Oakland City Planning Commission STAFF REPORT

Case File No. TTM7481, PUD06-280, ER99-0025, CP06-117, T06-0078 **July 7, 2010**

Location:	Skyline Terrace (off of Skyline Boulevard between Colbourn Place and Graham Place); APN: 037A- 3141-001-015 and a portion of 037A-3142-035-01
Proposal:	The applicant has submitted several proposals to subdivide a 13.6 acre parcel. These proposals include: a) 22 lots with a ± 1400 linear foot primary access road terminating in a cul-de-sac, a ± 1300 secondary access road and a ±1190 linear foot secondary access road over the York Trail. b) 8 lots with a common area parcel for a primary access road terminating in a cul-de-sac and a parallel secondary access road (i.e. fire lane) which are both ±1150 linear feet. c) 8 lots with a common area parcel for a ± 1150 linear foot primary access road terminating in a cul-de-sac and a ±1100 linear foot secondary access road.
Applicant:	Collin Mbanugo, MD (510) 272-9610
Owner:	Collin Mbanugo, MD
Planning Permits Required:	Tentative Tract Map for the subdivision of one lot into more than five lots; a Minor Variance for a length of road that exceeds 300' in length, a Planned Unit Development Permit; a Creek Protection Permit, and a Creek Permit.
Case File Number:	TTM7481, PUD06-280, CP06-117, T06-0078, ER99-0025
General Plan:	Hillside Residential
Zoning:	R-30 One-Family Residential Zone
Environmental Determination:	CEQA Guidelines Section 15270: Projects Which Are Disapproved.
Historic Status	Vacant Lot
Service Delivery District:	IV– Fruitvale
City Council District:	6
Date Filed	March 3, 2004 (with numerous revisions submitted to date)
Staff Recommendation:	Staff recommends denial of all the proposals.
Finality of Decision	Appealable to City Council within 10 days
For further information:	Contact case planner Heather Klein at (510) 238-3659 or by e-mail at hklein@oaklandnet.com

SUMMARY

Although it is somewhat unusual for staff to bring a project forward for denial in the middle of the entitlement process, and without completion of environmental review, staff finds that we are unable to support the subdivision of the 13.6 acre lot off of Skyline Boulevard as shown in all the various plans submitted to date (a 22-lot proposal submitted on March 3, 2004; an 8-lot Parallel Access Proposal submitted on June 15, 2009; or the 8-lot with Secondary Access Proposal submitted March 26, 2010). This conclusion is based on the projects' inability to meet the Tentative Tract Map Findings including 1) inconsistency with the general plan policies related to life-safety; 2) site is not physically suitable for the type of development; 3) site is not physically suitable for the proposed density of development; and 4) the lack of adequate secondary access would result in serious impacts to public health and life-safety.

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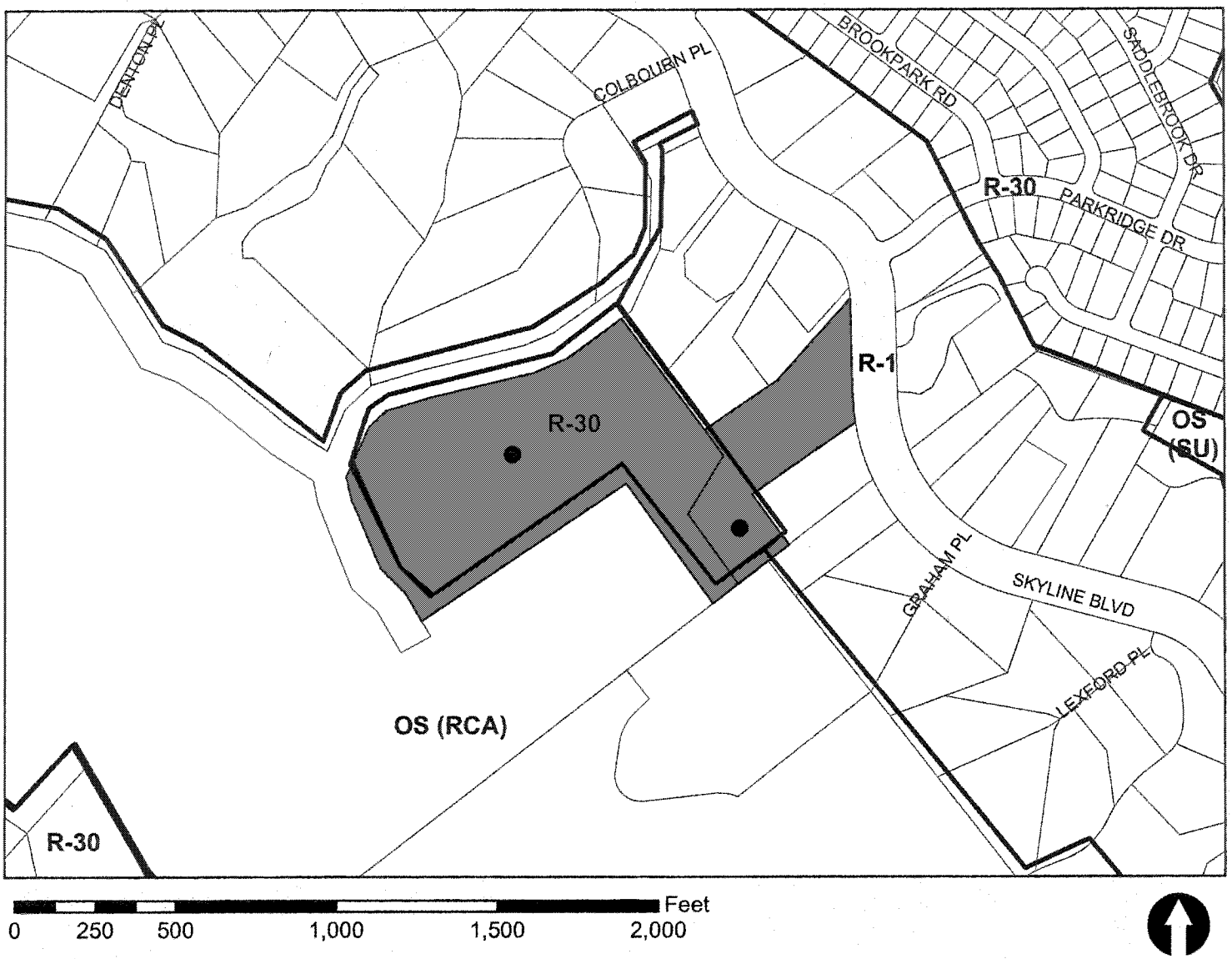
CITY OF OAKLAND PLANNING COMMISSION



Case File: TTM7481, PUD06-280, CP06-117, T06-0078, ER99-0025
Applicant: Collin Mbanugo, MD
Address: Skyline Terrace
Zone: R-30

Moreover, all three proposals require a Variance from Section 16.16.150 of the Subdivision Regulations which states that dead end streets not exceed 300'. However, a Variance is not reasonable or warranted and cannot be granted in these circumstances because 1) urban wildfires are common and a natural part of the East Bay environment; 2) the project site is located in the Wildfire Assessment District and an area identified as a Very High Fire Hazard Severity Zone; 3) the topographic conditions make it more difficult to fight a fire; 3) the only means of evacuation from the site is via Skyline Drive heading east; and 4) the lack of adequate secondary access will exacerbate the situation and put persons at risk for loss, injury, or death.

Given the proposals location within the Wildfire Assessment District and an area identified as a Very High Fire Hazard Severity Zone, project consistency with policies related to life safety should be paramount. No feasible mitigations, other than an adequate secondary access, can achieve sufficient emergency response and evacuation. The Fire Prevention Bureau also supports denial of these applications at this time.

The applicant has spent several years submitting revised plans in an attempt to obtain staff support of the proposals. At this point, staff believes that enough information has been submitted and reviewed such that staff must recommend denial of all three proposed projects based on the lack of an adequate secondary access road that meets both Fire Code and the Subdivision Regulation. Staff finds that a Variance from the regulations cannot be granted.

Before additional plans are submitted or the applicant expends more resources to deem the application complete and finish the EIR, staff believes that the Planning Commission should render a decision on the proposals. Staff recommends denial of all the projects based on the projects' inability to meet the required findings. However, if the Planning Commission believes, contrary to staff and the Fire Prevention Bureau, that other circumstances exist or mitigation can be imposed to meet the findings, the Planning Commission could allow the projects to remain active and permit the applicant to continue with the entitlement process within a prescribed timeframe.

PROPERTY DESCRIPTION

The 13.6-acre project site is located on a vacant hillside knoll off of Skyline Boulevard, between Colbourn Place and Graham Place and adjacent to the Leona Canyon Regional Open Space Preserve. The knoll is bordered by two creeks. The surrounding neighborhood consists of single-family dwellings with equestrian use, a fire station, churches, Skyline High School, and regional parkland. As previously stated, the site is in the Wildfire Assessment District and is identified as being in a Very High Fire Hazard Severity Zone.

PROJECT BACKGROUND

This section details the key events in the history of the project from the first submittal in 1999 to the present. A more detailed timeline can be found in Attachment A; relevant communications between the City and Applicant are in contained in Attachment B.

Project Background from 1999-2007

The applicant submitted a pre-application to the City in 1999 to subdivide the property into 22 lots. For the next six years the applicant refined his project including changes in density, road configuration, the

addition of a conservation easement, and securing easements over an adjacent parcel for primary and secondary access to the project site.

On March 3, 2004, the project applicant submitted a Tentative Tract Map to subdivide the 13.6 acre site into 22-lots with a primary access road, conservation easement, and two secondary access roads (one over the York Trail, a City owned property, and another over an adjacent private property). Planning staff determined that the 22-lot project was complete on March 3, 2004 based on the fact that the project submitted all of the necessary documents as outlined in the Basic Application. However, City divisions including Planning, Building, Engineering, and Environmental Services had serious issues with the proposed subdivision including, but not limited to, the construction of bridges for site access; emergency access routes; and the fill and realignment of a creek.

