

**CITY OF OAKLAND
COUNCIL AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2004 APR 22 PM 1:08

TO: Office of the City Manager
ATTN: Deborah Edgerly
FROM: Community & Economic Development Agency
DATE: May 4, 2004
RE: A PUBLIC HEARING AND RESOLUTION DENYING THE APPEAL AND SUSTAINING THE DECISION OF THE PLANNING COMMISSION IN APPROVING TENTATIVE TRACT MAP TTM7485, TO RE-SUBDIVIDE TWO EXISTING PARCELS INTO FIVE PARCELS (A04-110, EAST SIDE OF CRESTMONT DRIVE AT THE INTERSECTION WITH WESTFIELD WAY, APN'S: 37A-3148-040 AND 37A-3148-041).

SUMMARY

This project, the re-subdivision of two lots into five lots, was originally approved by the City Planning Commission on March 3, 2004. On March 15, 2004, John Shivley filed an appeal of the Planning Commission's approval (Attachment A). The appellant raised two points of contention; namely 1) Sufficient safety investigations with regard to soils and slope stability were not performed, and the area has an extensive history of hillside instability in the area; and 2) The angle of the proposed driveways to the street will create a traffic safety hazard. See Key Issues and Impacts, below, for an analysis of the appeal. (The approval of the Tentative Tract Map does not include the design, location, site planning, or other features related to the proposed dwelling units or driveway.)

The subject property is approximately 1¼ acres in size and is typified by very steep uphill slopes (up to an approximately 65% slope) and a mixture of grassy vegetation and exposed bedrock resulting from the roadway cut for Crestmont Drive. There is some natural water seepage and associated plant life (reeds, etc.) along a portion of the toe of the slope at Crestmont Drive. The property frontage along Crestmont Drive is located at the bottom of a trough between two downhill portions of Crestmont Drive, adjacent to the intersection with Westfield Way. The upper (rear) portion of the property abuts the rear property lines of several developed single-family residential properties which have frontage along the dead-end portion of Colgett Drive. The subject property is undeveloped, and with the exception of the roadway cut which covers approximately half of the subject property, remains in a somewhat natural state.

FISCAL IMPACT

The project involves a private development, does not request or require public funds and has no fiscal impact on the City of Oakland. The appellant submitted the required appeal fees. If constructed, the project would provide a positive fiscal impact through increased property tax valuation.

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BACKGROUND

The subject property is part of what was originally an approximately 8 acre remainder parcel created in October of 1956, as a part of Tract 1710, a 178-lot subdivision which was subsequently developed by Oddstad Homes with single-family ranch-style homes, and is now commonly referred to as the Crestmont neighborhood. The approximately 8 acre remainder parcel was originally designated as a city park, however the City of Oakland never accepted the dedication of this land, and therefore its ownership reverted back to the original subdivider, who subsequently sold the land to a private developer. The approximately 8 acre remainder parcel has gone through several resubdivisions by several different owners, and now consists of 10 parcels, 7 of which have been developed with single-family homes, with the subject property consisting of two of the three remaining parcels.

An earlier version of this subdivision application involving four lots and a Private Access Easement (private road) was submitted on March 7, 2002, and after several minor revisions, was denied by the Zoning Administrator on October 31, 2002. City staff received considerable negative response from the surrounding neighbors during the public notice period, including a petition signed by 64 neighbors in opposition to the application.

On November 12, 2002, the applicant filed an appeal of the Zoning Administrator's denial. The applicant submitted a revised plan on December 5, 2002, and on January 17, 2003 formally submitted a revised application. On May 20, 2003, the applicant withdrew his appeal.

On May 23, 2003, public notice was sent to the surrounding neighbors for the revised 4-lot plan, and due to the amount of public response and the controversial nature of this project, the Zoning Administrator referred the case to the Planning Commission.

Prior to the scheduled Planning Commission hearing, and based on additional input from the surrounding neighbors and negotiations with the neighborhood homeowners association (Homeowners of Crestmont Association), the applicant stated that he would submit a revised plan for five lots and asked that his 4-lot proposal be put on hold. The revised plan provides for better emergency and fire access since the area for building the residences is along the street frontage and not high up the hill. The disturbance of land that would have resulted from the previously proposed design has been reduced or eliminated, thereby enhancing land stability. Also, the revised building sites at the bottom of the slope will allow the new dwellings to also act as "buttresses" for the hillside.

On September 25, 2003, the applicant submitted the currently proposed 5-lot Tentative Tract Map application that is discussed in this report. The applicant has verbally stated that he would pursue his 4-lot proposal if the currently proposed 5-lot subdivision is denied. Staff has recommended a condition of approval requiring the applicant to formally withdraw (in writing) his 4-lot application prior to the submittal of the final Tract Map for the currently proposed 5-lot subdivision.

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The project was considered by the Planning Commission on March 3, 2004 (see staff report, Exhibit "B") and the Commission approved the project (5 ayes, 1 no, 1 abstain).

Staff finds that the project is appropriate for the site. The project complies with the General Plan, Zoning Regulations, and Subdivision Ordinance, and the applicant had demonstrated to the City's satisfaction that the project is feasible and suitable for development.

KEY ISSUES AND IMPACTS

The following is an analysis of the basis for which the project approval was appealed. The appellant's letter is attached (see Exhibit "A"). The basis of the appeal as contained in the appeal letter is shown in bold text. A staff response follows each point.

1. Sufficient safety investigations with regard to soils and slope stability were not performed, and the area has an extensive history of hillside instability in the area.

Staff Response: The City (CEDA Engineering Services) has performed an investigation of the site and found it suitable for development. The investigation included, without limitation, reviewing City records, the geotechnical and other engineering reports prepared for this site and other adjacent sites, and field investigations. The Planning Commission's approval of the Tentative Tract Map did not include the design, location, site planning, or other features related to the proposed dwelling units or driveway. At the time that the applicant submits detailed engineering plans for such, and in accordance with standard City policy and practice, a geotechnical report, hydrology calculations, as well as erosion and sedimentation control measures will also be submitted for review and approval, prior to the issuance of buildings permits for the homes on each of the proposed new lots. In addition, based on the configuration of the project, CEDA Engineering Services will also require special geotechnical inspection at time of building the foundations and/or grading.

With respect to the history of slides in the area, City records (Grade Sheet 193, land instability report L/4) include a clipping from the January 26, 1960 issue of the Oakland Tribune, indicating that a catch basin on Colgett Drive above Crestmont and to the northerly side of the subject site overflowed at the height of a storm. This overflow went down the downhill backyards of 129 and 137 Colgett Drive and cut a gash 10 yards wide and 70 yards long. This mud/rock slide slid across Crestmont Drive blocking traffic and required removal by City forces. A City report indicated this slide was localized and there is no indication this slide affected the subject site. In addition there was a slope failure during grading of Lots 21, 22, and 23 across the street at the corner of Westfield Way and Crestmont Drive in the summer of 1958. After regrading and providing hydrauger drains, the slope was stabilized. Since these slides were localized and were due to localized causes not affecting or being affected by the proposed development, the slide history of the area has been considered but is not pertinent to this development.

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As part of previous geotechnical investigations at the site, borings were performed and analyzed. In addition to the borings on the site, there are other soils reports on record and adjacent to the site. They are all consistent in that there is serpentine bedrock exposed or covered with up to 3 feet of overburden. Additional borings, as part of a further geotechnical investigation, at this time will probably not reveal anything not known already for this site and are therefore not warranted at this time. It is important to emphasize, however, that this is a steep and challenging site so the involvement of geotechnical, civil, and structural engineers through plan review and special inspection of construction will be required during building permit approval and construction, but there is nothing unusual that would require such further investigation at this point in time. If any revisions to approved plans are required during construction, due to field findings, field conditions, and reports, these consultants will recommend and the applicant must implement any additional appropriate mitigation. Also, according to CEDA Engineering Services, since the proposed dwellings are at the base of the hill, their design will provide "buttressing" for the hill, so the development will provide a higher level of safety than the undeveloped site provides.

In sum, the site is suitable for development and no further geotechnical investigations are warranted at this time.

2. The angle of the proposed driveways to the street (72% instead of the required 90%) will create a traffic safety hazard.

Staff Response: As previously stated, the approval of the Tentative Tract Map does not include the design, location, site planning, or other features related to the proposed dwelling units or driveway. These matters will be dealt separately and later in time through different applications, processes and procedures. Specifically, driveway configurations are not the subject of appeals to the City Council. Rather, Oakland Municipal Code section 12.04.290 creates a separate Driveway Appeals Board to hear and decide such matters, once the appropriate applications are submitted and reviewed. Currently, only rough schematics have been submitted with the TPM, which depict a proposed driveway configuration. The applicant has not yet submitted nor has staff reviewed the necessary applications for such driveway configuration, which is typically done at the building permit stage.

