

OFFICE OF THE CITY CLERK  
Introduced by

Approved for Form and Legality

2007 SEP -5 PM 3:49  
Councilmember

*F. Faig*  
City Attorney

**OAKLAND CITY COUNCIL**

**Resolution No. 80812 C.M.S.**

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**RESOLUTION CONDITIONALLY APPROVING THE FINAL MAP FOR TRACT 7763  
FOR A SUBDIVISION AT 5920 SAN PABLO AVENUE AND CONDITIONALLY  
ACCEPTING IRREVOCABLE OFFERS OF DEDICATION FOR ON-SITE PUBLIC  
ACCESS AND PUBLIC UTILITY EASEMENTS**

**WHEREAS**, the developer of a residential dwelling project, KG Partners LP, a California limited partnership (no. 200518600009), is the Subdivider of a single parcel identified by the Alameda County Assessor as APN 015-1336-011-02, and by the Alameda County Clerk-Recorder as Tract 7763, and by the City of Oakland as 5920 San Pablo Avenue; and

**WHEREAS**, the Subdivider has acquired by purchase for valuable consideration the real property comprising Tract 7763; and

**WHEREAS**, the Subdivider has previously applied to the City of Oakland to subdivide the platted land into the nine (9) contiguous lots comprising Tract 7763; and

**WHEREAS**, the Planning Commission of the City of Oakland approved the environmental determination (categorically exempted) and land use entitlements (CDV06140) and the Tentative Map (TTM 7763) for the subdivision on July 19, 2006, which proposed the subdivision of the single parcel into eight (8) developable "mini lots" fronting on 60th Street with irrevocable offers of dedication of coterminous easements for public access and public utilities for the construction of single-family dwellings and an additional ninth (9th) lot fronting on San Pablo Avenue which will be occupied by an existing non-residential building; and

**WHEREAS**, the Secretary of the Planning Commission of the City of Oakland has certified to the Council of the City of Oakland that the Planning Commission approved the Tentative Map for Tract 7763, upon which the Final Map for Tract 7763 is based; and

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

- the Final Map for Tract 7763, attached hereto as Exhibit A, is substantially the same as the Tentative Map approved by the Planning Commission, and
- the Final Map for Tract 7763 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 for the proposed nine (9) lots and the proposed on-site public and private easements, 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 7763; and

**WHEREAS**, the Subdivider has employed a competent and qualified design professional, who is licensed by the State of California to practice civil engineering, to prepare plans and specifications for the construction of required surface and subsurface public infrastructure improvements within the proposed on-site public easements; and

**WHEREAS**, the City Engineer has approved infrastructure permit no. PX0700061 and the Subdividers' plans and specifications for construction of the required public infrastructure improvements, included by reference with Exhibit *B*; and

**WHEREAS**, at the time of approval of the Final Map by the Council of the City of Oakland, the Subdivider will not have commenced nor competed construction of the required public infrastructure improvements, and consequently the City Engineer will not have approved the construction of nor issued a Certificate of Completion for the required improvements; and

**WHEREAS**, pursuant to Government Code section 66462 and Municipal Code section 16.20.100, the Subdivider may record a Final Map before completing construction of required public infrastructure improvements by entering into an agreement with the City giving assurance that the required improvements will be completed within a determinate period of time; and

**WHEREAS**, pursuant to Government Code section 66462 and Municipal Code section 16.20.100 as a condition precedent to approval of the Final Map, the Subdivider has executed a Subdivision Improvement Agreement, attached hereto as Exhibit *B*, assuring the timely construction, unconditional warrantee, and prescribed maintenance of all required public infrastructure improvements; and

**WHEREAS**, pursuant to Government Code section 66499 et seq. and Municipal Code section 16.20.100, the Subdivider has deposited securities in the form of surety bonds, included by reference with Exhibit *A*, and in sufficient amounts, as estimated by the City Engineer, to secure the Subdivider's performance under Exhibit *B* as a:

- guarantee that the required public infrastructure improvements will be constructed in accordance with the approved plans and specifications, and as a
- guarantee that the contractor and his subcontractors and all persons renting equipment or furnishing labor and materials will receive full payment, and as a
- warrantee that the required public infrastructure improvements will perform as designed and intended, and as a
- guarantee that the Subdivider will maintain the required public infrastructure improvements for the duration prescribed Subdivision Improvement Agreement; and

