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OAKLAND

2010 FEB 10 AM 10:02
Councilmember

Approved for Form and Legality


City Attorney

OAKLAND CITY COUNCIL

Resolution No. 82575 C.M.S.

**RESOLUTION CONDITIONALLY APPROVING A FINAL MAP FOR TRACT No.
7934 TO CONVERT SEVEN RENTAL HOUSING UNITS TO CONDOMINIUM
OWNERSHIP AT 939 MARTIN LUTHER KING JR. WAY**

WHEREAS, the property owner of seven (7) residential apartment units, PSK Development, LLC, a California limited liability company (no. 200307910110), is the Subdivider of a parcel identified by the Alameda County Assessor as no. 002-0023-020-00, and by the Alameda County Recorder as Tract No. 7934, and by the City of Oakland as 939 Martin Luther King Jr. Way; and

WHEREAS, the Subdivider has acquired the fee simple interest in the real property comprising Tract No. 7934; and

WHEREAS, pursuant to Resolution No. 82322 C.M.S., the Council of the City of Oakland has previously approved a permit (ENMJ09059) allowing the continuing encroachment of existing portions of the apartment building (constructed circa 1907) into the public right-of-way along Martin Luther King Jr. Way and 10th Street; and

WHEREAS, the Subdivider has previously applied to the City of Oakland to subdivide the platted land into residential condominium ownership comprising Tract No. 7934; and

WHEREAS, the Planning Commission of the City of Oakland approved the environmental determination (categorically exempted – California Public Resources Code Section 15301) and the Tentative Map for Tract No. 7934 on December 19, 2007, which proposed the subdivision of the parcel into seven (7) 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. 7934, upon which the Final Map 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 Subdivider has certified that each tenant was given written notice of intent to convert at least sixty (60) days before filing the Tentative Map for Tract No. 7934; 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 Chapters 2 and 3 of the Map Act (California 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 California 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 California Civil Code sections 1941-1941.2; and

WHEREAS, the Subdivider has 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 California 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. 7934, 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. 7934; and

WHEREAS, the Subdivider is not required to construct any surface or subsurface public infrastructure improvements within the existing public right-of-way of Martin Luther King Jr. Way or within existing or proposed public easements on-site; and

WHEREAS, the provisions of California 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. 7934; and

WHEREAS, pursuant to Oakland Municipal Code Section 16.36.130, the Subdivider was issued a building permit (B0700165) which included the installation of methods and mechanisms to limit the transmission of interior sound between dwelling units; 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 Subdivider has 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 939 Martin Kind Jr. Way was received by the Clerk of the City of Oakland within fifteen (15) days following approval of the Tentative Map for Tract No. 7934 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 Subdivider has 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 Subdivider has complied with Oakland Municipal Code Sections 16.36.050 and 16.36.060 by obtaining “conversion rights” for seven (7) units from 2276 MacArthur Boulevard (constructed in 1988) 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 Subdivider has 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 Subdivider has 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 Housing Code), the Subdivider has obtained a renewal Certificates of Occupancy (H 09044) issued by the Building Official of the City of Oakland for the multiple family dwelling; now, therefore, be it

RESOLVED: That the Final Map for Tract No. 7934 is hereby conditionally approved; and be it

FURTHER RESOLVED: Pursuant to Oakland Municipal Code Section 16.36.120, that the approval of the Final Map for Tract No. 7934 is hereby conditioned upon the performance by the Subdivider of its obligation 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 2002 edition of the California Building Code; and be it

FURTHER RESOLVED: Pursuant to Oakland Municipal Code Section 16.36.140, that the approval of the Final Map for Tract No. 7934 is hereby conditioned upon submittal by the Subdivider 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. 7753 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. 7934; 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. 7934, upon its execution by the City Engineer, and directed to file the fully endorsed Final Map with the Alameda County Recorder for recordation; and be it

FURTHER RESOLVED: That this Resolution shall become effective upon the recordation of the Final Map for Tract No. 7934 by the Alameda County Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 2 2010 , 2010