For information purposes, City Driveway Standard Drawings permit a driveway behind the front property line to approach the street at a perpendicular angle, or within 30 degrees of perpendicular if the driveway is at least 18 feet wide. The schematic drawings show a driveway approach of approximately 18 degrees from perpendicular but a driveway width of slightly less than 18 feet. If this is not corrected in the building permit plans, then an appeal to the driveway appeals board may be necessary (granting of which is not guaranteed) or revisions will be necessary, however these revisions are relatively minor. The configuration of Crestmont Drive, an improved street, poses fewer problems to driveway access and backing out than that encountered on busy unimproved streets throughout the Oakland Hills.

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SUSTAINABLE OPPORTUNITIES

This section describes the sustainable opportunities that are being addressed or will be implemented as part of the item, such as:

- Economic: The project will expand the available housing inventory in the City of Oakland.
- Environmental: The project has been found to be exempt under Section 15332 "In-Fill Development" of the State of California Environmental Quality Act (CEQA).
- Social Equity: The project benefits the community and improves social equity by providing additional available housing to the City of Oakland as well as additional temporary jobs during the construction of the project.

DISABILITY AND SENIOR CITIZEN ACCESS

The Building Division of the Community and Economic Development Agency will require the project to conform to the Americans with Disability Act in all provisions to ensure equal access to this facility.

STAFF RECOMMENDATION AND RATIONALE

Staff recommends that the City Council uphold the Planning Commission approval and deny the appeal.

ALTERNATIVE CITY COUNCIL ACTIONS

The City Council also has several other options in addition to the one provided in the recommendation above.

1. The City Council could uphold the appeal and reverse the Planning Commission decision, denying the project.
2. The appeal could be denied, but with additional conditions imposed.
3. The item could be continued pending new information or further clarification of conditions or property inspection.

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ACTION REQUESTED OF THE CITY COUNCIL

1. Affirm staff's environmental determination.
2. Uphold the Planning Commission approval and deny the appeal.

Respectfully submitted,



CLAUDIA CAPPIO
Development Director
Community & Economic Development Agency

Prepared by:
Andrew M. Smith, Planner III
Planning & Zoning

Approved and Forwarded to the City Council:



DEBORAH EDGERLY
Office of the City Manager

ATTACHMENTS:

- A. Appellant's letter of March 15, 2004
- B. Planning Commission Staff Report of March 3, 2004
Planning Commission Staff Report Attachments:
 - A. Fire Prevention Bureau memorandum and conditions of approval
 - B. Engineering Services/Plan Check memorandum and conditions of approval
 - C. Correspondence from neighbors (Frank Lovsin and John R. Shively)
 - D. Project Plans

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FILED
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OAKLAND
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OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____ *Mark F. Well*

RESOLUTION DENYING THE APPEAL AND SUSTAINING THE DECISION OF THE CITY PLANNING COMMISSION IN APPROVING TENTATIVE TRACT MAP TTM7485, TO RE-SUBDIVIDE TWO EXISTING PARCELS INTO FIVE PARCELS (EAST SIDE OF CRESTMONT DRIVE AT THE INTERSECTION WITH WESTFIELD WAY, APN'S: 37A-3148-040 AND 37A-3148-041).

WHEREAS, the property owner, Andalucia Properties LLC / Dennis John Woodruff, filed an application on September 25, 2003 to re-subdivide two existing parcels into five parcels along the east side of Crestmont Drive at the intersection with Westfield Way; and

WHEREAS, The City Planning Commission took testimony and considered the matter at its meeting held March 3, 2004. At the conclusion of the public hearing held for the matter, the commission deliberated the matter, and voted. The project was approved, 5-1-1; and

WHEREAS on March 15, 2004, an appeal of the Planning Commission's approval and a statement setting forth the basis of the appeal was received; and

WHEREAS, after giving due notice to the Appellant, the Applicant, all interested parties and the public, the Appeal came before the City Council for a public hearing on May 4, 2004; and

WHEREAS, the Appellant, the Applicant, supporters of the application, those opposed to the application and interested neutral parties were given ample opportunity to participate in the public hearing by submittal of oral and/or written comments; and

WHEREAS, the public hearing on the Appeal was closed by the City Council on May 4, 2004;

Now, Therefore, Be It

RESOLVED: The requirements of the California Environmental Quality Act (CEQA) of 1970, as prescribed by the Secretary of Resources, and the City of Oakland's environmental review requirements, have been satisfied, and, in accordance the adoption of this resolution is exempt from CEQA under Section 15332 "In-Fill Development" of the State CEQA Guidelines.

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FURTHER RESOLVED: That, the City Council, having heard, considered and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Application, the City Planning Commission's decision, and the Appeal, finds that the Appellant has not shown, by reliance on evidence already contained in the record before the City Planning Commission, that the City Planning Commission's decision was made in error, that there was an abuse of discretion by the Commission or that the Commission's decision was not supported by substantial evidence in the record based on the March 3, 2004 Staff Report to the City Planning Commission (attached as Exhibit "A") and the May 4, 2004 City Council Agenda Report (attached as Exhibit "B"), both hereby incorporated by reference as if fully set forth herein. Accordingly, the Appeal is denied, the Planning Commission's CEQA findings and decision are upheld, and the Project is approved (Tentative Tract Map), subject to the findings and conditions of approval contained in Exhibit "A."

FURTHER RESOLVED: That, in support of the City Council's decision to approve the Project, the City Council affirms and adopts the March 3, 2004 Staff Report to the City Planning Commission (including without limitation the discussion, findings, conclusions and conditions of approval), all attached as Exhibit "A", and also adopts the May 4, 2004 City Council Agenda Report, attached as Exhibit "B".

FURTHER RESOLVED: That, the City Council finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Exemption with the appropriate agencies.

FURTHER RESOLVED: That, the record before this Council relating to this application and appeal includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all plans submitted by the Applicant and his representatives;
3. the notice of appeal and all accompanying statements and materials;
4. all final staff reports, final decision letters and other final documentation and information produced by or on behalf of the City, including without limitation and all related/supporting final materials, and all final notices relating to the application and attendant hearings;
5. all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the application and appeal; and all written evidence received by relevant City Staff before and during the public hearings on the application and appeal;
6. all matters of common knowledge and all official enactments and acts of the City, including, without limitation (a) the General Plan; (b) Oakland Municipal Code (c) Oakland

Planning Code; (d) other applicable City policies and regulations; and, (e) all applicable state and federal laws, rules and regulations.

FURTHER RESOLVED: That, the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: (a) Community & Economic Development Agency, Planning & Zoning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland CA.; and (b) Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st floor, Oakland, CA.

FURTHER RESOLVED: That, the recitals contained in this Resolution are true and correct and are an integral part of the City Council's decision.

In Council, Oakland, California, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the
Council of the City of
Oakland, California

Exhibit A

March 3, 2004 Planning Commission Staff Report

Exhibit B

May 4, 2004 City Council Agenda Report



CITY OF OAKLAND
REQUEST FOR APPEAL OF DECISION TO
PLANNING COMMISSION OR CITY COUNCIL

(REVISED 8/14/02)

PROJECT INFORMATION

Case No. of Appealed Project: TTM 7485
Project Address of Appealed Project: East Side of Crestmont Drive at the intersection with West Field Way APN: 37A-3148-040 and 37A-3148-041

APPELLANT INFORMATION:

Printed Name: John Shively et al Phone Number: 510-531-1355
Mailing Address: 2 Van Cleave Way Alternate Contact Number: -
City/Zip Code Oakland 94619 Representing: Project neighbors (See letter of 3/13/04 to City Council)

An appeal is hereby submitted on:

- AN ADMINISTRATIVE DECISION (TO THE CITY PLANNING COMMISSION)**
YOU MUST INDICATE ALL THAT APPLY:

- Approving an application for an Administrative Project
- Denying an application for an Administrative Project
- Administrative Determination or Interpretation by the Zoning Administrator
- Other (please specify) _____

Pursuant to the Oakland Municipal and Planning Codes listed below:

- Administrative Determination or Interpretation (OPC Sec. 17.132.020)
- Determination of General Plan Conformity (OPC Sec. 17.01.080)
- Design Review (OPC Sec. 17.136.080)
- Small Project Design Review (OPC Sec. 17.136.130)
- Minor Conditional Use Permit (OPC Sec. 17.134.060)
- Minor Variance (OPC Sec. 17.148.060)
- Tentative Parcel Map (OMC Section 16.304.100)
- Certain Environmental Determinations (OPC Sec. 17.158.220)
- Creek Protection Permit (OMC Sec. 13.16.450)
- Creek Determination (OMC Sec. 13.16.460)
- Hearing Officer's revocation/impose or amend conditions (OPC Secs. 15.152.150 & 15.156.160)
- Other (please specify) _____

- A DECISION OF THE CITY PLANNING COMMISSION (TO THE CITY COUNCIL)** Granting an application to: OR Denying an application to:

Re-subdivide two existing parcels into five parcels

(continued on reverse)

(Continued)

A DECISION OF THE CITY PLANNING COMMISSION (TO THE CITY COUNCIL)

YOU MUST INDICATE ALL THAT APPLY:

Pursuant to the Oakland Municipal and Planning Codes listed below:

- Major Conditional Use Permit (OPC Sec. 17.134.070)
- Major Variance (OPC Sec. 17.148.070)
- Design Review (OPC Sec. 17.136.090)
- Tentative Map (OMC Sec. 16.32.090)
- Planned Unit Development (OPC Sec. 17.140.070)
- Environmental Impact Report Certification (OPC Sec. 17.158.220F)
- Rezoning, Landmark Designation, Development Control Map, Law Change (OPC Sec. 17.144.070)
- Revocation/impose or amend conditions (OPC Sec. 17.152.160)
- Revocation of Deemed Approved Status (OPC Sec. 17.156.170)
- Other (please specify) OPC Sec. 17.148.050(a) and OMC Sec. 16.24.040 and Sec. 16.08.030 and CEQA, Guidelines Section 15332.

