

ORIGINAL

Introduced by

Councilmember

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 JUN -5 AM 10:42

Approved for Form and Legality

Kiran Jain
City Attorney

OAKLAND CITY COUNCIL

Resolution No. 81348 C.M.S.

**RESOLUTION CONDITIONALLY APPROVING A FINAL MAP FOR TRACT No.
7803 TO CONVERT SIX RENTAL HOUSING UNITS TO CONDOMINIUM
OWNERSHIP AT 2335 MARKET STREET**

WHEREAS, the property owner of six (6) residential apartment units, 2335 Market Street LLC, a California limited liability company (no. 200725410162), is the Subdivider of a single parcel identified by the Alameda County Assessor as APN 005-0431-008-02, and by the Alameda County Clerk-Recorder as Tract No. 7803, and by the City of Oakland as 2335 Market Street; and

WHEREAS, the Subdivider has acquired the fee simple interest in the real property comprising Tract No. 7803 through a grant deed, series no. 2007435002, recorded December 31, 2007, by the Alameda County Clerk-Recorder; and

WHEREAS, the Subdivider has previously applied to the City of Oakland to subdivide the platted land into residential condominium ownership comprising Tract No. 7803; and

WHEREAS, the Planning Commission of the City of Oakland approved the environmental determination (categorically exempted – California Public Resources Code Section 15315) and the Tentative Map for Tract No. 7803 on December 5, 2007, which proposed the subdivision of the two (2) buildings (“triplexes”) on one (1) parcel into six (6) 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. 7803, upon which the Final Map for Tract No. 7803 is based; and

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

WHEREAS, the Subdividers have certified that each tenant was given written notice of intent to convert at least 60 days before filing the Tentative Map for Tract No. 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 No. 7803, 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. 7803; and

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

WHEREAS, the provisions of Government Code section 66462 and Oakland Municipal Code Section 16.20.100 governing construction of required public infrastructure improvements before the recording of a Final Map are not applicable to Tract No. 7803; and

WHEREAS, pursuant to Oakland Municipal Code Section 16.36.130, the prior owner of said parcel was issued permits for both buildings (B9902569 and B9902570) 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 2335 Market Street was received by the Clerk of the City of Oakland within fifteen (15) days following approval of the Tentative Map for Tract No. 7803 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 six (6) units from 3015 Martin Luther King Jr. Way (APN 009-0709-003-00), and 2276 MacArthur Boulevard (APN 029A-1304-012-00) that prohibit the conversion to residential condominium ownership and that the Planning Department has confirmed that the Subdivider has recorded restrictions against these properties documenting that they cannot generate further conversion rights; and

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

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

WHEREAS, pursuant to Oakland Municipal Code Sections 16.36.090 and 15.08.150 (Oakland Building Maintenance Code), the Subdividers have obtained 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 No. 7803 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. 7803 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 a person experienced in the field of acoustical testing and engineering certifying that the converted units conform to the noise insulation standards of the 1997 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. 7803 is hereby conditioned upon submittal by the Subdividers and receipt by the Director of City Planning within thirty (30) days following the issuance of the final subdivision public report and annually thereafter an informational report pertaining to tenants displaced since the filing of the Tentative Map for Tract No. 7803 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. 7803; 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. 7803, upon its execution by the City Engineer, and directed to file the fully endorsed Final Map 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 No. 7803 by the Alameda County Clerk-Recorder.

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

PASSED BY THE FOLLOWING VOTE:

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

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



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

EXHIBIT A

OWNER'S STATEMENT:

THE UNDERSIGNED HEREBY STATES THAT IT IS THE OWNER OF THE LAND DESCRIBED AND ENUMERATED WITHIN THE TRACT MAP NO. 7803, CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND THAT THE SAID LAND IS BEING OFFERED FOR SALE BY THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, THAT IT CONSENTS TO THE PREPARATION AND FILING OF THIS TRACT MAP.