A Notice of Preparation (NOP) for an Environmental Impact Report (EIR) was published on May 10, 2004 and a Scoping Session was held on May 19, 2004. Staff received comments at the Scoping Session regarding the creek and property line locations. Staff insisted that a new survey be completed during the preparation of EIR to address the neighbors concerns and accurately locate the creek, trees, access roads, and property lines.

Background from 2007-2009

The revised survey was completed in February of 2007 [almost three (3) years later] and showed major differences in elevations on the site from the original map submittal. As a result, the secondary access road over the York Trail was no longer feasible per the Fire Code's maximum slope requirements and the creek did not require filling or realignment.

The applicant revised his project to address the new survey and submitted plans on April 13, 2007 that showed 22-lots, a primary access road and a parallel secondary access road separated by a median with a different alignment, and a conservation easement. In response to the new submittal, Planning staff sent a letter to the applicant detailing the Department's position that that the project could no longer be considered complete because 1) the site plan had changed significantly and 2) the supplemental information (i.e. grading plan, sections, creek protection documents, etc) related to the revised project had not been updated and submitted. Furthermore, this letter described staff's concerns with the overall feasibility of a project as shown because the proposal with a parallel secondary access road did not meet the intent of an emergency evacuation route. Thus, the previous City determination of March 3, 2004 that the application was complete no longer applied to the revised application.

The applicant continued to submit different proposals between 2007 and 2008 in an attempt to obtain staff approval of the primary road and the secondary access road location. However, staff could not continue preparation of the EIR or processing the applications without a decision on which of the submitted plans was the considered the project; the submittal of supplemental information required in the Basic Application; and the application again being found complete.

After a year and half of letters and meetings with the applicant, staff detailed the Planning Department's options for processing the application in the February 10, 2009 letter. One option was for the City to consider the project inactive since the requested supplemental information was not submitted. The other option was to move the project forward for a denial based on staff's inability to meet the required findings. Staff sent letters and met with the applicant for another year, between 2009 and 2010 in an attempt to clarify the submittal documents and to discuss the secondary access issue.

Staff Decision to Forward the Proposed Projects to the Planning Commission for Denial

In the last few years, the City has received a number of applications that do not meet the secondary access road requirements of the Fire Code and or the Subdivision Regulations Variance Findings. It has become increasingly apparent, based upon meetings with Fire and CEDA officials and review of outside fire consultant reports for other projects (which raised life-safety concerns that could not be adequately addressed), that it was not in the City's nor the applicants' interests to continuing processing these applications.

Therefore, the Agency Director advised the applicant in letters dated March 5, 2010, and March 22, 2010, that the Department had enough information, solely related to secondary access, to deny the proposals and requested that staff schedule a public hearing. At the applicant's request, staff met with the applicant and his attorney on April 30, 2010, and confirmed the discussions noted in the May 17, 2010 letter to the applicant.

Before additional plans are submitted or the applicant invests more resources to deem the application complete and finish the EIR, staff believes that the Planning Commission should render a decision on whether the projects should be denied based on the projects' inability to meet the required findings for the TTM and variance.

PROJECT DESCRIPTIONS

As noted above in the *Summary* and *Background* sections, the applicant has submitted multiple proposals over the past several years in an attempt to obtain staff approval for the secondary access road. These proposals are discussed in detail below and the site plans are attached to this report for reference (Attachment C).

22-Lot Proposals

The applicant submitted the 22-lot subdivision proposal on March 3, 2004. The proposal included a primary access road (approximately 1,400 linear feet) which bridged the creek and before terminating in a cul-de-sac. Two alternate secondary access roads were proposed. One was an easement over what was then referred to as the Covington Parcel for the former owner. This secondary access road began at Skyline Boulevard, bridged the creek and connected to the primary road. This secondary access road was approximately 1300 linear feet from the Skyline to the cul-de-sac. The other secondary access road was over the York Trail (an unimproved paper trail) which is owned by the City of Oakland. This secondary access road started at Skyline Boulevard and connected to the primary access road. It was approximately 1190 linear feet and would be used for pedestrian/equestrian access. It would be paved with an all-weather surface for emergency ingress/egress. In addition to the road, secondary access roads and the lots, the project plans included a conservation easement adjacent to Leona Canyon Regional Open Space totaling 40-50% of the site. As indicated above, based upon a revised survey, which was completed in February of 2007 and showed major differences in elevations on the site from the original map submittal, the applicant revised his plans on April 13, 2007. Thus, the 2004 22-lot proposal (Attachment C-1) was no longer considered a complete application.

The April 2007 plans showed 22-lots, a primary access road and a parallel secondary access road separated by a median with a different alignment, and a conservation easement. However, the supplemental information (i.e. grading plan, sections, creek protection documents, etc.) related to the

revised 2007 project had not been updated and submitted (Attachment C-2). This April 2007 22-lot proposal was superseded by the proposal described below.

8-lot Parallel Access Proposal

The applicant submitted the 8-lot parallel access proposal on June 15, 2009. The proposal includes a primary access road (approximately 1150 linear feet) which bridges the creek and also terminates in a cul-de-sac. The secondary access road (noted on the plans as a fire lane) parallels the primary road (similar to the 2007 22-lot proposal). This proposal does not include a conservation easement. All the proposed lot lines extend to the property lines (Attachment C-3).

8-lot with Secondary Access Proposal

The applicant submitted this 8-lot with secondary access proposal on March 26, 2010. The proposal includes a primary access road (approximately 1150 linear feet) which bridges the creek and also terminates in a cul-de-sac. The secondary access road (approximately 1100 linear feet) starts at Skyline Boulevard and connects to the primary access road. This proposal does not include a conservation easement (Attachment C-4).

GENERAL PLAN ANALYSIS

Land Use and Transportation Element (LUTE)

The following General Plan Land Use and Transportation (LUTE) Policies specifically apply to the proposed project and the secondary access issue:

Policy N11.3 Requiring Strict Compliance with Variance Criteria As Variances are exceptions to the adopted regulations and undermine those regulations when approved in large numbers, they should not be granted lightly and without strict compliance with defined conditions, including evidence that hardship will be caused by unique physical or topographical constraints and the owner will be deprived of privileges enjoyed by similar properties , as well as, the fact that the variance will not adversely affect the surrounding are nor will it be a grant of special privilege to the property.

Open Space Conservation and Recreation (OSCAR) Element
The following OSCAR Policies and Objectives specifically apply to the proposed project and the secondary access issue

Policy OS-1.3 Development of Hillside Sites On large sites with subdivision potential, generally conserve ridges, knolls, and other prominent features as open space. Maintain development regulations which consider environmental and open space factors such as land stability, plant and animal resources, earthquake and fire hazards, and visual impacts, in the determination of allowable density.

Action OS-1.3.5 Conservation of Unstable Parcels Use building code and environmental review requirements to ensure that development of hillside parcels will be structurally sound, that infrastructure will be provided and that adequate access will be available.

Policy CO-10.2 Fire Prevention Measures As determined by the City, require individual property owners and developers in high hazard areas to reduce fire hazards on their properties through a range of

preventive measures. Landscaping and site planning in these high hazard areas should minimize future wildfire hazards.

Safety Element
The following Safety Element Policies and Objectives specifically apply to the proposed project and the secondary access issue

Policy FI-2.1 Adopt and amend as needed updated versions of the California building and fire codes so that optimal fire protection standards are used in construction and renovation projects.

Policy FI-2.3 Continue to review development proposals to ensure that they incorporate required and appropriate fire-mitigation measures, including adequate provisions for occupant evacuation and access by fire-fighting personnel and equipment.

All the projects lack adequate secondary access and therefore, are fundamentally inconsistent with foregoing General Plan policies related to public health. Unlike other objectives, policies, or actions that are related to livability, comfort, convenience, or design, the policies listed above are for the protection of life safety. Given Oakland's history of urban fires and the likelihood of additional fires in the future as they are a natural part of the ecosystem, it should be paramount that projects in wildfire areas be consistent with the policies related to life safety. Staff has detailed how the proposed project is inconsistent with these General Plan policies in the *Findings for Denial* section.

ENVIRONMENTAL DETERMINATION

City staff's recommendation to deny the proposed projects is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15270: Projects Which Are Disapproved.

BASIS FOR DENIAL

Fire Code

On May 20, 2008, the City Council amended the Oakland Municipal Code to include updated fire codes and requirements pertaining to emergency access. Specifically, the Fire Code (O.M.C. Section 15.12.020) established a maximum of 600' in length for dead end streets, including private streets, public streets, and shared access facilities. Per the Fire Code the only acceptable mitigation for a dead end street over this length is a secondary means of access/egress. Fire sprinklers, vegetation management, extra fire hydrants, turn-out lanes, and/or fire resistant building materials are not acceptable mitigation for the lack of a secondary access road when the dead-end street is more than 600' in length. Finally, the Fire Code also states that if a secondary access is required, the maximum distance from any parcel to the through street, via, the secondary access, is 600' in length. These Code requirements are consistent with guidelines which the Fire Department used since at least the mid 1990's.

As discussed in the *Findings* section of this report, the proposals all include primary and secondary access roads over 600' in length. The proposals are therefore, inadequate regarding secondary access and present a serious impact to public health and life-safety. For this reason, staff cannot make the findings to approve the TTM and it must be denied.

Variance from the Subdivision Regulations

The Subdivision Regulations include the Tentative Parcel and Tract Map findings (O.M.C. 16.08.030). Approval can only be granted if the project meets all of the findings. Each finding provides a separate and independent basis for denial of the project and when viewed collectively provides an overall basis for denial of the project. As discussed in the *Findings* section of this report, the proposals do not conform to the Tentative Tract Map Findings and therefore, staff is recommending denial of all of the proposals.