An appeal in accordance with the sections of the Oakland Municipal and Planning Codes listed above shall state specifically wherein it is claimed there was an error or abuse of discretion by the Zoning Administrator, other administrative decisionmaker or Commission (Advisory Agency) or wherein their/its decision is not supported by substantial evidence in the record, or in the case of Rezoning, Landmark Designation, Development Control Map, or Law Change by the Commission, shall state specifically wherein it is claimed the Commission erred in its decision.

You must raise each and every issue you wish to appeal on this Request for Appeal Form (or attached additional sheets). Failure to raise each and every issue you wish to challenge/appeal on this Request for Appeal Form (or attached additional sheets), and provide supporting documentation along with this Request for Appeal Form, may preclude you from raising such issues during your appeal and/or in court.

The appeal is based on the following: (Attach additional sheets as needed.)

See attached "Grounds for Appeal" - 3 pages
and transmittal letter dated March 13, 2004
from Geraldine Alexis et al to the City Council.

Supporting Evidence or Documents Attached. (The appellant must submit all supporting evidence along with this Appeal Form.) See Letter from Henry Justiano & Associates to Mr. Dennis Woodruff dated July 14, 2003 with attached 2000 Geotechnical and see letter of March 13, 2004 from Geraldine Alexis et. al to City Council Investigator
John R. Shawley March 13, 2004
Signature of Appellant or Representative of Appealing Organization Date

Date/Time Received Stamp Below:

Below For Staff Use Only

Cashier's Receipt Stamp Below:

3/14/02

Oakland, California 94619
March 13, 2004

The City Council
City of Oakland
Oakland, California

Re: Appeal of City Planning Commission's March 3, 2004 decision approving
the proposed subdivision application Case File Number TTM 7485.

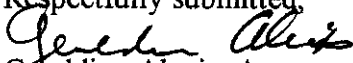
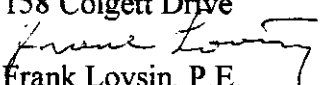

Dear Councilmembers:

We the undersigned, neighbors of the proposed subdivision site, do herewith submit our attached "Request for Appeal Of Decision To City Council" appealing the Planning Commission's March 3, 2004 decision that approved the subject application for proposed subdivision. Our grounds for this appeal are stated in the attached document entitled "GROUNDS FOR APPEAL" dated March 12, 2004. Also attached is our check for the fee required for the appeal.

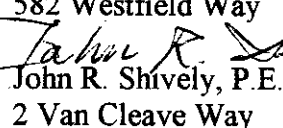
We request that the City's final approval of the proposed subdivision be withheld and not be granted until after the requested missing safety investigations cited in the attached document have been ordered, performed, reported, peer reviewed and the questioned site conditions have been found to be safe for the proposed development.

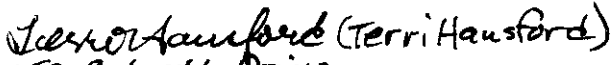
We request that our appeal shall include the applicant's Tentative Tract Map 7485, the official video tape and audio tapes of the Commission's proceedings, all relevant correspondence, and by reference the Commission's entire file for this matter.

Finally we wish to apprise the Council of our recent discovery that the applicant for the requested subdivision has apparently placed the entire proposed subdivision site on the market, for sale at an asking price of \$1.3 million. This offering can be seen at the website: www.baproperties.com. Note that this offering implies a five lot subdivision, and was published before the applicant ever received any final subdivision approval.

Respectfully submitted,

Geraldine Alexis, Attorney
158 Colgett Drive

Frank Lovsin, P.E.
475 Crestmont Drive

Bernard Sideman, CPA
590 Westfield Way


Louis Goldsmith
582 Westfield Way


John R. Shively, P.E.
2 Van Cleave Way


Terri Hausford (Terri Hausford)
150 Colgett Drive

Attachments:

Request for Appeal application
Check covering the appeal fee
Our Document: "Grounds for Appeal" dated March 12, 2004

Attachment to letter to City Council dated March 13, 2004.

- Planning Commission Case File No. TTM 7485

GROUNDS FOR APPEAL

March 12, 2004

The City of Oakland Planning Commission failed to require the development applicant, Andalucia Properties LLC, to demonstrate and prove the safety of the proposed tentative development plan before approving the subdivision contemplated by the plan.

We, neighbors of the site proposed for subdivision, do hereby appeal to the City Council the City Planning Commission's March 3, 2004 decision that approved the proposed development subdivision. We request that the City's final approval not be granted before the missing safety investigations cited below have been ordered, performed, reported and the related findings have been peer reviewed.

Two important safety issues concerning the proposed subdivision development application were raised at the Planning Commission's March 3, 2004 meeting. (See the official audio tape and video tape of the proceedings.) Both issues portend ongoing potential life threatening hazardous conditions as a possible direct result of the proposed development. The first issue is the high possibility of landslides occurring on the proposed site. The second issue is the high possibility of automotive traffic accidents occurring during egress from three of the proposed lot driveways. The City should require the developer to investigate thoroughly both of these unevaluated safety questions and to prove the site is safe for development before the City approves the proposed subdivision.

The area surrounding and including the proposed subdivision on Crestmont Drive has an extensive history of hillside instability, contrary to the "No historic record" statement published for the Commission's March 3rd agenda. Numerous landslides have occurred within a quarter of a mile of the proposed site during the 1950's and 1960's. Some were disastrous and one included a fatality. There is obvious evidence

of serpentine soil on the site. The site is unusually steep all the way down to the street curb, with some areas of the site approaching 70 percent grade steepness. (See the copy of the map that was presented to the Commission, which is attached to this appeal.)

Unlike the development of sites on the downhill side of a street, the development of lots on this steep uphill site will require unusually deep destabilizing excavations for garages, driveways and house foundations.

The Commission failed to require a thorough soils investigation for all five lots of the proposed tentative plan. The soils conditions of this site can be observed to vary significantly between the proposed lots within the site. Site-specific borings have been done only on proposed Lot 2, and there with only two borings to the shallow depths of one foot and 4.5 feet respectively. No borings have been done on proposed Lots 1, 3, 4 or 5. The submitted geotechnical investigation report dated September 2000, attached to the July 14, 2003 letter from Henry Justiniano & Associates to Mr. Dennis Woodruff, was apparently ordered by a previous owner for a different proposal, is too limited (see Figure 2, B(7) and B(6) respectively of the report), and is inadequate for the current proposal. There is no known record of any additional subsequent site-specific soils investigations. The City must require a separate and adequate soils investigation for each of the varying proposed lots, to prove that each lot is independently safe for development. Such soils investigations should be subject to peer reviews.

Normally the City requires driveways be constructed perpendicular (90 degrees) to the street to assure the safest possible egress from home parking areas back out onto the street. However, in this proposal, the driveways of the three northernmost proposed lots are positioned at an angle of approximately 72 degrees to the street, deviating from the City's important safety standard. Additionally these driveways have adversely twisted surfaces. To depart and drive southward from any one of those three driveways, the most probable departure direction, a driver must make a dangerous 108 degree left backing turn while crossing a reverse traffic lane. The hazard is further

compounded by the fact that in this location Crestmont Drive is a steep street, with an 18 percent grade. Furthermore it is also a busy secondary arterial with frequent fast traffic. The City should require an investigation of this proposal by a licensed traffic engineer to determine its safety.

The City should require the applicant to demonstrate that development on each of the five proposed lots can be done safely without risking the stability of the site or of the adjoining properties, before granting subdivision approval. Second, the City should require the applicant to demonstrate reasonable traffic safety conditions, before granting subdivision approval. If either foreseeable hillside failures or avoidable traffic accidents occur causing damage to persons or property, following the City's refusal to require adequate prior safety investigations before granting approval of this problematic subdivision plan, then the City should be held responsible and liable for the damages caused to others by such hillside failures or traffic accidents.

We also incorporate by reference the Commission's entire file for this matter.

