

Introduced by

OFFICE OF CITY CLERK

Approved for Form and Legality

\_\_\_\_\_  
Councilmember

2007 SEP 20 PM 2:42

*F. Faiz*

\_\_\_\_\_  
City Attorney

**OAKLAND CITY COUNCIL**

**Resolution No. 80859 C.M.S.**

**RESOLUTION CONDITIONALLY APPROVING A FINAL MAP FOR TRACT 7753  
TO CONVERT TWENTY RENTAL HOUSING UNITS TO CONDOMINIUM  
OWNERSHIP AT 2130 MOUNTAIN BOULEVARD**

**WHEREAS**, the property owner of twenty (20) residential apartment units, Montclair Group LLC, a California limited liability company (no. 200523710113), is the Subdivider of a single parcel identified by the Alameda County Assessor as APN 048F-7351-012-05, and by the Alameda County Recorder as Tract 7753, and by the City of Oakland as 2130 Mountain Boulevard; and

**WHEREAS**, the Subdivider has acquired the fee simple interest in the real property comprising Tract 7753; and

**WHEREAS**, the Subdivider has previously applied to the City of Oakland to subdivide the platted land into residential condominium ownership comprising Tract 7753; and

**WHEREAS**, the Planning Commission of the City of Oakland approved the environmental determination (categorically exempted) and the Tentative Map for Tract 7753 on June 27, 2006, which proposed the subdivision of the single parcel into twenty (20) 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 7753, upon which the Final Map for Tract 7753 is based; and

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

**WHEREAS**, the Subdividers have certified that each tenant was given written notice of intent to convert at least 60 days before filing the Tentative Map for Tract 7753; as evidence by the affidavit signed by the applicant; and

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

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

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

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

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

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

- the Final Map for Tract 7753, 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 7753; and

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

**WHEREAS**, the provisions of Government Code section 66462 and Oakland Municipal Code Section 16.20.100 governing construction of required public infrastructure improvements before the recording of a Final Map are not applicable to Tract 7753; and

**WHEREAS**, pursuant to Oakland Municipal Code Section 16.36.130, the Subdividers were issued a building permit (B 0604490) which included the installation of methods and mechanisms to limit the transmission of interior sound; and

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

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

**WHEREAS**, pursuant to Oakland Municipal Code Sections 16.36.080, no appeal of the FTAP to the City Council from any of the tenants residing at 2130 Mountain Boulevard was received by the Clerk of the City of Oakland within fifteen (15) days following approval of the Tentative Map for Tract 7753 by the Planning Commission of the City of Oakland; and

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

**WHEREAS**, the Planning Commission has found that the Subdividers have complied with Oakland Municipal Code Sections 16.36.050 and 16.36.060 by obtaining “conversion rights” for twenty (20) units from 964 46th Street (constructed in 2005) that prohibit the conversion to residential condominium ownership and that the Planning Department has confirmed that the Subdivider has recorded restrictions against these properties documenting that they cannot generate further conversion rights; and

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

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

**WHEREAS**, pursuant to Oakland Municipal Code Sections 16.36.090 and 15.08.150 (Oakland Housing Code), the Subdividers have obtained renewal Certificates of Occupancy issued by the Building Official of the City of Oakland for the single family and multiple family dwellings; now, therefore, be it

**RESOLVED:** That the Final Map for Tract 7753 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 7753 is hereby conditioned upon the performance by the Subdividers of their obligations to provide written notices to all prospective buyers of converted units advising the following:

- the existence of a seventy-two (72) hour period following an agreement to purchase, during which period a prospective buyer may withdraw from the agreement to purchase without penalty or cost, and
- the availability of the property report, structural pest report, and building systems report, and
- the availability of a statement signed by person experienced in the field of acoustical testing and engineering certifying that the converted unit conforms to the noise insulation standards of the 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 7753 is hereby conditioned upon submittal by the Subdividers and receipt by the Director of City Planning within thirty (30) days following the issuance of the final subdivision public report and annually thereafter an informational report pertaining to tenants displaced since the filing of the Tentative Map for Tract 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 7753; and be it