TRUSTEE'S STATEMENT: THE UNDERSIGNED AS TRUSTEE, UNDER THE DEED OF TRUST RECORDED ON SEPTEMBER 3, 2008 AND JULY 16, 2007, UNDER RECORDER SERVICES AND RECORDS OF ALAMEDA COUNTY, STATE OF CALIFORNIA, HAS RECEIVED FROM THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THIS MAP AND ALL DEEDING AND DECLARATIONS THEREON, AND DEEDING AND DECLARATIONS THEREON.

TRUSTEE'S STATEMENT: THE UNDERSIGNED, C/O REPUBLIC TILE COMPANY, A CALIFORNIA CORPORATION, HAVING EXECUTED THIS STATEMENT THIS DAY OF 2008.

TRUSTEE'S ACKNOWLEDGEMENT:

I, _____, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED WHO PROVED TO ME ON THE BASIS OF SAID PERSON'S KNOWLEDGE AND BELIEF THAT THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THIS MAP AND ALL DEEDING AND DECLARATIONS THEREON, AND THAT BY HIS/HER/ THEIR SIGNATURE(S) ON THE INSTRUMENT, THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

TRUSTEE'S ACKNOWLEDGEMENT:

I, _____, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED WHO PROVED TO ME ON THE BASIS OF SAID PERSON'S KNOWLEDGE AND BELIEF THAT THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THIS MAP AND ALL DEEDING AND DECLARATIONS THEREON, AND THAT BY HIS/HER/ THEIR SIGNATURE(S) ON THE INSTRUMENT, THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

OWNER'S ACKNOWLEDGEMENT:

I, _____, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED WHO PROVED TO ME ON THE BASIS OF SAID PERSON'S KNOWLEDGE AND BELIEF THAT THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THIS MAP AND ALL DEEDING AND DECLARATIONS THEREON, AND THAT BY HIS/HER/ THEIR SIGNATURE(S) ON THE INSTRUMENT, THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

TRUSTEE'S ACKNOWLEDGEMENT: I, _____, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED WHO PROVED TO ME ON THE BASIS OF SAID PERSON'S KNOWLEDGE AND BELIEF THAT THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THIS MAP AND ALL DEEDING AND DECLARATIONS THEREON, AND THAT BY HIS/HER/ THEIR SIGNATURE(S) ON THE INSTRUMENT, THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

TRUSTEE'S ACKNOWLEDGEMENT: I, _____, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED WHO PROVED TO ME ON THE BASIS OF SAID PERSON'S KNOWLEDGE AND BELIEF THAT THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THIS MAP AND ALL DEEDING AND DECLARATIONS THEREON, AND THAT BY HIS/HER/ THEIR SIGNATURE(S) ON THE INSTRUMENT, THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

TRACT MAP NO. 7803
A ONE LOT SUBDIVISION FOR
CONDOMINIUM CONVERSION
PURPOSES—SIX UNITS
LOTS 17-19 AND A PORTION OF LOT 23, BLOCK 636,
MAP OF MARKET STREET LOTS (S.M. 2)
OAKLAND, ALAMEDA COUNTY, CALIFORNIA
APRIL, 2008
BAY AREA LAND SURVEYING INC.
961 MITCHELL WAY
EL SOBRANTE, CALIFORNIA
(510) 223-5167

EXHIBIT A

CITY ENGINEER'S STATEMENT:

I, RAYMOND M. DEPARNA, 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 HEREON EMBODIED TRACT MAP ENTITLED "TRACT MAP 7803, CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA," AND THAT THE SUBDIVISION, AS REPRESENTED UPON SAID TRACT MAP IS SUBSTANTIALLY THE SAME AS THAT SHOWN ON THE TENTATIVE TRACT MAP AND ANY APPROVED ALTERATIONS THEREOF; THAT SAID TRACT MAP COMPLIES 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 _____, 2008.