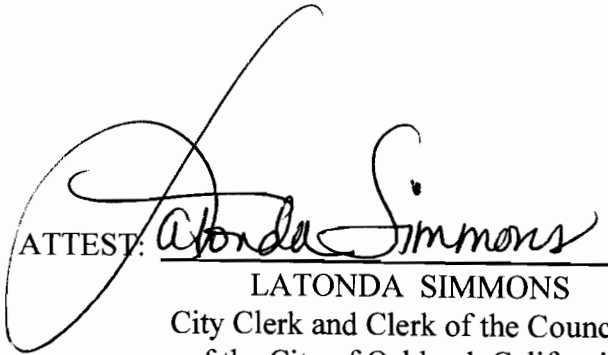
PASSED BY THE FOLLOWING VOTE:

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

NOES - 0

ABSENT - 0

ABSTENTION - 0

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

OWNER'S STATEMENT:

THE UNDERSIGNED HEREBY STATES THAT IT IS THE OWNER OF THE LAND DESCRIBED AND EMBRACED BY THE BOUNDARIES SHOWN ON THE HEREBY SUBMITTED TRACT MAP ENTITLED 'TRACT MAP 7934, CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA'...

THE UNDERSIGNED ALSO STATES THAT: A) EACH OF THE TENANTS OF THE PROPOSED CONDOMINIUM UNITS HAS BEEN, OR WILL BE, GIVEN NOTICE OF THE RIGHTS OF ORIGATION... B) THE DIRECTOR OF THE PLANNING DEPARTMENT OF THE CITY OF OAKLAND...

C) EACH OF THE TENANTS OF THE PROPOSED CONDOMINIUM UNITS HAS BEEN, OR WILL BE, GIVEN NOTICE OF THE RIGHTS OF ORIGATION... D) EACH OF THE TENANTS OF THE PROPOSED CONDOMINIUM UNITS HAS BEEN, OR WILL BE, GIVEN NOTICE OF THE RIGHTS OF ORIGATION...

E) THE DIRECTOR OF THE PLANNING DEPARTMENT OF THE CITY OF OAKLAND HAS REVIEWED THE PROPOSED CONDOMINIUM UNITS... F) THE DIRECTOR OF THE PLANNING DEPARTMENT OF THE CITY OF OAKLAND...

G) THE DIRECTOR OF THE PLANNING DEPARTMENT OF THE CITY OF OAKLAND HAS REVIEWED THE PROPOSED CONDOMINIUM UNITS... H) WITHIN 30 DAYS OF THE DATE OF ISSUANCE OF THE FINAL SUBDIVISION PUBLIC REPORT...

I) NO UNIT IN CONVERSION WILL BE OFFERED FOR SALE UNTIL THE UNIT CONFORMS TO HOSE INSULATION STANDARDS PRESCRIBED IN TITLE 25 OF THE CALIFORNIA ADMINISTRATIVE CODE...

J) THE CONDOMINIUM UNITS MAY NOT BE IN COMPLIANCE WITH THE 2007 CALIFORNIA BUILDING CODE. ANY FUTURE MODIFICATIONS TO WALLS, CEILING OVERHANGS AND ANY ALTERATION OR ADDITION OF OPENINGS TO SAID WALLS MAY NOT BE ALLOWED.

OWNER'S ACKNOWLEDGEMENT:

STATE OF CALIFORNIA, COUNTY OF ALAMEDA, BEFORE ME, Jennie Campbell, a Notary Public in and for said County and State, personally appeared...

WHO PROVIDED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/IT HAS/EXECUTED THE SAME IN HIS/HER/ITS OWN FREE WILL AND WITHOUT COERCION...

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 18th day of August, 2009.

STATE OF CALIFORNIA, COUNTY OF ALAMEDA, BEFORE ME, Michael L. Bresso, a Notary Public in and for said County and State, personally appeared...

WHO PROVIDED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/IT HAS/EXECUTED THE SAME IN HIS/HER/ITS OWN FREE WILL AND WITHOUT COERCION...

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 18th day of August, 2009.

CITY ENGINEER'S STATEMENT:

I, RAYMOND M. DEFRANA, CITY ENGINEER, HAVING BEEN AUTHORIZED, TO PERFORM THE FUNCTIONS OF THE CITY ENGINEER OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA...