**FURTHER RESOLVED:** That the City Clerk of the City of Oakland is hereby authorized to endorse the Final Map for Tract 7753, upon its execution by the City Engineer, and directed to file the fully endorsed Final Map with the Alameda County Recorder for simultaneous recordation; and be it

**FURTHER RESOLVED:** That this Resolution shall become effective upon the recordation of the Final Map for Tract 7753 by the Alameda County Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA,                     OCT 2 2007                    , 2007

PASSED BY THE FOLLOWING VOTE:

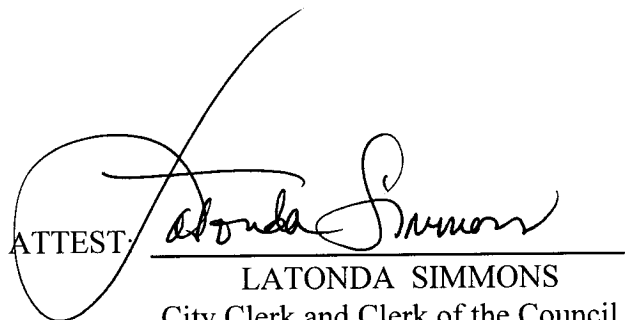
AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and  
PRESIDENT DE LA FUENTE - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:

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

**OWNERS' STATEMENT:**

THE UNDERSIGNED HEREBY STATES THAT IT IS THE OWNER OF THE LAND DELINEATED AND ENCOMPASSED WITHIN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, THAT SAID OWNER ACQUIRED TITLE TO SAID LAND BY DEED OF GRANT DEED RECORDED JULY 6, 2006 UNDER SERIES NO. 2006037518 IN THE OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA, THAT IT CONSENTS TO THE PREPARATION AND FILING OF THIS MAP.

THE UNDERSIGNED ALSO HEREBY STATES THAT:

A) EACH OF THE TENANTS OF THE PROPOSED CONDOMINIUM AND EACH PERSON APPLYING FOR THE RENTAL OF A UNIT IN SUCH RESIDENTIAL REAL PROPERTY, HAS, OR WILL, BE ADVISED BY THE UNDERSIGNED OF THE RIGHTS AND OBLIGATIONS REQUIRED BY CHAPTER 2 OF DIVISION 9 OF THE CALIFORNIA CIVIL CODE, WHICH HAS BEEN RECEIVED OR WILL RECEIVE 10 DAYS WRITTEN NOTIFICATION THAT AN APPLICATION FOR A PUBLIC REPORT WILL BE, OR HAS BEEN, SUBMITTED TO THE DEPARTMENT OF REAL ESTATE (IF NECESSARY), AND THAT SUCH REPORT WILL BE AVAILABLE ON REQUEST. EACH TENANT HAS BEEN, OR WILL BE GIVEN WRITTEN NOTIFICATION WITHIN 10 DAYS OF APPROVAL OF A FINAL MAP FOR THE PROPOSED CONVERSION.

B) EACH OF THE TENANTS OF THE PROPOSED CONDOMINIUM OR COMMUNITY APARTMENT HOUSE PROJECT HAS BEEN GIVEN 180 DAYS WRITTEN NOTICE OF INTENTION TO CONVERT PRIOR TO TERMINATION OF TENANCY DUE TO THE CONVERSION OR PROPOSED CONVERSION. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT ALTER OR ABRIDGE THE RIGHTS OF TENANTS OR APPLICANTS TO THE PROPOSED CONVERSION, INCLUDING, BUT NOT LIMITED TO, THEIR PROVISIONS OF THEIR COVENANTS, CONDITIONS, AND RESTRICTIONS, AND THE OBLIGATIONS IMPOSED BY SECTIONS 1841.1 AND 1841.2 OF THE CIVIL CODE.