RAYMOND M. DEPARNA, R.C.E. NO. 27815
INTERIM CITY ENGINEER
CITY OF OAKLAND, ALAMEDA COUNTY
STATE OF CALIFORNIA
LICENSE EXPIRES 3/31/10

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 OF CALIFORNIA, AND THE LOCAL ORDINANCES APPLICABLE AT THE TIME OF THE SURVEY. I HEREBY STATE THAT THIS TRACT MAP IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT OF CALIFORNIA, AND THE LOCAL ORDINANCES APPLICABLE AT THE TIME OF THE SURVEY. I HEREBY STATE THAT I HAVE CONDITIONALLY APPROVED TENTATIVE TRACT MAP, IF ANY, I HEREBY STATE THAT THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, AND THE MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.



MICHAEL J. FOSTER, L.S. 7170
EXPIRATION DATE: DECEMBER 31, 2009

CITY CLERK'S STATEMENT:

I, THE UNDERSIGNED, LATONDA SUNDHUS, CITY CLERK AND CLERK OF THE CITY COUNCIL OF THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT THE TRACT MAP 7803, CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, WAS PRESENTED TO SAID COUNCIL, AS PROVIDED BY LAW AT A REGULAR MEETING HELD ON THE _____ DAY OF _____, 2008, AND THAT SAID REGULAR MEETING DID NOT TAKE PLACE BY RESOLUTION NUMBER _____; APPROVED SAID TRACT MAP; AND THAT ALL AGREEMENTS AND SURETY AS REQUIRED BY LAW TO ACCOMPANY THE TRACT MAP WERE FILED WITH THE CITY CLERK OF THE CITY OF OAKLAND AND ARE FILED IN MY OFFICE. IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS _____ DAY OF _____, 2008.

LATONDA SUNDHUS, CLERK OF THE CITY OF OAKLAND,
COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

SECRETARY OF THE PLANNING COMMISSION'S STATEMENT:

I, SCOTT MILLER, SECRETARY OF THE CITY PLANNING COMMISSION OF THE CITY OF OAKLAND, STATE OF CALIFORNIA, DO HEREBY CERTIFY THAT A TENTATIVE MAP OF "TRACT NO. 7803, CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA" WAS PRESENTED TO THE CITY PLANNING COMMISSION AS PROVIDED BY THE SUBDIVISION MAP ACT, THAT AT A HEARING _____ AND THAT SAID COMMISSION APPROVED SAID TENTATIVE MAP UPON WHICH THIS MAP IS BASED.

DATED _____
SCOTT MILLER
SECRETARY OF THE CITY PLANNING COMMISSION OF THE CITY OF OAKLAND,
COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

CLERK OF THE BOARD OF SUPERVISORS STATEMENT:

I, _____, CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT THE TRACT MAP 7803, CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, HAS BEEN FILED AND DEPOSITS HAVE BEEN MADE IN CONFORMANCE WITH THE REQUIREMENTS OF SECTION 86492 AND 86493 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

DATED: _____
CRYSTAL HISHIDA GRANT, CLERK OF THE BOARD OF SUPERVISORS, COUNTY OF ALAMEDA, STATE OF CALIFORNIA

BY: _____
DEPUTY

RECORDER'S STATEMENT:

FILED THIS _____ DAY OF _____, 2008, AT _____ M. IN BOOK _____ OF PARCEL MAPS, AT PAGE _____, AT THE REQUEST

FATRICK O'CONNELL
COUNTY RECORDER

BY: _____
DEPUTY COUNTY RECORDER

TRACT MAP NO. 7803

A ONE LOT SUBDIVISION FOR
CONDOMINIUM CONVERSION
PURPOSES--SIX UNITS

LOTS 17-19 AND A PORTION OF LOT 23, BLOCK 636,
MAP OF MARKET STREET LOTS (5 M. 2)
OAKLAND, ALAMEDA COUNTY, CALIFORNIA

APRIL, 2008
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