#

Applic#* A04110 Type:
Date-Filed: 03/15/04 Complete-By: 04/14/04 Disposition:
NUMBER: STREET-NAME.....SUFFIX* SUITE ASSESSOR-PARCEL#
Site-addr: 1) CRESTMONT DR 037A-3148-040-00
2)
3)
Zoning* R-30 GP-Use 1HR Prcl-Cond: Cond-Apprvl: Viol:
Proj-Descr: Appeal of TTM 7485.

Environ-Rev: Exempt? (Y/N): Y Sect: 15332 EX ER-Applic#:
Track: Lic#: Phone# Applicant
Owner: ANDALUCIA PROPERTIES LLC (510)530-4311
Contractor:
Arch/Engr:
Agent: JOHN SHIVELY (510)531-1355 X
Applicant-Addr: 2 VAN CLEAVE WAY No-Fee:
City/State: OAKLAND CA Zip: 94619
Other-Related-Applic#s: V04039 TTM7485

F3=Ext F5=Chg F6=Add F7=Fwd F8=Bck F11=Fnd F12=Prv F23=Dsc F24=Com
800 RECORD ADDED

Next Option: 106

Appl#: A04110 Pmt#: 001 Disp: Type: Filed: 03/15/04
 Address: CRESTMONT DR Unit: Parcel: 037A-3148-040-00
 Descr: Appeal of TTM 7485.
 Other-Related-Applic#s: V04039 TTM7485

Environ-Rev-Determ: EX Date: 03/15/04 Sect#: 15332 ER-App#:
 Site-Area-Sq.-Ft.: PUD-Prelim/Final-(P/F):
 PUD-Floor-Area-Sq.-Ft.: Condo-Conversion?(Y/N):
 S-11-Nbr-of-Dwelling-Units: S-11-Map-Review?(Y/N):
 Des-Rev-New-Constr?(Y/N): Des-Rev-Value;>-\$150,000?(Y/N):
 Nbr-Subdivision-Lots: Invstg: Nbr-Trees-Review:

Payment-Type*	FIL	APPL FILING PAYMENT (PLNG PERMITS)						
Applic	197.00	Exempt		Appeal		Eng-Svcs		
Notific	324.00	Special		Notific		Other		
		Tch-Enh	26.05	Rcd-Mgt	46.89	Invstg		
Total	593.94	Effctv	03/15/04	Init	Paid	Rg	Rcpt	
NSF				Refunded		Amount		

DInq Notice
 Comment: RDM INTAKE

F1=Hlp F3=Ext F5=Chg F6=Add F7=Fwd F8=Bck F9=Del F11=Fnd F12=Prv F24=Com

14.3

ORA/COUNCIL

MAY 4 2004
 Date: 03/15/04 Amt Paid: 593.94
 By: NL Registrar 100 Record# 000470

Location:	East side of Crestmont Drive at the intersection with Westfield Way (See map on reverse)
Assessors Parcel Numbers:	37A-3148-040 and 37A-3148-041
Proposal:	To re-subdivide two existing parcels into five parcels. The existing parcels together are 55,757 sq. ft. in size, and the five resultant parcels will be 6,844 sq. ft., 8,021 sq. ft., 12,584 sq. ft., 13,313 sq. ft., and 14,995 sq. ft. in size.
Applicant/Owner:	Andalucia Properties LLC / Dennis John Woodruff
Planning Permits Required:	Tentative Tract Map for a five-lot subdivision and Minor Variance to create lots which are smaller than the prevalent lot area (8,100 sq. ft.) and narrower than the prevalent lot width (63 ft.).
General Plan:	Hillside Residential
Zoning:	R-30, One-Family Residential Zone
Environmental Determination:	Exempt, Section 15332 of the State CEQA Guidelines; in-fill development projects
Historic Status:	No historic record
Service Delivery District:	IV – South Hills
City Council District:	4
Date Filed:	September 25, 2003
Action to be Taken:	Adopt findings to approve the application
Staff Recommendation:	Approve
Finality of Decision:	Appealable to City Council
For Further Information:	Contact case planner Andrew M. Smith at 510-238-6414 .

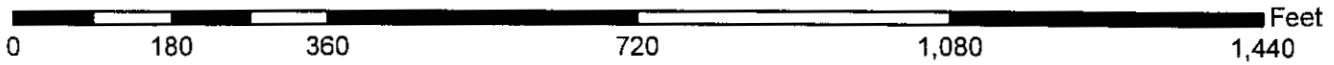
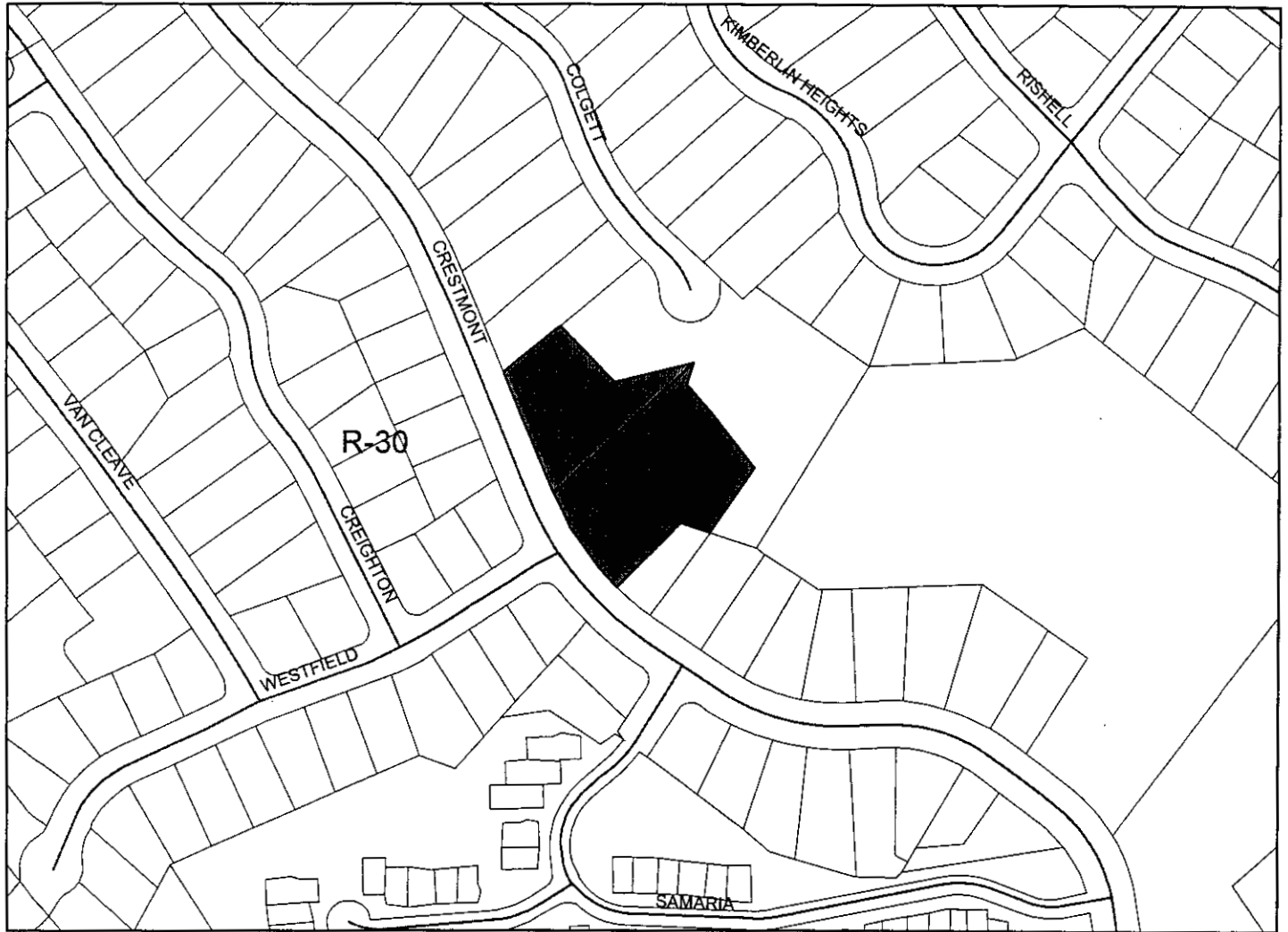
SUMMARY

The proposed project is to subdivide two existing lots into five lots, all of which will front on a public street. The property is located along Crestmont Drive near Redwood Road, and is a very steep uphill lot. The proposed subdivision will also require the relocation within the property of an existing 10-foot wide private utility easement.

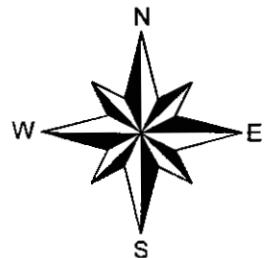
A Minor Variance is being requested to waive the prevalent lot size requirement as two of the proposed lots are smaller than the prevalent lot area and four of the lots are narrower than the prevalent lot width.