C) EACH OF THE TENANTS OF THE PROPOSED CONDOMINIUM OR COMMUNITY APARTMENT HOUSE PROJECT HAS BEEN GIVEN NOTICE OF AN EXCLUSIVE RIGHT TO PURCHASE OR LEASE SAID UNITS, AND THAT SUCH UNITS WILL BE INITIALLY OFFERED TO SUCH TENANTS MORE FAVORABLE TO THE TENANT. THE RIGHT SHALL RUN FOR A PERIOD OF NOT LESS THAN 90 DAYS FROM THE DATE OF THE ISSUANCE OF THE SUBDIVISION PUBLIC REPORT PURSUANT TO SECTION 101012.2 OF THE BUSINESS AND PROFESSIONS CODE. THE TENANT GIVES PRIOR WRITTEN NOTICE OF HIS INTENTION NOT TO EXERCISE THE RIGHT.

D) FOR A PERIOD OF THREE YEARS FOLLOWING THE ISSUANCE OF THE FINAL SUBDIVISION PUBLIC REPORT, THEY WILL SUBMIT ANNUAL REPORTS TO THE PLANNING DIRECTOR, ON FORMS PROVIDED BY THE PLANNING DEPARTMENT, CONTAINING INFORMATION ON TENANTS BEING DISPLACED AND ON BUYERS OF THE CONDOMINIUM UNITS.

E) THEY HAVE COMPLIED WITH SECTION 183810 OF THE OAKLAND MUNICIPAL CODE BY FILING THE DOCUMENTS REFERRED TO THEREIN WITH THE DIRECTOR OF CITY PLANNING OF THE CITY OF OAKLAND. THE UNDERSIGNED FURTHER STATE THAT THEY HAVE COMPLIED WITH OR WILL COMPLY WITH THE REMAINDER OF SAID SECTION 183810 AS THEREIN REQUIRED.

F) NO LIE IN THE CONVERSION WILL BE OFFERED FOR SALE UNTIL THE UNIT CONFORMS TO THE NOISE INSULATION STANDARDS PROMULGATED IN TITLE 25 OF THE CALIFORNIA ADMINISTRATIVE CODE, SECTION 1082, OR ITS SUCCESSOR. THE UNDERSIGNED FURTHER STATE THAT ALL PROSPECTIVE BUYERS OF CONVERTED UNITS SHALL BE GIVEN A SILENT PERIOD OF 10 DAYS TO EXPEND IN THE FIELD OF ACoustICAL TESTING AND ENGINEERING CERTIFICATION STANDARDS FOR SALE CONFORMS TO THE ABOVE-MENTIONED TITLE 25 NOISE INSULATION STANDARDS.

THE MONTELAIR GROUP, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

**OWNER'S ACKNOWLEDGEMENT:**

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ )

ON \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007, BEFORE ME, NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED \_\_\_\_\_, TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE ABOVE SAID INSTRUMENT, ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME IN HER AUTHORIZED CAPACITY, AND THAT BY HER SIGNATURE ON THE INSTRUMENT THE PERSON OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

NOTARY PUBLIC  
NAME: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_ COMMISSION NUMBER: \_\_\_\_\_

**BENEFICIARIES' STATEMENT:**

THE UNDERSIGNED, CALDINE ELSTON, TRUSTEE OF THE ELSTON FAMILY TRUST, AS BENEFICIARY BY ARTICLE OF THE DEED OF TRUST RECORDED JULY 6, 2006, UNDER SERIES NO. 2006037518 IN THE OFFICIAL RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA, DOES HEREBY BY CONSENT TO THE PREPARATION AND RECORDATION OF THE HEREBY ENCLOSED MAP OF TRACT 7753.

IN WITNESS WHEREOF THE UNDERSIGNED, \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007, HAVE/HAS EXECUTED THIS STATEMENT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

BY: \_\_\_\_\_ NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

**BENEFICIARY'S ACKNOWLEDGEMENT**

STATE OF CALIFORNIA

ON \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007, BEFORE ME, \_\_\_\_\_, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED \_\_\_\_\_, PERSONALLY KNOWN TO ME (OR PROVIDED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE), TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME IN HER AUTHORIZED CAPACITY, AND THAT BY HER SIGNATURE ON THE INSTRUMENT THE PERSON OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

NOTARY PUBLIC

NAME: \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_ COMMISSION NUMBER: \_\_\_\_\_