The Subdivision Regulations (O.M.C. Section 16.16.150) also require that dead end streets shall not exceed 300'. All of the applicant's submittals show a primary access road in excess of 300' and thus, all the proposals would require a Variance as well as a secondary means of access. However, O.M.C. 16.04.060 Section states that the City will consider a Variance where it is reasonable and warranted. Given the project site's location in the Wildfire Assessment District and an area identified as a Very High Fire Hazard Severity Zone; the steep topographic conditions, the fact that only means of evacuation from the site is via Skyline Drive heading east; and that the lack of adequate secondary access will exacerbate the situation and put persons at risk for loss, injury, or death, a Variance is not warranted and cannot be granted. This conclusion is discussed in more detail in the *Findings* section of this report.

CEQA Threshold of Significance

The Fire Code and the Subdivision Regulations standard regarding secondary access was developed and set forth as an Oakland CEQA threshold as a matter of life safety. The City of Oakland's CEQA Thresholds of Significance state: "The project would have a substantial impact if the project would result in fewer than two emergency access routes for streets exceeding 600 feet in length unless otherwise determined to be acceptable by the Fire Chief, or his/her designee, in specific instances due to climatic, geographic, topographic, or other conditions." Failure of the project to provide a Fire Code compliant secondary access would result in a Significant and Unavoidable Impact under the CEQA. Staff does not believe a Statement of Overriding Considerations (findings that the benefit of the project outweighs its significant unavoidable environmental impacts) can be supported here and the Fire Prevention Bureau also supports denial of these applications at this time.

CONCLUSION AND RECOMMENDATION

In numerous letters to the applicant over the course of several years, staff has detailed the significant issues associated with the project submittals including, but not limited to, the length of the primary road and the lack of a secondary access that meets the City's Subdivision Regulations and Fire Codes. The applicant has not addressed this fundamental flaw and continues to submit additional plans with the same issue for review and consideration.

Staff cannot support any of the proposals and believes that it is necessary to bring them forward with a recommendation for denial, based on our inability to meet the TTM and Variance findings. Before the applicant devotes additional resources toward this project, its incomplete status and the environmental review, staff and the Fire Department, recommends that the Planning Commission:

1. Take public testimony;
2. Uphold staff's environmental determination that CEQA does not apply to projects which a public agency disapproves (CEQA Guidelines Section 15270); and
3. Deny the TTM and related Variance, based on staff's inability to meet the TTM and Variance findings contained in this staff report.

Planning Commission Option

If the Planning Commission disagrees with staff's findings for denial at this time and believes that the project should be kept active until the completion of the EIR, the Commission cannot approve the project. In this case, staff recommends that the Planning Commission:

1. Instruct the applicant to submit all the requested documents, as outlined in City staff's letters dated June 5, 2008, February 10, 2009, and July 15, 2009, within thirty days of the date of this hearing (no later than September 7, 2010) in order to proceed with the environmental review;
2. Failure to submit all of the requested items by September 7, 2010 will result in the project being scheduled at the next available Planning Commission date for denial based upon the project being inactive; and
3. Instruct the applicant to retain a qualified environmental consultant and have the consultant submit a complete Scope of Work consistent with the City's current environmental guidelines and CEQA Thresholds of Significance within 45 days from the date of this hearing, and continue to make reasonable progress towards completion of the EIR. Failure to timely submit a complete scope of work and/or make reasonable progress towards completion of the EIR will result in the project being scheduled at the next available Planning Commission date for denial based upon the project being inactive.

Approved for forwarding to the
City Planning Commission:

ERIC ANGSTADT
Deputy Director
Community and Economic Development Agency

Prepared by:

Heather Klein
Planner III,
Planning and Zoning Division

Attachments:

A. Annotated Project Timeline

B. Relevant Communications between Staff and Project Applicant (2007-2010)
- B-1: City to Applicant, dated July 16, 2007, regarding proposed April 13, 2007 plan (See C-2)
- B-2: Applicant to City, dated October 11, 2007, regarding submittal of documents in response to July 16, 2007 letter
- B-3: City to Applicant, dated November 13, 2007, regarding incomplete application
- B-4: Applicant to City, dated May 7, 2008, response regarding incomplete application

B-5: City to Applicant, dated June 5, 2008, regarding documents needed for a complete application
B-6: City to Applicant, dated August 7, 2008, regarding Conditions of Approval from Fire Prevention Bureau if the Planning Commission approves the proposed project (C-2)
B-7: Applicant to City, e-mail dated January 30, 2009, regarding the selection of another environmental consultant for the EIR.
B-8: City to Applicant, dated February 10, 2009, regarding incomplete application and staff's options to process application
B-9: Applicant to City, dated March 26, 2009, disagreeing with the incomplete status of the project and staff's options to continue processing the project application.
B-10: City to Applicant, dated April 15, 2009, granting a 60 day extension to complete the application
B-11: Applicant to City, dated June 15, 2009, regarding submittal of June 15, 2009 plan (See C-3)
B-12: City to Applicant, dated July 15, 2009, regarding staff's concerns with the June 15, 2009 submittal (See C-3)
B-13: Applicant to City, dated July 29, 2009 regarding the changing the primary applicant to the owner and response to staff's July 15, 2009 letter
B-14: City to Applicant, dated August 18, 2009, reiterating staff's options to process application
B-15: Applicant to City, dated September 11, 2009, requesting an extension while the applicant pursues negotiations with East Bay Regional Park District to purchase the property
B-16: City to Applicant, dated September 22, 2009, granting a 90 day extension
B-17: Applicant to City, dated December 16, 2009, regarding status of negotiations with East Bay Regional Park District and request to remove the case planner
B-18: City to Applicant, dated January 14, 2010, denying the applicant's request for an extension to continue negotiations with East Bay Regional Park District.
B-19: Applicant to City, dated January 27, 2010, response to staff's January 14, 2010 letter
B-20: City to Applicant, dated February, 25, 2010, response to request to remove the case planner
B-21: City to Applicant, dated March 5, 2010, regarding the Agency Director's decision to bring the projects forward for denial.
B-22: Applicant to City, dated March 9, 2010, response to the City's March 5, 2010 letter
B-23: City to Applicant, dated March 22, 2010, regarding the Agency Director's decision to bring the projects forward for denial.
B-24: Applicant to City, dated March 26, 2010, regarding submittal of March 26, 2010 plan (See C-4) and City to Applicant, dated March 26, 2010 returning the plans to the applicant
B-25: Applicant to City, e-mail dated April 29, 2010, submitting project description for EIR for the proposed March 26, 2010 plan (See C-4)
B-26: City to Applicant, May 17, 2010, confirming the meeting on April 30, 2010 and reiterating the intention to bring the projects forward for denial.

C. Project Plans:
C-1: 22-lot subdivision, submitted March 3, 2004
C-2: 22-lot subdivision, submitted April 13, 2007
C-3: 8-lot subdivision, submitted June 15, 2009
C-4: 8-lot subdivisions, submitted March 26, 2010

D. Fire Department Memorandum recommending denial, dated June 29, 2010

Section 16.08.030 Tentative Map Findings:

The Advisory Agency shall deny approval of a tentative map if it makes any one of the following findings, each of which provides a separate and independent basis for denial of the project and when viewed collectively provides an overall basis for denial of the project. The findings for denial are not limited to the discussion below, but also include all discussions in the accompanying staff report and elsewhere in the administrative record.

A. That the proposed map is not consistent with applicable general and specific plans;
B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans;

While the Land Use and Transportation Element includes policies and objectives related to the construction of housing and construction in general on infill properties, the three proposals are fundamentally inconsistent with all of the General Plan policies related to public health and safety, emergency response, and evacuation. Specifically:

OSCAR Element policy OS-1.3 requires that staff maintain development regulations on large sites with subdivision potential and consider environmental factors such as earthquake and fire hazards in the determination of the allowable density. Furthermore, OSCAR Policy OS-1.3.5 states that staff shall use the building code and environmental review requirements to ensure that development of hillside parcels will provide adequate access. Although all three proposals show different densities, they all rely on a primary road over 300' and 600' respectively. None of the proposals meet the Fire Code's singular mitigation which is to provide a secondary access road with a maximum length. The intent of the secondary access road regulation is to protect public health and safety. The lack of adequate secondary access in each proposal hinders emergency response of fire fighters and evacuation of the residents. Therefore, the projects are fundamentally inconsistent with these policies.

As a further separate and independent basis for denial, OSCAR Policy CO-10.2 requires individual property owners and developers in high hazard areas to reduce fire hazards on their properties through a range of preventive measures. The policy also states that landscaping and site planning in these high hazard areas should minimize future wildfire hazards. In this case, site planning includes adequate secondary access that meets the Fire Code. Since all of the proposals lack this feature, the proposals are inconsistent with this policy.

As a further separate and independent basis for denial, Policy FI-2.1 of the Safety Element states that staff shall adopt and amend the Building and Fire Codes so that optimal fire protection standards are used in construction. Furthermore, Policy FI-2.3 requires that staff continue to review development proposals to ensure that they incorporate required and appropriate fire-mitigation measures, including adequate provisions for occupant evacuation and access by fire-fighting personnel and equipment. The amended Fire Code states that the only mitigation for a primary road over 600' is a secondary access road also under 600' in length. Since none of the proposals include this feature, each is fundamentally inconsistent with these policies.

In summary, the proposed projects' lack of adequate secondary access is fundamentally inconsistent with General Plan policies related to public health and safety, emergency response, and evacuation. Unlike

other objectives, policies, or actions related to livability, comfort, convenience, or design, the policies listed above are for the protection of life safety. Given Oakland's history of urban fires and the likelihood of additional fires in the future as these are a natural part of the ecosystem, it should be paramount that projects in wildfire areas be consistent with the policies related to life safety. Since the proposals are inconsistent with these policies, the Planning Commission should deny the proposals.