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 18th day of August, 2009.

STATE OF CALIFORNIA, COUNTY OF ALAMEDA, BEFORE ME, Raymond M. DeFrana, City Engineer of the City of Oakland, County of Alameda, State of California...

STATE OF CALIFORNIA, COUNTY OF ALAMEDA, BEFORE ME, Raymond M. DeFrana, City Engineer of the City of Oakland, County of Alameda, State of California...

STATE OF CALIFORNIA, COUNTY OF ALAMEDA, BEFORE ME, Raymond M. DeFrana, City Engineer of the City of Oakland, County of Alameda, State of California...

STATE OF CALIFORNIA, COUNTY OF ALAMEDA, BEFORE ME, Raymond M. DeFrana, City Engineer of the City of Oakland, County of Alameda, State of California...

STATE OF CALIFORNIA, COUNTY OF ALAMEDA, BEFORE ME, Raymond M. DeFrana, City Engineer of the City of Oakland, 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 IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND THE REGULATIONS THEREUNDER...

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 18th day of August, 2009.

CITY CLERK'S STATEMENT:

I, LATONIA SIMMONS, CITY CLERK AND CLERK OF THE CITY COUNCIL OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA...

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 18th day of August, 2009.

SECRETARY OF THE PLANNING COMMISSION'S STATEMENT:

I, SCOTT MILLER, SECRETARY OF THE CITY PLANNING COMMISSION OF THE CITY OF OAKLAND, STATE OF CALIFORNIA...

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS 18th day of August, 2009.

STATE OF CALIFORNIA, COUNTY OF ALAMEDA, BEFORE ME, Scott Miller, Secretary of the City Planning Commission of the City of Oakland, County of Alameda, State of California...

STATE OF CALIFORNIA, COUNTY OF ALAMEDA, BEFORE ME, Scott Miller, Secretary of the City Planning Commission of the City of Oakland, County of Alameda, State of California...

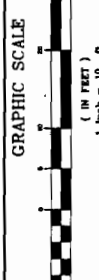
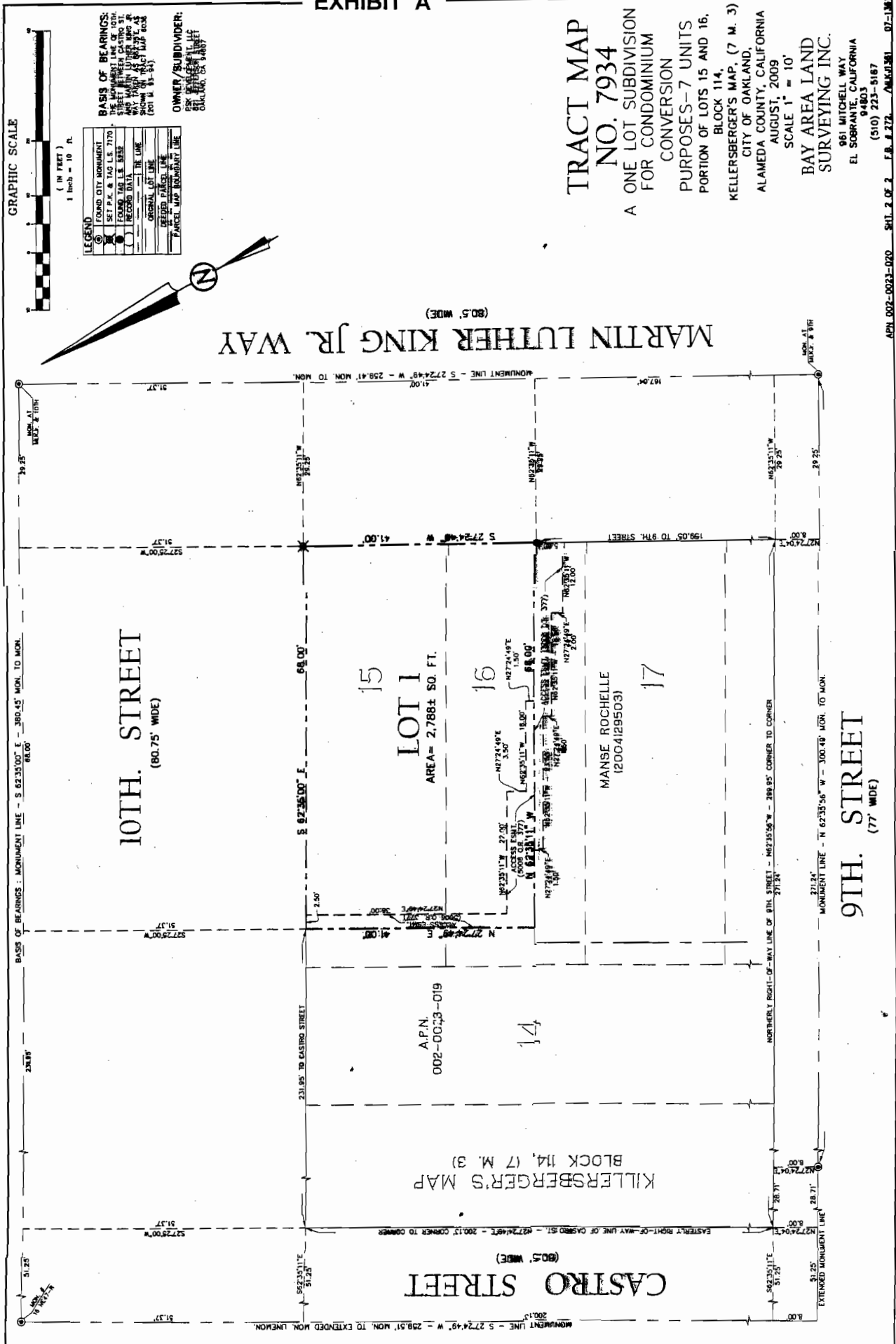
STATE OF CALIFORNIA, COUNTY OF ALAMEDA, BEFORE ME, Scott Miller, Secretary of the City Planning Commission of the City of Oakland, County of Alameda, State of California...