**CITY ENGINEER'S STATEMENT:**

I, RAYMOND M. DERAHIA, INTERIM CITY ENGINEER, HAVING BEEN AUTHORIZED TO PERFORM THE FUNCTIONS OF THE CITY ENGINEER OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, FOR THE PURPOSE OF REVIEWING SUBDIVISION MAPS, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE ABOVE SAID MAP AND THE SUBDIVISION MAP, CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND THE SUBDIVISION MAP OF TRACT 7753, UPON SAID TRACT MAP IS SUBSTANTIALLY THE SAME AS THAT APPEARING ON THE TENTATIVE TRACT MAP AND ANY APPROVED ALTERATIONS THEREOF, THAT SAID TRACT MAP COMPLES WITH ALL PROVISIONS OF THE SUBDIVISION MAP ACT OF THE GOVERNMENT CODE AND THE LOCAL ORDINANCES APPLICABLE AT THE TIME OF THE TENTATIVE TRACT MAP, AND THAT I AM SATISFIED THAT THE TRACT MAP IS TECHNICALLY CORRECT.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

RAYMOND M. DERAHIA, R.C.E. NO. 27815  
INTERIM CITY ENGINEER  
CITY OF OAKLAND, ALAMEDA COUNTY  
STATE OF CALIFORNIA  
LICENSE EXPIRES 3/31/08

**SURVEYOR'S STATEMENT:**

THIS TRACT 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 LOCAL ORDINANCE AT THE REQUEST OF DOUG CAIN IN OCTOBER OF 2006. I HAVE BEEN APPROVED OR CONDITIONALLY APPROVED TENTATIVE TRACT MAP IF ANY I HEREBY STATE THAT THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED HEREON, AND THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

MICHAEL J. FORSTER, L.S. 7170  
EXPIRATION DATE: DECEMBER 31, 2007  
DATE: \_\_\_\_\_

**CLERK OF THE BOARD OF SUPERVISORS STATEMENT:**

I, KRISTAL HISHKA GRAY, CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT CERTIFICATES HAVE BEEN FILED AND DEPOSITS HAVE BEEN MADE IN CONFORMANCE WITH THE REQUIREMENTS OF SECTIONS 68483 AND 68493 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

CRISTAL HISHKA GRAY, CLERK OF THE BOARD OF SUPERVISORS, COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

BY: \_\_\_\_\_  
DEPUTY CLERK

**RECORDER'S STATEMENT:**

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007, AT \_\_\_\_\_, M. M. BOOK, AT THE REQUEST OF CHICAGO TITLE COMPANY.