Staff recommends that the Planning Commission confirm the Environmental Determination and approve the Minor Variance and Tentative Tract Map subject to the attached findings and conditions of approval.

CITY OF OAKLAND PLANNING COMMISSION



Case File: TTM 7485
Applicant: Andalucia Properties LLC
Dennis John Woodruff
Address: East side of Crestmont Drive at the
intersection with Westfield Way
APN: 37A-3148-040 and 37A-3148-041
Zone: R-30



PROJECT DESCRIPTION

The proposed project is to subdivide two existing lots into five lots, all of which will front on a public street. The property is located along Crestmont Drive near Redwood Road, and is a very steep uphill lot. The existing parcels together are 55,757 sq. ft. in size, and the five resultant parcels will be 6,844 sq. ft., 8,021 sq. ft., 12,584 sq. ft., 13,313 sq. ft., and 14,995 sq. ft. in size. The proposed subdivision will also require the relocation within the property of an existing 10-foot wide private utility easement.

PROPERTY DESCRIPTION

The subject property is approximately 1¼ acres in size and is typified by very steep uphill slopes (up to an approximately 65% slope) and a mixture of grassy vegetation and exposed bedrock resulting from the roadway cut for Crestmont Drive. There is some natural water seepage and associated plant life (reeds, etc.) along a portion of the toe of the slope at Crestmont Drive. The property frontage along Crestmont Drive is located at the bottom of a trough between two downhill portions of Crestmont Drive, adjacent to the intersection with Westfield Way. The upper (rear) portion of the property abuts the rear property lines of several developed single-family residential properties which have frontage along the dead-end portion of Colgett Drive. The subject property is undeveloped, and with the exception of the roadway cut which covers approximately half of the subject property, remains in a somewhat natural state.

BACKGROUND

The subject property is part of what was originally an approximately 8 acre remainder parcel created in October of 1956, as a part of Tract 1710, a 178-lot subdivision which was subsequently developed by Oddstad Homes with single-family ranch-style homes, and is now commonly referred to as the Crestmont neighborhood. The approximately 8 acre remainder parcel was originally designated as a city park, however the City of Oakland never accepted the dedication of this land, and therefore its ownership reverted back to the original subdivider, who subsequently sold the land to a private developer. The approximately 8 acre remainder parcel has gone through several resubdivisions by several different owners, and now consists of 10 parcels, 7 of which have been developed with single-family homes, with the subject property consisting of two of the three remaining parcels.

An earlier version of this subdivision application involving four lots and a Private Access Easement (private road) was submitted on March 7, 2002, and after several minor revisions, was denied by the Zoning Administrator on October 31, 2002. City staff received considerable negative response from the surrounding neighbors during the public notice period, including a petition signed by 64 neighbors in opposition to the application.

On November 12, 2002, the applicant filed an appeal of the Zoning Administrator's denial. The applicant submitted a revised plan on December 5, 2002, and on January 17, 2003 formally submitted a revised application. On May 20, 2003, the applicant withdrew his appeal.

On May 23, 2003, public notice was sent to the surrounding neighbors for the revised 4-lot plan, and due to the amount of public response and the controversial nature of this project, the Zoning Administrator referred the case to the Planning Commission.

Prior to the scheduled Planning Commission hearing, and based on additional input from the surrounding neighbors and negotiations with the neighborhood homeowners association (Homeowners of Crestmont

Association), the applicant stated that he would submit a revised plan for five lots and asked that his 4-lot proposal be put on hold.

On September 25, 2003, the applicant submitted the currently proposed 5-lot Tentative Tract Map application that is discussed in this report. The applicant has verbally stated that he would pursue his 4-lot proposal if the currently proposed 5-lot subdivision is denied. Staff has recommended a condition of approval requiring the applicant to formally withdraw (in writing) his 4-lot application prior to the submittal of the final Tract Map for the currently proposed 5-lot subdivision.

GENERAL PLAN ANALYSIS

The proposed project falls under the Hillside Residential General Plan Land Use Designation, and is therefore subject to Neighborhood Objectives and Policies N2, N3, N6, N7, N8, N10, and N11 of the City of Oakland General Plan. These objectives and policies encourage the orderly development of residential neighborhoods with homes that are oriented towards the street, that avoid blocking sunlight and views from neighboring homes, that are consistent with the surrounding neighborhood character, and that are appropriate given the environmental constraints and natural features of the property, and the availability of infrastructure and emergency access. All of the proposed home sites will be directly accessed via frontage along Crestmont Drive, and will be oriented towards the street in a manner that is consistent with the surrounding neighborhood. The proposed project will create additional in-fill housing opportunities by providing additional home sites in an established neighborhood that is served by existing infrastructure.

ZONING ANALYSIS

The proposed project is located within the R-30, One-Family Residential Zoning District. The proposed project complies with all of the requirements of the R-30 Zoning District and all of the requirements of the city's Subdivision Regulations with the exception of the prevalent lot size requirements. Section 16.16.170(F) of the Oakland Municipal Code (Subdivision Regulations) requires that all new lots be equal or larger in measure than the prevalent size of existing lots in the surrounding area. Through a resolution adopted on April 11, 1979, the City Planning Commission defined "prevalent lot size" as the median lot area and median lot width of all lots that are located within 200 feet of the subject property. Discussion of the requested variance is included under the Key Issues and Impacts section below.

The Tentative Tract Map indicates conceptual footprints for homes on each of the lots. These conceptual footprints are for the purpose of determining project feasibility only, and specific designs will need to be submitted to the Planning & Zoning Department for approval under separate Design Review permit applications.

ENVIRONMENTAL DETERMINATION

The project is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines 15332 (in-fill development projects). The project is consistent with the Zoning and General Plan, is substantially surrounded by urban uses, has no value as habitat for endangered, rare, or threatened species, will not result in any significant effects related to traffic, noise, air quality, or water quality, and the site can be adequately served by all required utilities and public services.

KEY ISSUES AND IMPACTS

Staff's primary concerns with the proposed project are slope stability, drainage, and context/neighborhood compatibility (prevalent lot size).

Site grading and drainage

The applicant has not submitted final construction or grading plans for the proposed project (construction drawings are typically not submitted until after the approval of the Tentative Tract Map). However, based on their preliminary plans, the applicant expects the project to require approximately 3,500 cubic yards of excavation. This roughly equates to 175 truckloads for a large 20-yard tandem axle dump truck. The large quantities of excavation are necessary because the proposed project will require significant regrading for a majority of the project site. The applicant has submitted a geotechnical report prepared by a Registered Civil Engineer in consultation with a Certified Engineering Geologist and a statement of project feasibility from a geotechnical engineer for the earlier proposed 4-lot subdivision. A drainage plan and updated geotechnical report have not been submitted for the currently proposed 5-lot subdivision. However, the Engineering Services Division has stated that it is not necessary to require these documents at this time in order to determine the feasibility of developing each of the proposed lots with a single-family dwelling.

The Engineering Services Division has recommended conditions of approval that require the applicant to submit a geotechnical report, hydrology calculations, as well as erosion and sedimentation control measures prior to the issuance of buildings permits for the homes on each of the proposed new lots. The Tentative Tract Map includes plans for v-ditches to catch the drainage from the steep and long upslope above the homes with individual drains to under-sidewalk drains at the street. The Engineering Services Division has stated that since the existing site is bedrock and steeper than a 2:1 slope, there will be little if any augmentation to the runoff, and that when built, the homes themselves will act as retaining walls and slide buffers at the bottom of the hill. The Engineering Services Division has also stated that the whole hillside could dislodge and affect homes beyond the limits of the project, but that no feasible soils report could determine this as such a failure plane would be very deep, and that the development itself is neutral as far as causing such a slide. Based on the configuration of the project, and that the Building Services Department will require special geotechnical inspection at time of building the foundations and/or grading, and that special mitigations for conditions that may arise at that time can be implemented, the Engineering Services Division has stated that additional reports and analyses won't contribute anything of substance at this time. Therefore, based upon this information, staff feels that the proposed subdivision is feasible in that it can support the development of a single-family dwelling on each of the proposed lots in conformity with the applicable zoning regulations.

Neighborhood compatibility (prevalent lot size)

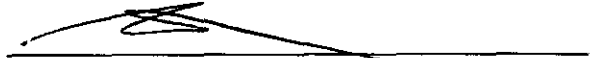
The subject neighborhood along Crestmont Drive consists of 1950's ranch-style tract homes built on rectangular shaped lots that range in size from approximately 5,000 to 9,000 square feet in lot area and are approximately 60 feet in width. These homes are all oriented towards the street, are located at roughly the same elevation as the street, and generally have approximately 20-foot front yard setbacks. The neighboring homes to the rear on Colgett Drive are generally located on larger lots. These neighboring lots to the rear on Colgett Drive are included within the prevalent lot size calculations as they are located within 200 feet of the subject property. However, from a practical standpoint they really are not part of the neighborhood context for the proposed subdivision as they are located at considerably higher elevations than the proposed home sites, and in terms of traveling distance along Crestmont Drive and Colgett Drive, they are located approximately ½ mile away from the proposed home sites. The five proposed lots, which range in width from approximately 60 to 65 feet, and range in area from approximately 6,800 sq. ft. to 15,000 sq. ft., are consistent with the established neighborhood context along Crestmont Drive. Staff feels that the practical separation of the proposed home sites from the

larger lots along Colgett Drive constitutes a unique circumstance, and as such recommends approval of the requested variance.