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

The project site includes natural and existing features that make development difficult. First, the proposed homes would be located on a steep knoll adjacent to Leona Canyon Regional Open Space. The proposed primary road accessing the knoll would be located in a "saddle" type land formation oriented east/west with a creek running roughly north/south. This topography necessitates a bridge crossing the creek to access the knoll. All utilities including water that would be available for fighting a wildland fire would need to run under the bridge. The topography in and of itself makes development of the type proposed difficult and thus, the findings for approval cannot be met.

Secondly, as a further separate and independent basis for denial, the portion of Skyline Blvd. adjacent to the project site is a split-level road with a median in the middle. A vehicle would have to continue to Parkridge Road (approximately 450' east) before turning around to head west. This existing condition compounds the already serious fire evacuation issues and makes the site unsuitable for the type and size of development proposed and thus, the findings for approval cannot be met.

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

All proposals submitted by the applicant are unsuitable for the site because of fundamental deficiencies outlined in staff's June 5, 2008 letter. The deficiencies include adequate secondary access. Staff's letter of July 15, 2009 acknowledged receipt of new plans with a reduced density. The letter also states that the alternatives were still too dense, unable to meet the Fire Code and length of roadway standards, and therefore, staff was not inclined to support either proposal. Staff recommended that the applicant continue to reduce the density and meet the required codes. This was reiterated to the applicant on August 18, 2009, March 5, 2010, March 22, 2010, and May 17, 2010, as well as, with several meetings with the applicant. Therefore, the 22-lot and the two 8-lot proposals are not suitable densities for the site and thus the findings for approval cannot be met.

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;

All three proposals show a primary road that would need to cross a creek covered under Oakland's Creek Protection Ordinance. The two proposals showing a secondary access road across the former Covington parcel would have to bridge the same creek but in a different location. A portion of the creek near Skyline Boulevard is considered a "waters of the U.S." Any alteration to this portion of the creek would require a permit from the Army of Corp Engineers. The project is also adjacent to the Leona Canyon Open Space which is known to contain special status wildlife species including the Alameda Whipsnake.

An EIR is required for all three proposals. Staff's decision to require an EIR was based on the potential impacts to the creek, fish, and other wildlife habitat as a result of the grading and construction from the proposed projects.

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

Although the amended Fire Code allows the Fire Chief to, at his/her sole discretion, revise requirements set forth in the Oakland Fire Code in specific instances due to climatic, geographic or topographic conditions, the intent of this language was not to allow a more lenient interpretation of the code in areas where, as here: 1) urban wildfires are common or, 2) where the topographic conditions would make it more difficult to fight a fire, in order to promote development. In fact, the language was meant to address the opposite situation; a parcel in the flatter areas of Oakland, outside the wildfire district where the topographic, geologic, and climate (such as wind) conditions would make access to and evacuation from a fire easier.

An adequate secondary access road is required per the Fire Code to mitigate the effects of a long dead-end street. Only a secondary access road that is less than 600' from the last parcel to the main road is acceptable mitigation because it will provide optimal evacuation protection to persons. For properties located within a Wildfire Assessment District and area identified as a Very High Fire Hazard Severity Zone this requirement is especially important. Since all three proposals lack adequate emergency access, the construction of any of the proposals is likely to result in serious life-safety problems and expose persons to risk of loss, injury, or death.

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;

The 22-lot proposal included a secondary access over the York Trail which was deeded to the City of Oakland. However, a survey prepared by the applicant in 2007, determined that this trail could not be used for secondary vehicle access due to the steep slopes. The 8-lot proposals eliminated use of this trail for secondary access and there are no other public easements on the project site for use or access by the public.

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. Examples of passive or natural heating and cooling opportunities include subdivision design which permits orientation of a structure in an east-west alignment for southern exposure and subdivision design which permits orientation of a structure to take advantage of shade and prevailing breezes.

The applicant submitted PUD plans associated with the 22-lot proposal that showed building pad locations. These pads were oriented mostly in the north/south direction due to the road placement. The 8-lot plans do not show the potential building plans but would likely have more opportunities to orient the

buildings to take advantage of passive heating and cooling due to the larger lot sizes. Therefore, the two, 8-lot proposals could meet this finding.

In summary, the three proposed projects do not meet five of the eight findings (A, B, C, D, and F). It is likely that the proposals would also not meet finding E. The projects must meet every finding in order for approval of the TTM to be granted. Staff's recommendation for denial is based on the proposed projects' inability to meet the findings. However, staff does not need to meet every finding. Failure to meet even one of the findings provides a sufficient basis to deny all the applications per Subdivision Regulation Section 16.08.030 and Subdivision Map Act Section 66474.

Section 16.04.060 Exceptions to Requirements (Subdivision Regulations Variance Finding)

The Advisory Agency may in the exercise of reasonable judgment grant such variances as it determines warranted where the size of the subdivision or topographic or other physical conditions of the property make it impractical to conform to all of the provisions prescribed by this title, provided, however, that no variances may be made to any requirements imposed by the Subdivision Map Act; and provided further, however, that no variances may be made to any requirements imposed by Section 16.20.010.

Section 16.16.150 of the Subdivision Regulations limits the maximum roadway length to 300' for streets that terminate in a cul-de-sac. However, the Subdivision Regulations permit the Advisory Agency to consider a Variance in certain situations, if warranted. However, the Fire Code only permits a primary road to exceed 600' length (300' more than the Subdivision Regulations) if the proposal includes a secondary access road that is 600' in length from the last parcel to the through street. No other alternative is acceptable as mitigation to exceed the maximum road length. A Variance is required for all three proposals because in each case the primary road exceeds the maximum road length requirement for a dead end street by approximately an additional 800 to 1100 feet.

Staff does not believe that a Variance from the length of road is reasonable or warranted for multiple reasons, each of which provides a separate and independent basis to deny the variance.

Subdivision Regulations Purpose

Oakland Municipal Code Section 16.04.10 of the Subdivision Regulations states:

> "It is the purpose of this Title to regulate and control the division of land within the city and to supplement and implement the provisions of the Subdivision Map Act concerning the design, improvement and survey data of subdivisions, the form and content of all maps provided for by the Subdivision Map Act and the procedure to be followed in securing the official approval of the City Engineer, the Director of City Planning, the City Planning Commission and City Council regarding such maps. "
>
> "To accomplish this purpose, the regulations outlined in this title are determined to be necessary for the **preservation of the public health, safety and general welfare**; to ensure orderly growth

> and development; to ensure the retention of existing neighborhood amenities; to promote **conservation, protection, and proper use of land; and to ensure provision for adequate circulation**, utilities, and services."

Obviously, the entire purpose of the Fire Code and specifically, the maximum road length and secondary access requirement is to mitigate threats to public health and safety and to protect the general welfare. In certain situations there are acceptable mitigations from the code which can still protect health and safety. In this case Table D 103.5 of the Fire Code notes that roadways exceeding 300' but less than 600' can be mitigate potential life-safety impacts with a 20' wide road, a turnaround of a certain size and shape, and additional hydrant. None of the three proposals come even close to meeting the requirement or the only acceptable mitigation. Therefore, the proposals are inconsistent, not only with the Fire Code, but with the actual purpose of the Subdivision Regulations in regards to the preservation of the public health, safety and general welfare as well as the provision for adequate circulation. A Variance is not warranted and should not be granted.

Subdivision Regulations and Consistency with the General Plan

The three proposals are also inconsistent with Subdivision Sections 16.04.10 and 16.04.20, which require that the proposals be consistent with the General Plan.

> Section 16.04.10 states: "It is also the purpose of the Subdivision Regulations to ensure that the development of subdivisions be consistent with the goals and policies of the Oakland comprehensive plan."
>
> Section 16.04.20 states: "No land shall be subdivided or developed for any purpose or use or in any manner which is not in conformity with the general or any specific plan or specifically authorized by the zoning regulations."

As shown above in the *Tentative Tract Map Findings*, the three proposals are inconsistent with all General Plan policies related to life safety, evacuation, and emergency response. These policies and actions include Policy N11.3 Requiring Strict Compliance with Variance Criteria from the LUTE; Policy OS-1.3 Development of Hillside Sites, Action OS-1.3.5 Conservation of Unstable Parcels; and Policy CO-10.2 Fire Prevention Measures from the OSCAR Element; and finally Policy FI-2.1 and Policy FI-2.3 of the Safety Element.

Therefore, as a separate and independent basis, the Variance is not warranted and should not be granted because it is inconsistent with the purpose and application of the Subdivision Regulations as these regulations relate to Oakland's General Plan Element policies.

Furthermore, the protection and promotion of public health, safety, and general welfare is a consistent theme throughout the City's regulations including Title 8 Health and Safety; Title 9 Public Peace, Morals, and Welfare; Title 12 Streets, Sidewalks, and Public Places; Title 13 regarding infrastructure; Title 15 Building Code and the Fire Code, and Title 17 Planning Code. If the Advisory Agency should grant the Variance, it would set a precedent inconsistent with the basic purpose of all the City's regulations, protecting public health and safety.

Findings

Impractical to Conform to Regulations based on size and topography

Given the size of the parcel (13.6 acres), staff does not find that a Variance is reasonable or warranted, especially now that the applicant also has control of the adjacent parcel (±4.31 acres) located at 13175 Skyline Boulevard. Staff believes the project can be redesigned so that the requirements for a secondary access are met and the need for a variance eliminated, although this would result in a further reduction of the proposed number of housing units. Staff has expressed concerns with density to the project applicant in several recent letters.

Moreover, the layout of the lots and roads in the three proposals do not represent an effective design solution to improve livability, operational efficiency, appearance, or the environment that would outweigh the serious public health and safety issues resulting from a dead end street and inadequate secondary access. Therefore, a Variance is not reasonable or warranted.