STATE OF CALIFORNIA, COUNTY OF ALAMEDA, BEFORE ME, Scott Miller, Secretary of the City Planning Commission of the City of Oakland, County of Alameda, State of California...

TRACT MAP NO. 7934 A ONE LOT SUBDIVISION FOR CONDOMINIUM CONVERSION PURPOSES - 7 UNITS PORTION OF LOTS 15 AND 16, BLOCK 114, KELLERSBERGER'S MAP, (7 M. 3) CITY OF OAKLAND, ALAMEDA COUNTY, CALIFORNIA



EXHIBIT A



LEGEND

⊙	FOUND CITY MONUMENT
⊙	SET P.M. # 100 L.S. 7170
⊙	SET P.M. # 100 L.S. 7170
⊙	RECORD DATA
⊙	THE LINE
⊙	ORIGINAL LOT LINE
⊙	CELESTIAL BASED LINE
⊙	PARCEL MAP BOUNDARY LINE

BASIS OF BEARINGS:
THE MONUMENT LINE OF 10TH STREET
WAS MEASURED BY THE SURVEYOR
AND WAS FOUND TO BE 80.75' AS
WAY MARKED BY SET P.M. # 100 L.S.
(201 N. 93-34)

OWNER/SUBDIVIDER:
BAY AREA LAND SURVEYING INC.
961 MITCHELL WAY
EL SOBRANTE, CALIFORNIA
94503
(510) 223-9187

TRACT MAP
NO. 7934
A ONE LOT SUBDIVISION
FOR CONDOMINIUM
CONVERSION
PURPOSES - 7 UNITS
PORTION OF LOTS 15 AND 16,
BLOCK 114,
KELLERSBERGER'S MAP, (7 M. 3)
CITY OF OAKLAND,
ALAMEDA COUNTY, CALIFORNIA
AUGUST, 2009
SCALE 1" = 10'
BAY AREA LAND
SURVEYING INC.
961 MITCHELL WAY
EL SOBRANTE, CALIFORNIA
(510) 223-9187