RECOMMENDATIONS:

1. Affirm staff's environmental determination.
2. Approve the Tentative Tract Map and Minor Variance subject to the attached findings and conditions.

Prepared by:



ANDREW M. SMITH
Planner III

Approved by:



GARY PATTON
Deputy Director of Planning and Zoning

Approved for forwarding to the
City Planning Commission:



CLAUDIA CAPPIO
Director of Development

ATTACHMENTS:

- A. Fire Prevention Bureau memorandum and conditions of approval
- B. Engineering Services/Plan Check memorandum and conditions of approval
- C. Correspondence from neighbors (Frank Lovsin and John R. Shively)
- D. Map

FINDINGS FOR APPROVAL

This proposal meets the required findings under Section 17.148.050(a) of the Oakland Planning Code (Minor Variance findings), Section 16.24.040 of the Oakland Municipal Code (Lot Design Standards), and Section 16.08.030 of the Oakland Municipal Code (Tentative Map Findings) as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type.

SECTION 17.148.050(a) - MINOR VARIANCE FINDINGS:

- A. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.**

The neighboring properties located to the rear of the subject property along Colgett Drive are included within the prevalent lot size calculations as they are located within 200 feet of the subject property, however from a practical standpoint, they really are not part of the neighborhood context for the proposed subdivision as they are located at considerably higher elevations than the proposed lots, and in terms of traveling distance along Crestmont Drive and Colgett Drive, they are located approximately ½ mile away from the proposed home sites. The five proposed lots, which range in width from approximately 60 to 65 feet, and range in area from approximately 6,800 sq. ft. to 15,000 sq. ft., are consistent with the established neighborhood context along Crestmont Drive. The practical separation of the proposed home sites from the larger lots along Colgett Drive constitutes a unique circumstance that would result in an unnecessary hardship inconsistent with the purposes of the zoning regulations.

- B. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.**

Strict compliance with the prevalent lot size requirements would deprive the applicant of privileges enjoyed by the owners of the properties in the surrounding neighborhood by requiring lot sizes that are larger than those found within the surrounding area.

- C. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.**

The granting of the proposed variance will only facilitate the creation of lots that are consistent with the surrounding neighborhood context and which comply with the Oakland General Plan. As such the granting of the proposed variance would not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.

- D. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.**

FINDINGS FOR APPROVAL

The variance will not constitute a grant of special privilege as it will only serve to facilitate the residential development of the subject property in a manner consistent with the surrounding neighborhood.

- E. For proposals involving one or two dwelling units on a lot: That the elements of the proposal requiring the variance (e.g. elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the design review criteria set forth in the design review procedure at Section 17.136.070.**

The proposed variance does not directly involve the actual design of any dwellings.

- F. For proposals involving one or two dwelling units on a lot and not requiring design review or site development and design review: That all elements of the proposal conform to the "Special Residential Design Review Checklist Standards and Discretionary Criteria" as adopted by the City Planning Commission.**

The proposed variance does not directly involve the actual design of any dwellings.

- G. For proposals involving one or two residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:**

- a. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or**
- b. Over 60 percent of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see Illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.**

The proposed variance does not directly involve the actual design of any dwellings.

Section 16.24.040 (Lot Design Standards):

- A. No lot shall be created without frontage on a public street, as defined by Section 16.04.030, except:**
 - 1. Lots created in conjunction with approved private access easements;**
 - 2. A single lot created with frontage on a public street by means of a vehicular access corridor provided that in all cases the corridor shall have a minimum width of twenty (20) feet and**

FINDINGS FOR APPROVAL

shall not exceed three hundred (300) feet in length. Provided further, the corridor shall be a portion of the lot it serves, except that its area (square footage) shall not be included in computing the minimum lot area requirements of the zoning district.

All lots within the proposed subdivision have required frontage and access to a public street.

- B. The side lines of lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.**

The side lines of the proposed lots run as close to right angles to Crestmont Drive as is practical given the orientation of the lot lines of the subject property.

- C. All applicable requirements of the zoning regulations shall be met.**

All zoning requirements specified in Title 17 of the Oakland Municipal Code (Oakland Planning Code) have been met.

- D. Lots shall be equal or larger in measurement than the prevalent size of existing lots in the surrounding area.**

A variance has been granted to waive this requirement (pursuant to the procedures specified in Chapter 17.148.050(a) of the Oakland Planning Code), as the practical separation of the proposed home sites from the larger lots along Colgett Drive constitutes a unique circumstance that would result in an unnecessary hardship inconsistent with the purposes of the zoning regulations.

- E. Lots shall be designed in a manner to preserve and enhance natural outcropping of rock, specimen trees or groups of trees, creeks or other amenities.**

The lots natural topography and setting was previously significantly altered as part of the construction of Crestmont Drive and contains no significant natural amenities or specimen trees. The proposed development provides new trees and landscape amenities.

Section 16.08.030 (Tentative Map Findings; pursuant also to California Government Code §66474 (Chapter 4, Subdivision Map Act)):

The Advisory Agency shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

- A. That the proposed map is not consistent with applicable general and specific plans as specified in the State Government Code Section 65451.**

The proposed subdivision is consistent with the Oakland General Plan as specified in the findings above.

- B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.**

The proposed residential subdivision is consistent with General Plan Policies N3.1 (Facilitating Housing Construction), N3.2 (Encouraging in-fill development), N3.8 (Requiring high-quality design), and N3.9 (Orienting residential development).

The proposed development is also consistent with General Plan Objective N7, which strives to protect existing areas of predominately detached unit residential in that the proposed homes will be predominantly below sight lines and will not block views of the bay from other existing single-family dwellings in the surrounding area. The project is consistent with Policy N7.2 (Defining compatibility), in that existing views of the bay are preserved, and that detached single-family dwellings are proposed within an existing single-family neighborhood, and Policy 9.7, which encourages the "Creation of Compatible but Diverse Development" and "avoiding 'cookie cutter development'". The proposed subdivision exceeds the minimum residential density specified under the Hillside Residential General Plan Land Use Classification.

C. That the site is not physically suitable for the type of development.

As conditioned and discussed in the findings above, the site is physically suitable for single-family residential development.

D. That the site is not physically suitable for the proposed density of development.

As conditioned and discussed in the findings above, the site is physically suitable for single-family residential development.

E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The subject property does not contain any notable fish or wildlife habitat, and is mostly surrounded by developed residential properties.

F. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

The subject property is not known to contain any environmental hazards such as contaminated soils or other toxic substances that would be disturbed and threaten public health. In addition, the proposed development would be served by public water and sewer service, and would therefore not require the use of on-site sewage disposal or domestic water well.

G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. (This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.)

The design of the proposed subdivision includes the relocation within the property of an existing 10-foot wide private utility easement.

- H. That the design of the subdivision does not provide to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.**

The orientation of existing development within the surrounding neighborhood and the location and orientation of the subject lot make it infeasible to provide significant southern exposure to each of the five proposed home sites. However, the stepped elevations of the home sites will allow for solar power and/or heating facilities to be mounted on the southern facing roof planes of the homes without significant interference from the neighboring homes in the surrounding area or within the proposed subdivision.

Additional findings demonstrating compliance with California Environmental Quality Act (CEQA) Guidelines Section 15332 (in-fill development projects):

This project, being a subdivision of approximately 1.25 acres into five lots, within the General Plan "Hillside Residential" area, zoned R-30, is categorically exempt from the provisions of CEQA, pursuant to the categorical exemption set forth in section 15332 of Title 14, California Code of Regulations, Chapter 3, as it is an in-fill development meeting the conditions described in this section.

- A. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.**

The subdivision is within the suburban residential area of the City of Oakland named the "South Hills" area in the General Plan which states that "Unlike most of the city's planning areas, the South Hills include some still undeveloped areas that may accommodate some future growth." (General Plan Chap.4, page 205).

- B. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.**

The site of this proposed development is surrounded by existing single family homes, some built in the 60s as part of the mass tract development of the area, and some new larger custom homes.

- C. The project site has no value as habitat for endangered, rare or threatened species. No endangered, rare or threatened species exist on this rocky slope.**

The site was formerly the subject of an Initial Study and Environmental review when it was a proposed 3 lot subdivision, TPM 7159, ER 00-007. That study concluded that there would be "No Impact" on "Biological Resources".