Additionally, although the Subdivision Regulations allow a Variance to be considered the intent of this language was not to allow a more lenient interpretation of the code in areas where, as here: 1) urban wildfires are common or, 2) where the topographic conditions would make it more difficult to fight a fire, in order to promote development. Fires are a natural part of the East Bay environment and major fires have occurred every 10-15 years in the East Bay. The project site is located in the Wildfire Assessment District and an area identified as a Very High Fire Hazard Severity Zone where the only means of evacuation from the site is via Skyline Drive heading east. The lack of adequate secondary access will exacerbate the situation and put persons at risk for loss, injury, or death and a Variance is neither reasonable nor warranted.

No Variances to Subdivision Map Act

The Subdivision Regulations Variance findings do not permit Variances to the Subdivision Map Act requirements. The *Tentative Tract Map Findings* above are from the Subdivision Map Act. Staff has not been able to make the required findings per the Map Act, and therefore the Variance cannot be granted.

Findings

Annotated Project Timeline

May 7, 1999-Project applicant files a pre-application for 22 lots, York Trail EVA, and another EVA/driveway to additional lots.

December 4, 1999- Project applicant files VTTM7108 for 22 lots, York Trail EVA, and another EVA/driveway to additional lots.

August 17, 1999- Assistant Fire Chief writes memo to Planning and Zoning Division stating that the proposed York Trail is acceptable for second means of ingress and egress.

June 6, 2000- Memo from Environmental Services Division to Planning and Zoning Division saying that the project would require a Category IV creek permit and would not meet the Creek Ordinance and that permits are required from State Agencies.

October 31, 2001- City staff received a revised application for a 22 lot subdivision VTTM7108.

November 27, 2000- Adjacent property owner (13175 Skyline Boulevard) grants easement to the project applicant for access to residences and allow for access and maintenance of access road. Date of recordation.

January 22, 2002 – Memo from Building Services Division to Planning and Zoning Division not recommend approval of VTTM7108.

February 15, 2002 – City staff sends a letter to the project applicant deeming the project incomplete

December 19, 2002 – Staff writes letter in response to attorney's letter outlining issues. The plan submitted above isn't deemed appropriate to make the project complete.

March 28, 2003 – Project applicant submits creek application, restoration plan and creek determination fee.

May 13, 2003 – Community meeting held

July, 8, 2003- Project site is determined a creek side property by the Environmental Services Division.

October 14, 2003- Submitted Vesting Map for 22 lots with the York Trail EVA, VTTM7491.

October 17, 2003- TTM7108 is voided.

November 14, 2003- City staff sends a letter to the project applicant deeming the project incomplete

December 3, 2003 - Park and Recreation Advisory Committee (PRAC) hearing; PRAC supports restoration and creation of a trail for secondary access and pedestrians on the York Trail with conditions on design, alignment, and security.

December 24, 2003- Project applicant submits of additional project information.

Attachment A

January 20, 2004- City staff sends a letter to the project applicant deeming the project incomplete

January 30, 2004- City staff receives an appeal of the City's completeness letter. Appeal withdrawn

March 2, 2004- City staff sends the project applicant a letter regarding completeness and two emergency access routes.

March 3, 2004- Project applicant submits a 22-lot proposal with two emergency access routes. **(See Attachment C: C-1)**

March 3, 2004- City staff deems the 22-lot proposal complete. **(See Attachment C: C-1)**

March 11, 2004- Easement recorded granting to the project applicant across adjacent parcel (13175 Skyline Boulevard) for emergency access only. Easement to be recorded when road layout is finalized.

March 19, 2004- City staff receives an appeal of the City's completeness letter. Appeal is withdrawn.

March 23, 2004- Memo from Building Services Division to Planning and Zoning Division not recommend approval.

March 29, 2004 – City staff request peer reviewers of the hydrology, geology, and traffic environmental reports

April 2004 – City staff met at the Development Technical Review Coordination Committee to discuss the March 3, 2004 plans **(See Attachment C: C-1)**

May 10, 2004 – City staff publish the Notice of Preparation of an EIR.

May 19, 2004 – Scoping Session held before Planning Commission.

July 12, 2005 – City staff met at the Development Technical Review Coordination Committee to discuss the March 3, 2004 plans **(See Attachment C: C-1)**

November 2005- Project applicant submits the Administrative Draft EIR

March 2006- Project applicant submits revised draft tree survey, creek protection plan, design guidelines

May through June 2006- Project applicant submits PUD documents

June 2006 – Project applicant submits revised plans, Administrative Draft EIR and Technical Appendices

July- August 2006 – City staff give the environmental consultant comments on Administrative Draft EIR

October 5, 2006- City staff met with environmental consultant and applicant's attorney on issues related to the creek

October 11, 2006- E-mail to City staff from environmental consultant regarding the topography and tree locations and need for new survey

October 11, 2006- E-mail from City staff to project applicant, and applicant's attorney regarding accuracy of the tree survey

November 13, 2006-e-mail from City staff to project applicant requesting further information on the plans and other items related to the PUD

December 7, 2006 – City staff grant right of entry to project applicant for survey of York Trail

February 2007 – Applicant's new survey completed

April 13, 2007-City staff receives set of updated plans **(See Attachment C: C-2)**

April 23, 2007. City staff met at the Development Technical Review Coordination Committee to discuss the April 13, 2007 plans

May 1, 2007- City staff sent an e-mail to the project applicant regarding the secondary access issues

May 7, 2007 - City staff met at the Development Technical Review Coordination Committee to discuss the April 13, 2007 plans

May 24, 2007- E-mail from Joel Weingarten changing name of project and confirming that he is now the project applicant

June 19, 2007- Joel Weingarten sends City staff a letter changing name of project and confirming that he is now the project applicant

July 2, 2007- E-mail from the City Environmental Services Division stating that in relation to the creek the new survey looks accurate

July 10, 2007- Owner purchased adjacent property located at 13175 Skyline Boulevard

July 16, 2007 – City staff sent letter to Joel Weingarten stating our position and concerns with the proposed April 13, 2007 plans **(See Attachment C: C-2)** plan. **(See Attachment B: B-1)**

July 27, 2007 –City staff met with applicant to discuss City concerns

October 11, 2007 – Applicant resubmitted a drawing set including PUD, TTM, Tree Survey in response to July 16, 2007 letter. Technical studies (EIR), Creek studies, design guidelines, etc were not included **(See Attachment B: B-2) 0**

November 13, 2007 – City staff sent letter to the project applicant stating that the application was incomplete **(See Attachment B: B-3)**

May 7, 2008 – Project applicant sends letter to City staff in response to the November 13, 2007 letter regarding incomplete application **(See Attachment B: B-4)**

Attachment A

May 29, 2008 City staff met with department heads about secondary access road issues

June 5, 2008-City staff sent a letter to the project applicant in response to the May 7, 2008 letter regarding documents needed for complete application **(See Attachment B: B-5)**

August 7, 2008- Memo from Fire Services to the Planning and Zoning Division staff regarding Conditions of Approval if the Planning Commission approves the proposed project **(See Attachment C: C-2) (See Attachment B: B-6)**

January 30, 2009 - E-mail from the Applicant to the City staff regarding the selection of another environmental consultant for the EIR. **(See Attachment B: B-7)**

February 10, 2009 – City staff sends a letter to the project applicant regarding incomplete application and staff's options to process application **(See Attachment B: B-8)**

March 26, 2009 – Project applicant sends a letter to City staff disagreeing with the incomplete status of the project and staff's options to continue processing the project application. **(See Attachment B: B-9)**

April 15, 2009 – City staff sends a letter to the project applicant granting a 60 day extension to complete the application **(See Attachment B: B-10)**

June 15, 2009 – Project applicant submits a revised set up project plans **(See Attachment C: C-3)**

July 15, 2009 - City staff sends a letter to the project applicant regarding staff's concerns with the June 15, 2009 **(See Attachment C: C-3)** submittal **(See Attachment B: B-11)**

July 29, 2009 – Project applicant sends a letter to City staff regarding the change in primary applicant to the owner and in response to staff's July 15, 2009 letter **(See Attachment B: B-12)**

August 18, 2009 - City staff sends a letter to the project applicant reiterating staff's options to process application **(See Attachment B: B-13)**

September 11, 2009 – Project applicant send to City staff a letter requesting an extension while the applicant pursues negotiations with East Bay Regional Park District to purchase the property **(See Attachment B: B-14)**

September 22, 2009 – City staff sends a letter to project applicant granting a 90 day extension to complete the application **(See Attachment B: B-15)**

December 16, 2009 – Project applicant sends a letter to City staff regarding status of negotiations with East Bay Regional Park District and request to remove the case planner **(See Attachment B: B-16)**

January 14, 2010 – City staff sends a letter to the project applicant denying the request for an extension to continue negotiations with East Bay Regional Park District. **(See Attachment B: B-17)**

January 27, 2010 – Project applicant sends a letter to City staff in response to staff's January 14, 2010 letter **(See Attachment B: B-18)**

February, 25, 2010 – Agency Director sends a letter to the project applicant in response to request for remove the case planner **(See Attachment B: B-19)**

March 5, 2010 - Agency Director sends a letter to the project applicant noting the decision to bring the projects forward for denial **(See Attachment B: B-20)**

March 9, 2010- Project applicant sends a letter to City staff in response to the City's March 5, 2010 letter **(See Attachment B: B-21)**

March 22, 2010 - Agency Director sends a letter to the project applicant noting the decision to bring the projects forward for denial. **(See Attachment B: B-22)**

March 26, 2010- Project applicant submits revised project **(See Attachment C: C-4)** and City staff returns the plans to the applicant **(See Attachment B: B-23)**

April 29, 2010 –Project applicant submits a project description for EIR for the proposed March 26, 2010 plan **(See Attachment C: C-4) (See Attachment B: B-24)**

April 30, 2010 – City staff met with the project applicant and his attorney re: secondary access issues

May 17, 2010 – City staff send a letter to the project applicant confirming the meeting on April 30, 2010 and reiterating the intention to bring the projects forward for denial. **(See Attachment B: B-25)**

CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

July 16, 2007

Joel Weingarten
Europa Group
3613 Pontina Court
Pleasanton, CA 94566

RE: Case File Number: PUD06-280, TTM7491, T06-00078, CP06-117, ER99-0025
Skyline Boulevard; APN: 037A-3141-001-15

Dear Mr. Weingarten,

Planning staff received your request for meeting on July 27, 2007 to resubmit certain drawings and documents that are crucial to the continuation of processing the permit entitlements for this project. Staff welcomes this meeting as an opportunity to ensure that all documents and drawings are consistent and an accurate representation of the current project situation.