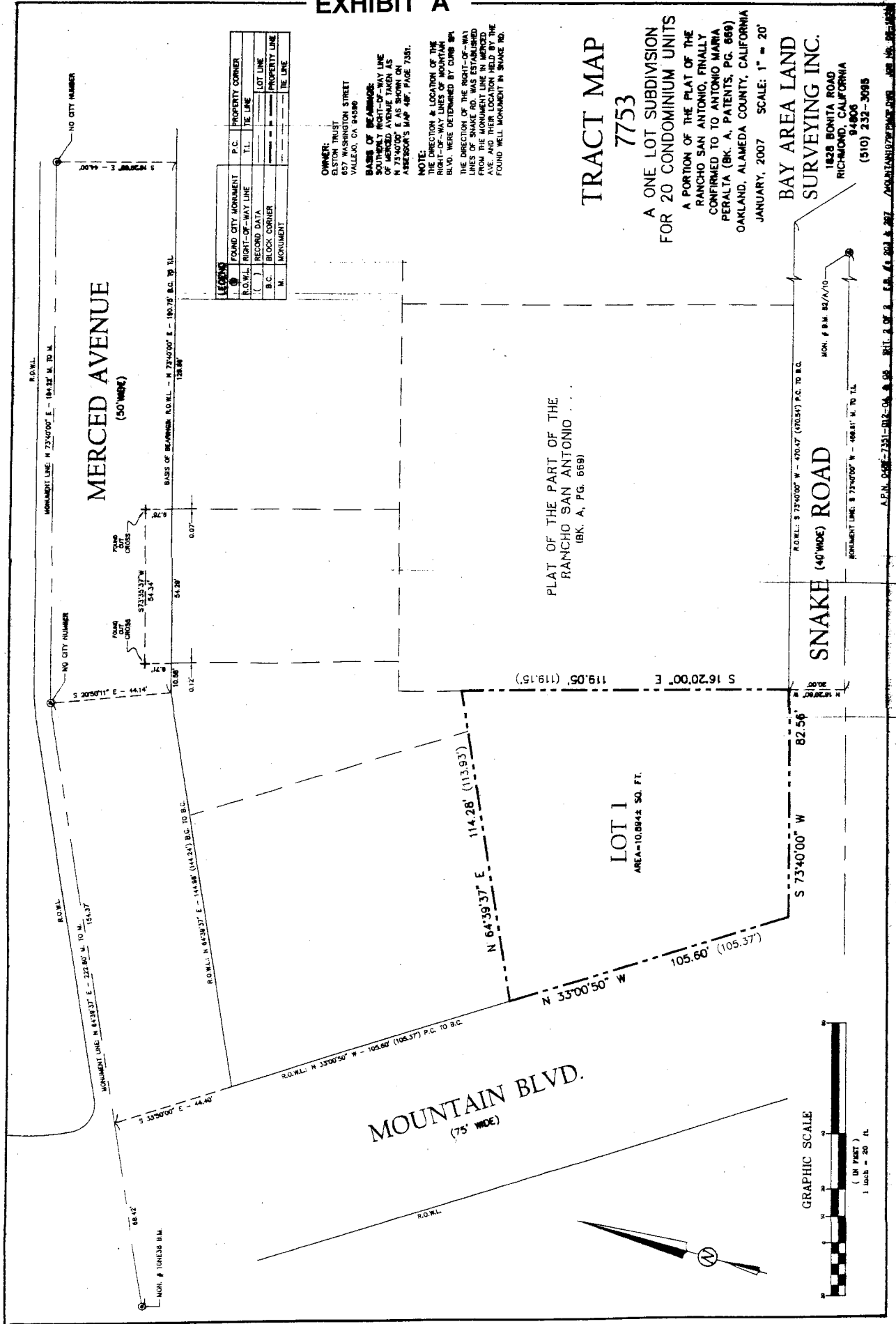
FATRICK DOWNSWELL  
COUNTY RECORDER

BY: \_\_\_\_\_  
DEPUTY COUNTY RECORDER

**TRACT MAP 7753**  
A ONE LOT SUBDIVISION  
FOR 20 CONDOMINIUM UNITS  
A PORTION OF THE PLAT OF THE RANCHO SAN ANTONIO  
FINALLY CONFIRMED TO ANTONIO MARIA PERALTA  
(BK. A, PATENTS, PG. 689),  
CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA.  
JANUARY, 2007

**BAY AREA LAND SURVEYING INC.**  
1828 BONITA ROAD  
RICHMOND, CALIFORNIA  
94806  
(510) 232-3095

# EXHIBIT A



## TRACT MAP 7753

A ONE LOT SUBDIVISION  
FOR 20 CONDOMINIUM UNITS  
A PORTION OF THE PLAT OF THE  
RANCHO SAN ANTONIO, FINALLY  
CONFIRMED TO ANTONIO MARIA  
PERALTA (BK. A, PATENTS, PG. 866)  
OAKLAND, ALAMEDA COUNTY, CALIFORNIA  
JANUARY, 2007 SCALE: 1" = 20'

**BAY AREA LAND  
SURVEYING INC.**  
1828 BONITA ROAD  
RICHMOND, CALIFORNIA  
94806  
(510) 232-3085

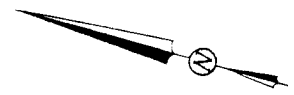
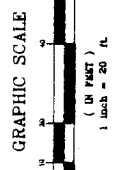
PLAT OF THE PART OF THE  
RANCHO SAN ANTONIO  
(BK. A, PG. 669)

**LOT 1**  
AREA=10.864± SQ. FT.

**SNAKE ROAD**  
(40' WIDE)

**MERCED AVENUE**  
(50' WIDE)

**MOUNTAIN BLVD.**  
(75' WIDE)



A.P.N. 058-735-012-04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100