- D. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.**

The Initial Study, ER 00-007, of this site completed in June 2000 concluded that any impact deemed significant as to "Air Quality", and "Noise" could be effectively mitigated with standard appropriate measures. No significant effects were noted as to "Traffic" or "Water quality". This project will result in five lots with access and egress directly onto Crestmont, whereas the former plan as set forth in TPM 7159 would have resulted in two lots with direct access to Crestmont, and one lot having access to Crestmont via Colgett.

FINDINGS FOR APPROVAL

- E. The site can be adequately served by all required utilities and public services.**
There is existing sewer, water, and utilities in the street and fronting the property.

CONDITIONS OF APPROVAL

Modifications to the Conditions of Approval as directed by the City Planning Commission at the **March 3, 2004** meeting are indicated in underlined type for additions and ~~cross-out type~~ for deletions.

STANDARD CONDITIONS:

1. **Effective Date, Expiration, and Extensions**

a. Ongoing.

This approval of the Tentative Map shall expire two (2) calendar years from the date of this letter, the effective date of its granting, unless the applicant files a Tract Map with the City Engineer within two (2) years from the date of this letter. Failure to file a Tract Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Parcel Map. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Zoning Administrator may grant an extension of this permit, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

2. **Scope of This Approval**

a. Ongoing.

The project is approved pursuant to the Subdivision Regulations of the Municipal Code only and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Building Services Division and the City's Fire Marshal. The proposal shall specifically comply with the conditions required by the Fire Prevention Bureau per the attached memoranda, dated October 22, 2003 and revised on January 14, 2004 (Received January 14, 2004), and the Engineering Service Division, per the attached memoranda, dated May 15, 2003 and revised on January 14, 2004 (Received January 15, 2004). This approval does not include the design, location, site planning, or any other features related to the development of the proposed dwellings or their driveways.

3. **Changes to Approval**

a. Ongoing.

Changes to approved plans that would amend the Tentative Map shall be submitted to and approved by the Zoning Administrator prior to recordation of the Final Tract Map.

4. **Modification of Conditions or Revocation**

a. Ongoing.

The City Planning Department reserves the right, after notice and public hearing, if required, to alter Conditions of Approval or revoke this permit if it is found that the approved facility or use is violating any of the Conditions of Approval, any applicable codes, requirements, regulations or guidelines, or is causing a public nuisance.

5. **Defense, Indemnification & Hold harmless**

a. Within ten (10) business days of the filing of a claim, action or proceeding that is subject to this provision, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes this condition of approval.

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim,

CONDITIONS OF APPROVAL

action, or proceeding (including legal costs and attorney’s fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

ADDITIONAL CONDITIONS:

6. Fire Prevention Bureau conditions of approval.

a. Ongoing

The applicant shall comply with all conditions of approval listed in the attached Fire Prevention Bureau Memorandum dated October 22, 2003 and revised on January 14, 2004 (Received January 14, 2004).

7. Engineering Services/Plan Check conditions of approval.

a. Ongoing

The applicant shall comply with all conditions of approval listed in the attached Engineering Services/Plan Check Memorandum dated ~~May 15, 2003~~ October 10, 2003 and revised on January 14, 2004 (Received January 15, 2004).

8. Design review for future buildings.

a. Prior to issuance of building permits for the proposed project.

Future buildings for all lots shall be subject to the residential design review requirements of the Oakland Planning Code.

9. Withdraw of conflicting subdivision applications.

a. Prior to submittal of the Final Tract Map.

The applicant shall formally withdraw (in writing) his Tentative Parcel Map application TPM7940.

APPROVED BY: City Planning Commission: March 3, 2004 (date) **5 ayes, 1 noe – to approve** (vote)

City Council: _____ (date) _____ (vote)

CITY OF OAKLAND
Inter-Office Memorandum

To: Fire Marshal Attention: Ernest Robinson
Zoning Attention: Andrew Smith
From: Fire Prevention Bureau By: Philip C. Basada

Date: 10-22-03

1-14-04

Rev. 5

File dated 12-11-03

Re: Crestmont Drive - Revised Fire Comments on Revised Plans to Build 5 new homes

1-14-04

Summary:

The applicant proposes to build five homes on separate lots with steep slopes. Access to the structures has been redesigned to allow minimal fire crew effort since all proposed structures are accessible at street level with no exterior walls beyond 150 feet to Crestmont Drive. Depending on the completed building plans, access to exterior openings may be impaired due to steep slopes that lead to rescue windows. No fire apparatus turnaround will be required. The lowest elevations of the farthest exterior walls of the proposed structures are now less restrictive than initially proposed (was about 100 feet above the street). The driveways leading to each house are short and do not necessitate fire department concern. The existing vacant site is undeveloped and undisturbed or without impervious surfaces. Only a brief description of prevailing, inadequate conditions and acceptable fire code provisions are dealt herewith:

The following conditions are addressed in order to consider the level of safety needed and risks involved:

1. The following hazards prevail:
 - Steep slopes and non-complying roads prevail in the fire hazard area, i.e. Crestmont Drive (@ 18%) exceeds the maximum slope limitations for fire apparatus optimum performance specifications (15%). **The current fire code restricts fire access roads to 12 per cent maximum, with exceptions to mitigations acceptable to the Fire Department**, i.e. the installation of approved residential fire sprinklers to minimize the potential of a large scale fire in hazardous fire areas now constrained with increasing traffic and longer response (95 per cent of the time) than would normally be permitted on both typical Fire Hazard and foothill areas.
 - The project is within the fire hazard area presently defined by Ordinance No. 11485.
2. **The hazards imminent with the last proposed development have been eliminated:**
 - Generally excessive slopes for then proposed Lots 3 and 4.
 - The proposed road width was not apparatus accessible.
3. The Fire Department will accept this revised proposal under the following less restrictive conditions than the previous report:

RECEIVED

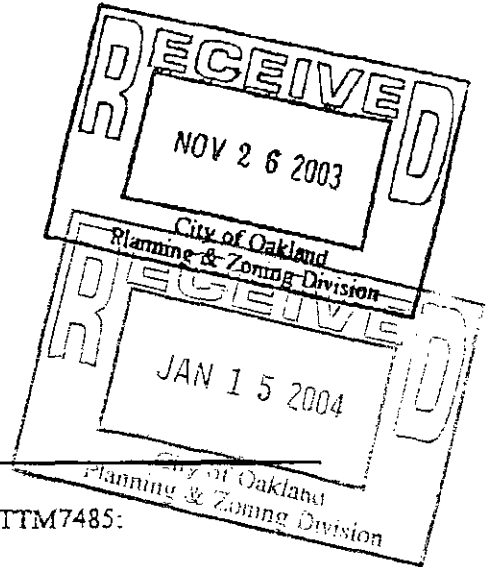
JAN 14 2004

CITY PLANNING COMMISSION
ZONING DIVISION

- ✓ • Provide a public hydrant in front of the property fronting Crestmont Drive.
 - ✓ • All structures are equipped with an approved residential fire sprinkler system in accordance with NFPA 13D. See justification at item 1, above.
 - ✓ • Steps on grade shall be provided to lead to the farthest exterior walls for fire fighter access and occupant egress path.
4. The available fire flow shall meet the current requirements of the fire code.
 5. Obtain current water flow information from East Bay Municipal Utility District on existing hydrants and show adequacy of water supply. Deficiencies in fire flow would require that new structures be provided with an approved minimum fire flow per CFC Appendix III.
 6. Hold final approval in the issuance of certificate of occupancy of the building permit until fire inspection of noted mitigating conditions have been finalized.
 7. Provide plant species that comply with the City's vegetation management program. Please contact the Fire Prevention Bureau's vegetation management inspectors and Zoning Group for approved plant species adaptive to fire hazard and soil erosion-prone conditions.
 8. Submit final survey and site plans and returnable a job-site copy of approved building permit plans on each structure for Fire Department review. This serves the Bureau's basis for EBMUD's requirements for water services.

CITY OF OAKLAND
Community and Economic Development Agency
Interoffice Letter

TO : Dominic Ma
FROM : Leonardo Rivera
DATE : October 10, 2003
SUBJECT: TTM7485



Following are my comments regarding zoning application for TTM7485:

- BP 1) This property is located in a seismic hazard zone for potential earthquake-induced landslide. Submit geotechnical reports prepared by a licensed Civil Engineer or by a registered Geologist in the State of California.
- FM 2) Provide documents showing the width, purpose and how the (E) easement was created. The map shows proposed structure on Lot 2 is on top of the (E) easement.
- FM 3) Is the new easement an alternate easement if the plan is to abandon the (E) easement? Proposed sewer easement shows width as 5'. The City of Oakland requirement for new easement is 10'.
- BP 4) Provide detailed plan for concrete lined ditch.
- BP 5) Submit hydrology calculations as well erosion and sedimentation control measures. Measures shall be Peer-reviewed by City approved Consultant.
- BP 6) Minimum sidewalk width is 5' unobstructed and the standard slope is 1/4" per foot. Revise sidewalk width shown on the Typical Section of the map to 5'.
- BP 7) Driveway approach shall have a slope of 1/3" per foot from curb line to sidewalk grade break. Likewise driveway ramp (up to 14' in length) shall have a maximum slope of 10% from start of ramp to beginning of garage floor.
- FM 8) All improvements must be inside property line.
- BP 9) Show plan and profile of proposed sanitary and storm sewers and other public utilities with grades and sizes indicated.
- FM 10) Also include in the tentative map the name of Tract or Grant in which subdivision is located.
- FM 11) Provide preferably computer generated closure calculations for each lot.