The purpose of this letter is to make you, the applicant, aware of staff's current position and to outline our concerns regarding the status of the project at this critical juncture.

Revised Survey and Site Plan

On March 29, 2007, planning staff attended a meeting at the office of IPA Planning. The purpose of the meeting was to discuss the results of the revised survey which had important implications for the proposed project. At that meeting the engineer, Jeffrey Moore, explained that the York Trail emergency vehicle access (EVA) wasn't feasible for emergency evacuation and fire response due to the steep slopes. He also stated that the cost of constructing a bridge that would be necessary for the other EVA access made that route infeasible.

City staff reviewed two EVA proposals at two consecutive Development Technical Review Advisory Committee (DTRAC) meetings. The first proposal was to create two parallel roads: one for main access and one for emergency vehicle access. The two roads would separately intersect with Skyline Boulevard and, further into the project, connect together. At the first DTRAC meeting on April 23, 2007, several City department representatives felt that one wider road would accomplish the same purpose as two parallel roads. The DTRAC representatives asked that the applicant return to DTRAC with additional information on why the prior two EVA proposals were infeasible and for review of a wider road alternative. At the second DTRAC meeting on May 7, 2007, staff reviewed a second proposal which was a wider street and a split road. The meeting concluded with the City's Public Works Agency's Design and Construction; ROW Management Divisions; and Fire Services accepting either alternative. However, Fire Services was generally amenable to a wider road only with strict mitigations. The meeting minutes from the second DTRAC meeting indicate that the project engineer and applicant were to meet with Fire Services and Planning and Zoning for additional discussion of the secondary water supply. To my knowledge, this meeting has not been scheduled.

Since the second DTRAC meeting and after further review of the proposals, the Engineering Services and Planning and Zoning Division's findings have not changed regarding the need for a second access which is required for new public streets. These findings support the City's earlier letters to the applicant on April 8, 1998, November 1, 2000, and

February 15, 2002 among others that state no subdivision be permitted on a public or private street that is more than 600 feet in length without a second ingress and egress facility. Furthermore, the Oakland Municipal Code Section 16.16.150 states that dead end streets cannot exceed 300' in length. Engineering Services and the Planning and Zoning Division are concerned that several new Variance applications would be required for a road on this sensitive, steep hillside site based on a similar proposal. Therefore, it is Planning Staff's opinion that no staff level agreements have been reached on the road design or the EVA location between all of the different DTRAC representatives.

Creek Protection Plan
One of the main reasons for the new survey was to accurately locate the unnamed creeks in relation to the York Trail and the proposed main access road. The previous plans show the creek culverted under Skyline Drive and then daylighting underneath the main access road requiring a 340-ft long bridge and the realignment of the creek bed to the north of the road. The new survey shows that the unnamed creek is partially located on the neighboring property. Since the creek would not be located underneath the main access road, it is likely that the bridge, grading, and pylon locations would change. Staff assumes that no construction is proposed on the York Trail since this EVA alternative was considered infeasible. However, staff is still uncertain about whether the project still proposes filling or construction near the identified creeks. This would require an update of the creek protection permit and drawings.

Tree Permit
The tree survey has been considered incomplete and an updated survey has not been re-submitted.

Planned Unit Development Permit
Our preliminary review also noted that the Planned Unit Development (PUD) drawings do not accurately reflect the revised grading; do not meet the current zoning regulations; and do not present alternative regulations if the bonuses described in Section 17.122.100G are incorporated into the project. The Planned Unit Development drawings also show several lots that include a secondary unit. Although these units are not included in the density calculation, they could result in environmental impacts and should be noted. Furthermore, several PUD drawings show the same floor-plans and elevations for different lots despite the topographic and other specific site constraints. The PUD drawings need to be updated to reflect the new survey and need to be site specific. If the bonuses are to be included in the project and certain regulations waived, then the applicant must submit alternative regulations and the drawings must adhere to those new regulations (Design Guidelines). Furthermore, if bonuses are included than the talents of licensed design professionals must be utilized.

Reports, Studies, or other Technical Analysis
Other information and analysis in the previous submittals be must updated and revised. This conclusion is based on the new survey results, as well as outdated and/or inaccurate information at this point. This information includes but is not limited to reports, analysis, drawings, additional submittal forms, and determinations.

Environmental Impact Report
The Notice of Preparation (NOP) to prepare an Environmental Impact Report (EIR) was published on May 10, 2004. To date City staff has reviewed two administrative drafts of the EIR. We are no closer to having all of the accurate and comprehensive information required for the consultant to complete the EIR since many of the technical reports for the EIR are outdated or reference inaccurate information. All of these reports need to be revised to reflect the current project.

As you can see, planning staff now finds itself at a critical point in the review of this proposal. This finding is particularly apparent when the new survey results are compared to the proposal now on file with the Planning and Zoning Division. We look forward to an accurate and complete re-submittal of all of these documents on July 27, 2007. Please contact me at (510)238-3659 or at hklein@oaklandnet.com to schedule this meeting at your earliest convenience or if you have any questions regarding this letter.

Sincerely,

Heather Klein
Planner III
Major Projects Division

cc: Ineda Adesanya
Collin Mbanugo, Owner
Claudia Cappio Director of Development
Farimah Faiz, City Attorney
Gary Patton, Deputy Director of Planning and Zoning; Major Projects Manager
Chief James Edwards, Fire Marshall
Ray Derania, Interim Building Services Supervisor

europa*group

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October 11, 2007

RECEIVED
OCT 11 2007
City of Oakland
Planning & Zoning Division

Ms. Heather Klein, Sr. Planner
City of Oakland C.E.D.A.
Planning and Zoning Services Division
250 Frank Ogawa Plaza – Suite 3315
Oakland, CA 94612

RE: Skyline Terrace Estates.
City Case File Numbers: PUD06-280, TTM7491, T06-00078, CP06-117, and ER99-0025.
APN: 037A-3141-001-15.

HAND DELIVERED BY SENDER

Dear Ms. Klein,

This letter shall serve as the official cover letter accompanying the submittal of additional information for this project. Accompanying this letter are the following documents:

1) full-size 30x42 drawings. (4 copies) 62 sheets. See attached Drawing Index.
2) reduced 11x17 drawings of above. (8 copies)
3) Arborist Report (5 copies). (note: arborist drawings are also part of no. 1 and no. 2)
4) Geotechnical Review letter (5 copies)
5) P.U.D. bonus statistics (3 copies)
6) This Cover letter responding to your 7/16/2007 letter. (3 copies)

Also, we wish to respond here to your letter to Joel Weingarten dated July 16, 2007, as follows:

Revised Survey and Site Plan
First, we wish to confirm that a site-specific topographic survey was conducted for this site by Greenwood+Moore Engineers and Surveyors, who is our engineer-of-record for the project. All building, retaining wall, and bridge design is based on this survey.

As you can see from the attached, we have abandoned the use of the York Trail as the Emergency Vehicle Access ("EVA") and second access. We propose split parallel roadways with the EVA toward the north and the primary roadway to the south. Separate bridge structures would be provided over the creek crossing. From multiple perspectives we believe this arrangement to be superior to one double wide roadway. Reasons include: two separated roads better respect the intent of a separate EVA; two narrower roads better conform topographically to the side of a hill than one double wide road thus reducing earthwork; and, related to the previous reason, the split road scheme will be visually less impactful.

B-2

3613 Pontina Court ▪ Pleasanton ▪ CA ▪ 94566 ▪ tel 925-249-9155 ▪ fax 925-249-9055

As you know we attended the 5/7/07 DTRAC meeting and presented the alternatives to Staff. As you note, at that meeting the City's Public Works Agency's Design and Construction; ROW Management Divisions; and Fire Services accepted the split road design. We note there were no objections to the split road design voiced from any Staff member present at the meeting as to its configuration, nor were there any objections to the EVA sufficing as the required second access.

You point out in your 7/16/07 letter that Engineering Services and Planning and Zoning Division's findings require a second access. It is our understanding – and precedent elsewhere in the City supports this – that our proposed EVA will satisfy this requirement. You will see that in the proposed design the roadway length after the merge point of the split roads is less than 600 ft., thus satisfying the 600 ft. rule.

You mention in your letter that a variance application may be required for a road on this hillside. How and when will that interpretation be made? What is triggering the need for one? Is it that we have more than a 300 ft. long dead end road? If so, our expectation would be for Staff support for this variance, in view of no objections voiced at the DTRAC meeting. We believe the use of the PUD allows any changes to be made to the City's zoning or subdivision ordinances and thus a variance is not required. No.

Creek Protection Plan

As you can see in the attached, the two parallel bridges pass over the creek in approximately the following locations (station points):

- EVA eastern abutment: station 2+75.
- EVA western abutment: station 3+75.
- Main Road eastern abutment: station 2+75.
- Main Road western abutment: station 3+88.

