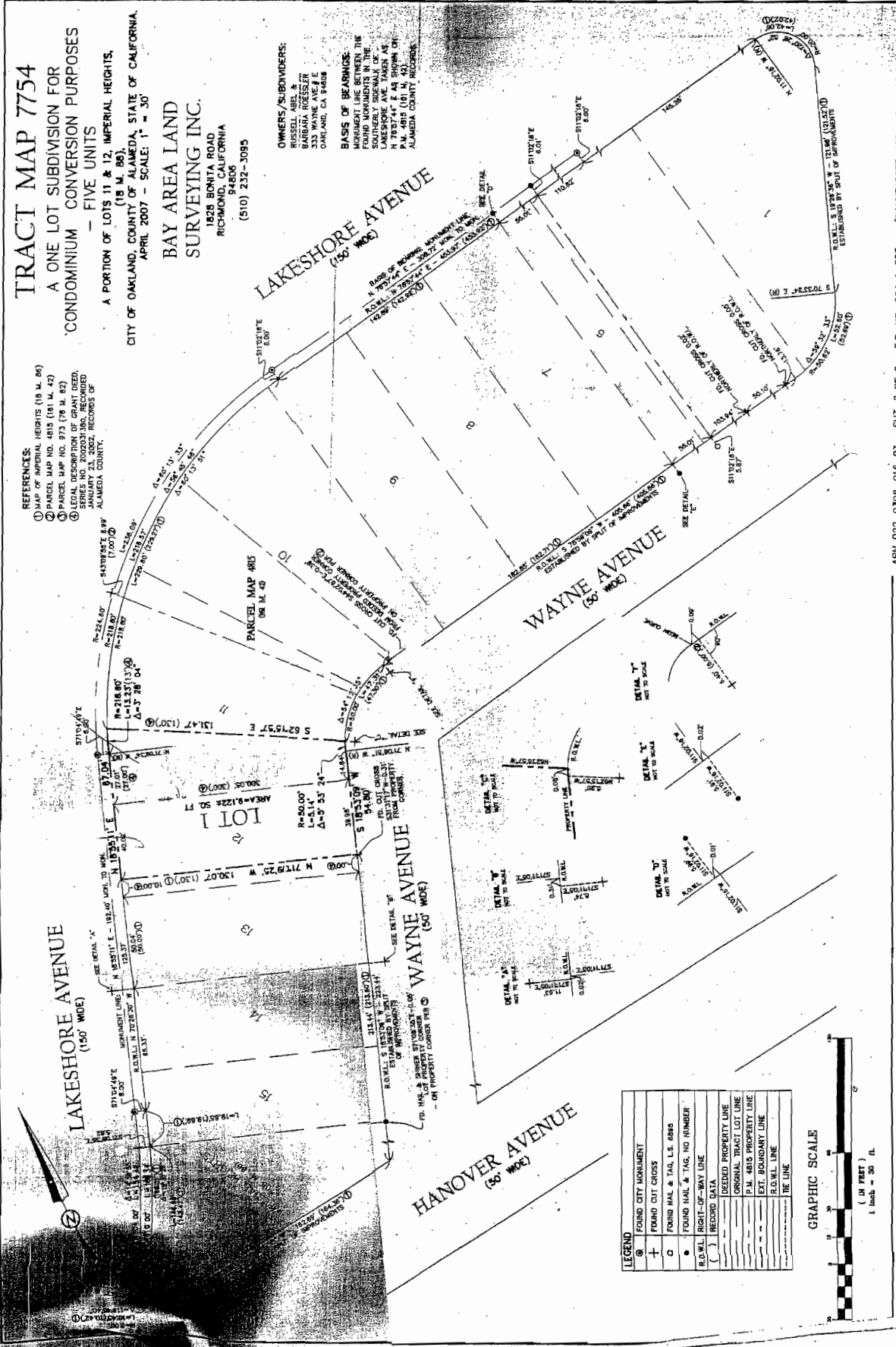
### BAY AREA LAND SURVEYING INC.

1828 BONITA ROAD  
RICHMOND, CALIFORNIA  
94806  
(510) 232-3095

OWNERS/SUBDIVIDERS:  
RUSSELL ABEL &  
BARBARA RESSLER  
1828 BONITA ROAD  
OAKLAND, CA 94806

BASIS OF BEARINGS:  
MONUMENT LINE BETWEEN THE  
FOUND MONUMENTS IN THE  
LAKESHORE AVENUE TRACT AS  
LAKESHORE AVE TAKEN AS  
N 78°37'44" E AS SHOWN ON  
P.M. 4815 (181 M. 42)  
ALAMEDA COUNTY RECORDS.

- REFERENCES:
- ① MAP OF IMPERIAL HEIGHTS (18 M. 86)
  - ② PARCEL MAP NO. 4815 (181 M. 42)
  - ③ PARCEL MAP NO. 973 (78 M. 82)
  - ④ LEGAL DESCRIPTION OF GRANT DEED, RECORDED JANUARY 23, 2002, RECORDS OF ALAMEDA COUNTY.



LEGEND	
⊙	FOUND CITY MONUMENT
+	FOUND CITY CROSS
⊕	FOUND NAIL & TAG, L.S. 4815
•	FOUND NAIL & TAG, NO NUMBER
—	R.O.W.L. RIGHT-OF-WAY LINE
( )	RECORD DATA
—	DECEDED PROPERTY LINE
—	ORIGINAL TRACT LOT LINE
—	P.M. 4815 PROPERTY LINE
—	EXT. BOUNDARY LINE
—	R.O.W.L. LINE
—	THE LINE

GRAPHIC SCALE  
(IN FEET)  
1 inch = 30 ft.