FM (12) IMPROVEMENT BONDS SHALL INCLUDE MASS GRADING

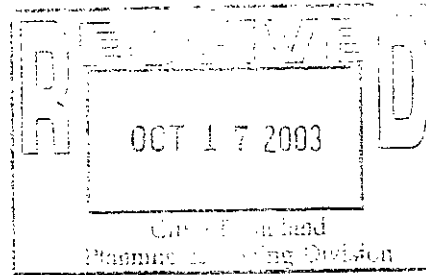
Attach A

ANDY: I have reviewed the map with the above conditions indicated FM shall be required when filing the Final Map. Items marked BP shall be accomplished at time of Building Permit submission.

TOTAL P.02

October 13, 2003

Mr. Gary Patton, Deputy Director of Planning
City of Oakland
250 Frank Ogawa Plaza, Suite 2214
Oakland, California 94612



Re: Development Application Case File No. TPM 7940, submitted April 17, 2003
Development Application Case File No. TTM 7485, submitted September 25, 2003

Dear Mr. Patton:

As neighbors of the site of the above referenced development applications, we wish to bring to the City's attention the fact that the City has received two conflicting residential development proposals for the very same site along Crestmont Drive, yet they are for two absolutely different development design schemes. Both have been submitted by the same developer, Mr. Dennis Woodruff of Andalucia Properties.

The first scheme was for four 5000 square foot houses in a square pattern on the site, two up above and two down along the street. The second scheme is for five 3500 square foot houses, all in a straight row along the street. The two development schemes pose very different problems on this steep uphill site in this area with an extensive history of slides.

Very different answers can be expected for the serious questions about destabilizing deep construction excavations, hillside instability, missing soils analysis, set back and off-street parking problems, traffic safety, fire and life safety access and code compliance.

Accordingly, in recognition of the fact that the developer's second scheme is totally different with and supplants the first application, we hereby request the City to reject and return the developer's April 17 application.

Additionally, because the second application is incongruent with the first application and is patently incomplete, we request the City to require the developer to initiate a complete new second scheme application, in full compliance with the City's normal requirements.

Sincerely,

Frank Lovsin, P.E.
475 Crestmont Drive
Oakland, CA 94619

John R. Shively, P.E.
2 Van Cleave Way
Oakland, CA 94619

cc: Councilmember Jean Quan
Andrew Smith
Mary Warren, President, Homeowners of Crestmont Association

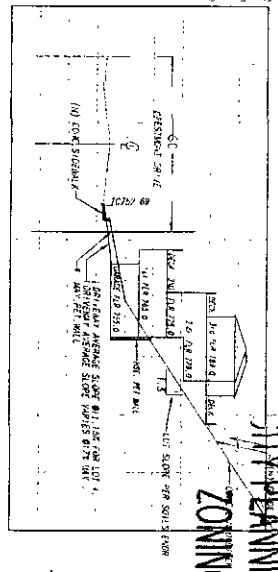
ATTACHMENT

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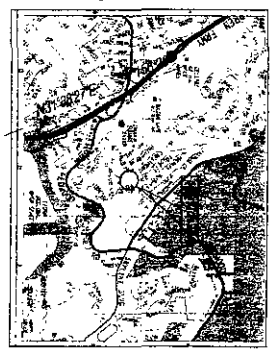
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CITY PLANNING COMMISSION
ZONING DIVISION

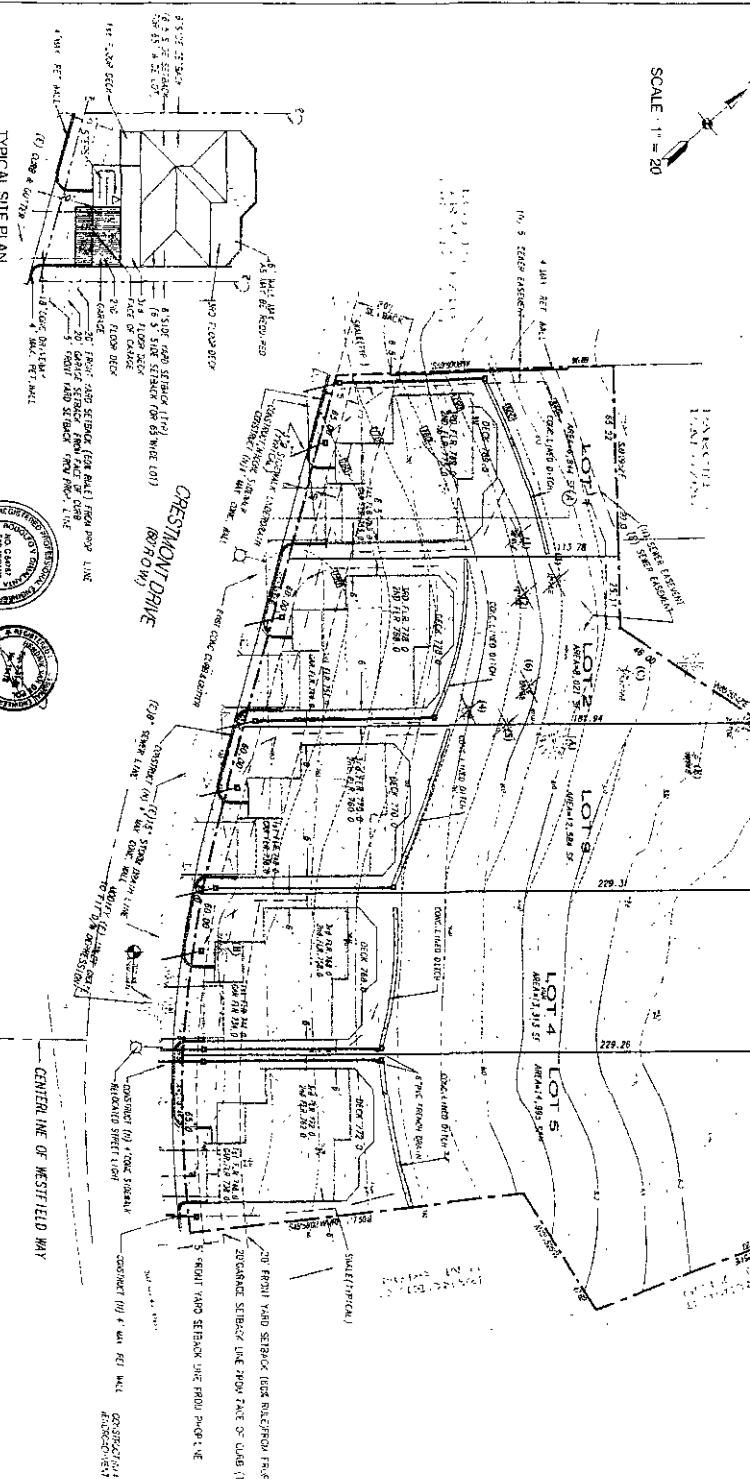
COLLETT DRIVE



TYPICAL SECTION A-A'
SCALE: 1" = 20'



VICINITY MAP



SCALE: 1" = 20'

LEGEND

- 1. ZONING DISTRICT BOUNDARIES
- 2. ZONING DISTRICT NUMBER
- 3. ZONING DISTRICT NAME
- 4. ZONING DISTRICT CODE
- 5. ZONING DISTRICT DESCRIPTION
- 6. ZONING DISTRICT MAP
- 7. ZONING DISTRICT ACT
- 8. ZONING DISTRICT DATE
- 9. ZONING DISTRICT AREA
- 10. ZONING DISTRICT PERCENTAGE
- 11. ZONING DISTRICT POPULATION
- 12. ZONING DISTRICT DENSITY
- 13. ZONING DISTRICT CHARACTER
- 14. ZONING DISTRICT HISTORY
- 15. ZONING DISTRICT FUTURE
- 16. ZONING DISTRICT REVISIONS
- 17. ZONING DISTRICT COMMENTS
- 18. ZONING DISTRICT NOTES
- 19. ZONING DISTRICT REFERENCES
- 20. ZONING DISTRICT CONTACTS

TYPICAL SECTION CHESTNUT DRIVE
SCALE: 1" = 20'

APR 3 2004

2079 HILWANT STREET, STE. 25
WALNUT CREEK, CA 94599

TEL: 925-932-8884
FAX: 925-932-7931

APR 3 2004

TENTATIVE TRACT 7485
SITE PLAN