**WHEREAS**, that upon City Attorney's approval for form and legal sufficiency of the Subdivision Improvement Agreement and the surety bonds, the City Administrator is authorized to execute the Subdivision Improvement Agreement on behalf of the City of Oakland; and

**WHEREAS**, the requirements of the California Environmental Quality Act (CEQA) have been complied with and the project was determined to be categorically exempt under Section 15332 of the CEQA Guidelines; and the approval of a final map is ministerial and exempt from CEQA, now, therefore, be it

**RESOLVED:** That the Final Map for Tract 7763 is hereby approved; and be it

**FURTHER RESOLVED:** That the approval of the Final Map for Tract 7763 is hereby conditioned upon the performance by the Subdivider of its obligations to construct, warrant, and maintain required public infrastructure improvements, as set forth in the Subdivision Improvement Agreement; and be it

**FURTHER RESOLVED:** That the City Engineer of the City of Oakland is hereby authorized to endorse the Final Map for Tract 7763; and be it

**FURTHER RESOLVED:** That the City Clerk of the City of Oakland is hereby authorized to endorse the Final Map for Tract 7763, upon its execution by the City Engineer, and directed to file the fully endorsed Final Map and the fully executed Subdivision Improvement Agreement concurrently with the Alameda County Clerk-Recorder for simultaneous recordation; and be it

**FURTHER RESOLVED:** That this Resolution shall become effective upon the recordation of the Final Map for Tract 7763 and the Subdivision Improvement Agreement; and be it

**FURTHER RESOLVED:** That upon issuance of a Certificate of Completion by the City Engineer for construction of the required public infrastructure improvements, the irrevocable offers of dedication of the on-site public access and public utility easements are hereby accepted by the City of Oakland; and be it

**FURTHER RESOLVED:** That upon expiration of the warrantee and maintenance period, as identified in the Subdivision Improvement Agreement, following the issuance of a Certificate of Completion by the City Engineer, the maintenance of newly constructed public infrastructure improvements is hereby accepted by the City of Oakland, excepting from said maintenance all off-site infrastructure improvements within the public right-of-way, including but not limited to sidewalks, curbs, gutters, trees and landscaping, irrigation, sanitary sewer piping, and storm water piping, that are identified in the California Streets and Highways Code and the Oakland Municipal Code to be the responsibility of the abutting property owner and also excepting from said maintenance all off-site and one-site infrastructure improvements that are otherwise regulated by California Public Utilities Commission, and also excepting from said maintenance all on-site infrastructure improvements within the real property that are associated with public access, including but not limited to roadway, sidewalks, curbs, gutters, trees and landscaping, and irrigation, and with sanitary sewer and storm water drainage; and be it

**FURTHER RESOLVED:** That private maintenance of the required public and private infrastructure improvements shall remain the responsibility in perpetuity of the property owners of Tract 7763 and their homeowners' association, both severally and jointly, and their representatives, agents, heirs, successors, and assigns.

IN COUNCIL, OAKLAND, CALIFORNIA, SEP 18 2007, 2007

PASSED BY THE FOLLOWING VOTE:

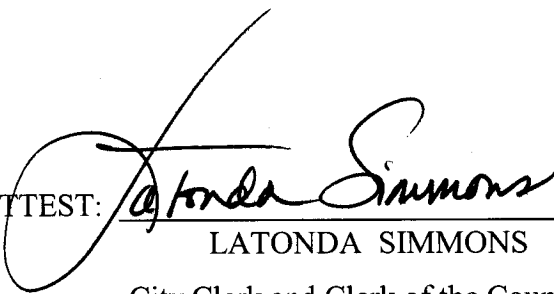
AYES - BROOKS, BRUNNER, CHANG, ~~KERNIGHAN~~, NADEL, QUAN, REID, and  
PRESIDENT DE LA FUENTE - 7

NOES - 0

ABSENT - Kernighan - 1

ABSTENTION - 0

ATTEST:



LATONDA SIMMONS

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