This means that the EVA bridge is about 100 ft. long, and the main road bridge is about 113 ft. long. Each bridge therefore gives the creek channel a fairly wide berth or clearance. No earthwork would take place between abutments.

We are in the process of updating the creek protection application.

Tree Permit

Attached is a complete arborist report and tree survey by Joseph McNeil, consulting arborist, that encompassed 319 trees. 185 trees are numbered and considered in the potential impact zone of development. Of these 172 are protected by City ordinance; 13 are not. Of the 185 numbered trees, 104 will need to be removed. Two more will be heavily impacted and may have to be removed. Please see the report for further details.

Planned Unit Development Permit

Attached are very detailed conceptual plans for all 22 proposed homes. These plans reflect an

accurate topo survey and are consistent with the other improvement plans included herewith.

No secondary units are proposed.

You will also see that for lots 19-22 we have varied the house designs and adapted each one uniquely to the site conditions.

A regards bonuses and Design Guidelines, please see the attached matrix which summarizes the variations from the standard zoning regulations. We therefore request bonuses based on these statistics, which match exactly the architectural drawings submitted herewith from Carona Engineers. Carona's principal licensed design professional is Debo Sodipo, a registered engineer.

Reports, Studies, or other Technical Analysis
The following reports have been updated:

- Geotechnical review by Henry Justiniano & Associates Geotechnical Consultants
- Traffic report by TJKM Transportation Consultants
- Arborist report by Joseph McNeil Consulting Arborist
- Noise study by Wilson, Ihrig & Associates

Environmental Impact Report
Once we have had a chance to review this additional project information with you, we can complete the administrative DEIR for your review. The administrative DEIR is near complete and incorporates the above-mentioned project changes, most notably the inclusion of the noise studies, the updated traffic study, the updated tree survey, and the abandonment of the York Trail as the project EVA and second access in favor of the attached access proposal.

* * * * * * * * * * * * * * * *

We look forward to your review and consideration of this submittal, and await your comments and questions.

Very truly yours,
europa group
Project Manager for Dr. Collin Mbanugo and Skyline Terrace Estates

---

By Joel Weingarten

cc:
Dr. Collin Mbanugo, owner
Ms. Patricia Curtin, Esq. (MorganMillerBlair)
Ms. Ineda Adesanya (IPA Planning Associates)
Dr. Booker Holton (TOVA Applied Science and Technology)

Skyline Terrace Estates – Drawing Index

serial no.	Drawing title	Drawing no. if any	Drawing date	Author/ Consultant
1	Title Sheet; Regional Location Map	T-1	9/28/07	Pedersen Landscape Architects
2	Neighborhood Context Plan	L-1	ditto	ditto
3	Site Plan	L-2	ditto	ditto
4	Visual Simulation	A-1	9/28/07	Markus Lui & Associates
5	Site Development Plan 1 of 3	C1	ditto	Greenwood+Moore Civil Engineers
6	Site Development Plan 2 of 3	C2	ditto	ditto
7	Site Development Plan 3 of 3	C3	ditto	ditto
8	Vesting Tentative Tract Map	C5	ditto	ditto
9	Utilities Plan	C4	ditto	ditto
10	Landscape Plan	L-3	ditto	Pedersen Landscape Architects
11	Trees at Skyline Terrace Access Road		9/12/07	Joseph McNeil Consulting Arborist
12	Trees at Skyline Terrace		ditto	ditto
13	Road Alignment Plan	C6	9/28/07	Greenwood+Moore Civil Engineers
14	Road Profiles (longitudinal sections)	C7	ditto	ditto
15	Roadway Cross-Sections 1 of 3	C8	ditto	ditto
16	Roadway Cross-Sections 2 of 3	C9	ditto	ditto
17	Roadway Cross-Sections 3 of 3	C10	ditto	ditto
18	Bridge Details	20	ditto	Carona Engineers
19	Lot 1 house design	21	ditto	ditto
20	Lot 1 site plan	22	ditto	ditto
21	Lot 2 house design	23	ditto	ditto
22	Lot 2 site plan	24	ditto	ditto
23	Lot 3 house design	25	ditto	ditto
24	Lot 3 site plan	26	ditto	ditto
25	Lot 4 house design	27	ditto	ditto
26	Lot 4 site plan	28	ditto	ditto
27	Lot 5 house design	29	ditto	ditto
28	Lot 5 site plan	30	ditto	ditto
29	Lot 6 house design	31	ditto	ditto
30	Lot 6 site plan	32	ditto	ditto
31	Lot 7 house design	33	ditto	ditto
32	Lot 7 site plan	34	ditto	ditto
33	Lot 8 house design	35	ditto	ditto
34	Lot 8 site plan	36	ditto	ditto
35	Lot 9 house design	37	ditto	ditto
36	Lot 9 site plan	38	ditto	ditto
37	Lot 10 house design	39	ditto	ditto
38	Lot 10 site plan	40	ditto	ditto
39	Lot 11 house design	41	ditto	ditto
40	Lot 11 site plan	42	ditto	ditto
41	Lot 12 house design	43	ditto	ditto
42	Lot 12 site plan	44	ditto	ditto
43	Lot 13 house design	45	ditto	ditto
44	Lot 13 site plan	46	ditto	ditto
45	Lot 14 house design	47	ditto	ditto
46	Lot 14 site plan	48	ditto	ditto
47	Lot 15 house design	49	ditto	ditto
48	Lot 15 site plan	50	ditto	ditto

49	Lot 16 house design	51	ditto	ditto
50	Lot 16 site plan	52	ditto	ditto
51	Lot 17 house design	53	ditto	ditto
52	Lot 17 site plan	54	ditto	ditto
53	Lot 18 house design	55	ditto	ditto
54	Lot 18 site plan	56	ditto	ditto
55	Lot 19 house design	57	ditto	ditto
56	Lot 19 site plan	58	ditto	ditto
57	Lot 20 house design	59	ditto	ditto
58	Lot 20 site plan	60	ditto	ditto
59	Lot 21 house design	61	ditto	ditto
60	Lot 21 site plan	62	ditto	ditto
61	Lot 22 house design	63	ditto	ditto
62	Lot 22 site plan	64	ditto	ditto
	end			

CITY OF OAKLAND

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Community and Economic Development Agency
Economic Development Division

FAX (510) 238-2226
TDD (510) 839-6451

November 13, 2007

Joel Weingarten
Europa Group
3613 Pontina Court
Pleasanton, CA 94566

RE: Submittal of Additional Information for Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025.

Dear Mr. Weingarten:

Staff reviewed the additional documentation that you submitted on October 11, 2007 for the Skyline Terrace project (Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025). Staff finds that documentation you submitted **incomplete.**

Site Survey and Site Plan

As mentioned in my previous letter dated July 16, 2007, it is Planning staff's opinion that no staff level agreements have been reached on the parallel road design or the EVA location between all of the different DTRAC representatives, as well as the supervisors of those departments.

Staff believes that there are two separate issues concerning the parallel road/EVA design.

Staff considers the first issue the intent of Municipal Code Section 16.16.150. This section states that "Blocks shall not exceed one thousand (1,000) feet in length and dead end streets three hundred (300) feet." Staff interprets the intent of this section to mean that a dead-end streets over 300' are not acceptable and a secondary means of access is required.

The proposed public street (Skyline Terrace) is not meeting the intent of this regulation since it is over four times the maximum length. Our understanding is that the proposed EVA provides the secondary access and emergency access to the site. Unfortunately, this proposed EVA doesn't meet the intent of the regulation above as the EVA portion is longer than 300' in length and the portion of the road between the cul-de-sac and the proposed road/EVA connection is longer than 300'. A Variance is required because you are not meeting the regulation. Planning Code Section 17.122.100 specifically cites the bonuses that are permitted as part of that permit. The bonuses do not cite the waiver of road length or any other Subdivision Regulation; therefore a Variance is required. In addition, other Variances to the Planning Code or Subdivision Regulations may be required as staff receives and reviews complete plans. Staff does not find a Variance for the road length supportable at this time based on the Variance findings.

In sum, the length of roadway does not meet the regulation and does not meet the intent of the regulation. A Variance is required. However, the project could proceed with a Shared Access Facility and four lots.

Basic Application Materials

The following information is required as part of the basic application materials and has not been submitted. Staff considers the Basic Application materials to be **incomplete.**

1. Grading Plan
2. Cross Sections through the site
3. Landscape Plan for the Creeks
4. Preliminary Title Report

Planned Unit Development Permit

The package included updated conceptual plans for all 22 proposed homes and the statistics for the planned unit development permit (PPUD). The proposed plans contain adequate information for the PPUD permit. However, an accurate development chart, proposed design rules/guidelines, and phasing schedule have not been submitted. Staff still considers the PPUD application to be **incomplete.**

The intent of the PPUD permit is to encourage the appropriate development of tracts of land sufficiently large to allow comprehensive planning, and to provide flexibility in the application of certain regulations in a manner consistent with the general purposes of the zoning regulations. The PPUD permit allows certain bonuses in order to accomplish comprehensive planning. If the proposed plans indicate that a bonus is requested than other regulations in that section apply.

The development chart does not adequately provide or list the bonuses that are being requested based on incorrect interpretations of the Planning Code sections. There seems to be requested bonuses related to front and side setbacks, building height, retaining wall height, building length, and maximum front yard pavement, to name a few. The applicant needs to correctly identify the number of bonuses requested so that these can be addressed in the design guidelines.

Since bonuses are requested, the applicant must present proof that the a licensed architect and a licensed landscape architect or urban planner, capable of holding membership in the American Institute of Certified Planners, have been utilized in the design process for the development (per Section 17.122.050). Staff does not consider a registered engineer to meet the standards outlined above. In addition, the project must meet the development standards listed in section 17.122.110. Furthermore, as part of the PPUD permit, the applicant must submit design guidelines, new zoning regulations, or other documentation that indicates the regulations by which future development (including FPUD buildings) within the PPUD will be subject.

In sum, staff has an inaccurate development chart that lists the bonuses requested. However, no additional documentation has been submitted that indicates the rules or regulations that the proposed development is adhering to. Therefore, the application is incomplete. In addition, the plans are not adequate for the final planned unit development permit (FPUD).

Tentative Tract Map

The proposed project abandons the York Trail and the other previous emergency vehicle access route in favor of a split, parallel road. This dual road replaces the main access that used to be located on an easement granted by Alfred Covington. The Planning Department understands that Dr. Collin Mbanugo

has since purchased the Covington property. It is also staff's understanding based on conversations with the City Attorney that an easement can't exist to oneself. Staff is requesting a current title report for the property.

It is also not clear from the plans what is happening to the former Covington Property, since the proposed road demolishes the driveway to the existing house and effectively splits the former Covington parcel in two. This parcel(s) should be included in the PPUD and Tentative Tract Map (TTM) permits, as well as the EIR project description and analysis.

In addition, the TTM does not include many of the required information noted on the TTM submittal requirements. Staff considers the TTM to be **incomplete.**

Creek Protection Plan

In your letter dated October 11, 2007, you indicate that you are in the process of updating the creek protection application and it was not submitted. Therefore, staff considers this **incomplete**. According to the revised plans, the bridge abutments are between 0'and 60' from the top of the creek bank. This would require a Category 4 Creek Permit. The requirements for the permit are outlined on the Creek Protection Permit Application and include but are not limited to:

1. Site Plan
2. Photos
3. Landscape Plan
4. Creek Protection Plan
5. Hydrology Report

Tree Removal/Protection Survey

In the package, you included a complete arborist report and tree survey that analyzed 319 trees. Staff routed this report and survey to the Tree Division for comments. You will need to pick up the summary notice from planning staff to post on the street. As a side note, the Monterey Pines do not meet the qualifications for protected tree status on this site due to the limited number of them. The number protected trees for removal is 90 trees.

Reports, Studies, and Technical Analysis

Based on the substantial differences between the previous and the revised plans in some instances; the need for the most accurate information; and the complexity of the project, staff has decided that the engineering drawings and geotechnical report will need to be peer reviewed once complete plans have been submitted. Staff reserves the right to require peer reviews of additional information as it is provided or reviewed. The applicant is required to pay for the cost of the peer review for the City.

Staff did not receive the updated reports, letters, from the traffic or noise consultant as described in your letter.

In sum, the documents that you re-submitted are not considered accurate or complete at this time. Please contact me at (510)238-3659 or at hklein@oaklandnet.com if you have any questions regarding this letter and the requirements for completeness.

Sincerely,

Heather Klein
Planner III
Major Projects Division

May 7, 2008

Heather Klein, Planner III
City of Oakland, Major Projects Division
Community and Economic Development Agency
250 Frank Ogawa Plaza, 3rd Floor
Oakland, CA 94612

Re: Skyline Terrace Estates – APN: 037A-3141-001-15
Case File Numbers: PUD06-280; TTM 7491; T06-0078; CP06-117; and ER99-0025

Dear Ms. Klein:

I am herewith submitting the additional information requested in your letter dated November 13, 2007 to Joel Weingarten. I thank you for your continued efforts in working with us on this important but challenging project. As many years have passed since our initial submittal, we wish to continue to work closely with staff to resolve any remaining project concerns in an effort to publish the Draft EIR, without further delay.

The items below correspond to the items as listed in your letter.

1) <u>Site Survey and Site Plan</u>

a) In recent correspondence, you have referred to Skyline Terrace as a proposed **public** street. Please accept this clarification that in 2006, upon recommendation by then Planning Director, Claudia Cappio, we changed the intent and design of the access road from a public street to a private street, in conjunction with the decision to apply for a concurrent PUD.

b) While Municipal Code 16.16.150 states that dead end streets may not exceed 300 feet without a second means of access, the City has traditionally allowed 600 feet or more, as evidenced by the following project examples. Additionally, only the 600-foot requirement has been discussed in relation to the Skyline Terrace Estates project and is confirmed in a memorandum regarding the same, from the City Fire Department dated April 6, 2004. In that memorandum, Philip Basada, states, "Two access roads converge to a common location on the loop where this road runs to the farthest property **at less than 600 feet, the maximum length for a dead <u>end</u> road under current city policies**."

i) Examples of recent City approved and built projects having dead end streets in excess of 300 feet without a second means of access and without a Variance:

(1) Alta Villa Estates. On a private road named Via Realto. This private road intersects Redwood road. This is a 20 home subdivision completely built out.

(2) 25 custom home subdivision at the end of Woodminister and Werner court. The homes are located on Woodside Glen Court.

ii) Examples of recent City approved and built projects that use an EVA as the secondary access:

(1) Skyline Circle. Off Skyline Blvd. near/North of Keller Avenue. Total of 40 to 50 homes. One street entrance and one EVA at 19' - 9" wide. Skyline Circle loops around the property and back to the same point of entry. The EVA has short plastic bollards across the width at each end. Roadway with is wide, perhaps 30 to 35 feet width.
(2) Terrabella Way. At the bottom of Redwood Road. Total project of perhaps 100 houses, however, each half has its own entrance. In the middle they share an EVA at 20' - 9" width. Roadway width is 27' - 9".
(3) Leona Quarry. This project has 450+ homes and includes only one main entry and one EVA that doubles as the secondary access.

c) Through two or more of the former DTRAC meetings with City staff, it has been confirmed that the distance defined and referred to as "dead end" begins where the two parallel roads intersect within the parcel, which is proposed to be 600 feet or less.

d) In the two most recent DTRAC meetings held on April 23, 2007 and May 14, 2007, where members of our team were present, the idea of a parallel road was presented and discussed. There was no objection from any City staff at the May 14th meeting, and the Fire Marshal and Public Works Dept. each expressed their support and approval of the proposed divided-road design. Most City representatives favored and encouraged this approach as it would be environmentally superior to previous access proposals. The parallel roads in the proposed location would avoid encroachment upon a creek, which would have occurred using the York Trail alternative. Further, as we demonstrated to DTRAC on May 14, 2007, the divided road presents significantly less impact than a double-wide road as regards to height of retaining walls and volume of earthmoving: topographically speaking, the divided road "hugs" the hillside more closely. Therefore, based on the approvals we heard on May 14th – and lack of objections – we proceeded to purchase the Covington property after these DTRAC meetings in order to expand the existing access easement and provide sufficient acreage for the parallel roads.

2) **Basic Application Materials**

a) Regarding the **Grading Plan and Cross-sections**, we have provided an enormous amount of information – far in excess of what is normally required for hillside subdivisions and related PUD's. We have taken cross-sections approximately every 50 ft. thus producing dozens of cross-sections. We have also provided profiles of both roads, and provided extremely detailed and meticulous 'top of wall' and 'bottom of wall' elevations in hundreds of places. Finally, we have very detailed cut/fill calculations (performed by a licensed general engineering contractor) based on all of the above-mentioned information. The mere ability for an engineering contractor to perform this calculation proves there is sufficient information that is present. Thus, there is no purpose served by providing a grading plan at this time as: (a) all the information afforded by a grading plan is already present on the various drawings; (b) the request is unreasonable: there are many instances of other City approved projects, such as Siena Hill, where no such requirement was imposed at this stage of entitlement. We feel the

City needs to exercise consistency in its review and approval process and not impose requirements on our project that are generally not imposed on other similar projects.

b) The **Landscape Plan for the Creeks** will be included in the updated Creek Protection Plan for the project.

c) A current **Preliminary Title Report** dated March 18, 2008 is enclosed.

3) **Planned Unit Development Permit**

a) We acknowledge your determination that the proposed plans and statistics for the 22 homes contain adequate information for the PPUD permit. A revised development chart has been enclosed.

b) The proposed design rules/guidelines (including any proposed bonuses) will be submitted under separate cover by Wednesday, May 14, 2008.

c) California licensed architect, Allan Brochier of the Onyx Group, and California licensed landscape architects, Pedersen Associates, have been utilized in the design process for the proposed Skyline Terrace planned unit development.

d) In the last sentence, of this section of your November 13, 2007 letter, you state that "...the plans are not adequate for the final planned unit development permit (FPUD)." We wish to clarify that the intent in our submittal is to neither apply for nor meet the requirements of an FPUD at this time.

4) **Tentative Tract Map (TTM)**

a) The proposed Skyline Terrace is a private street, not a public street. This allows for Homeowners Association and/or GHAD maintenance of infrastructure including the proposed bridges without use of public funds.

b) The Project owner recently purchased the Covington property to allow expansion of the access area. The Project Owner now owns the Covington property in fee and has a greater property interest then allowed by the originally held easement. The boundaries of the existing access easement have been expanded to allow for the parallel road design. Once the exact location of the EVA and road are defined, this area will either be placed in another easement for the benefit of Skyline Terrace or made part of the Skyline Terrace Project.

c) The proposed road does not eliminate access to the existing home on the Covington property. There is an existing circular driveway on the Covington property and the proposed road only affects a portion of that driveway. The home can still be accessed from the other side of the circular driveway.

d) There are no plans to change the land use on the Covington property. As a result, there is no "project" on the Covington property (other than the access easement) to analyze in the EIR or include in the TTM or PUD. The EIR will be updated to mention that the Covington property is now owned by the Project owner and there are no reasonably foreseeable plans to remove or demolish the existing home.

e) Finally, TTM 7491 included all of the required information noted on the TTM submittal requirements when originally submitted and vested in 2006. The most recent submittal of page C5 of the TTM was only intended to reflect the proposed revisions to the access and EVA roads in relation to the overall tract. Once the City has formally reviewed and commented on these revisions, a comprehensive Vesting TTM set will again be submitted.

5) **Creek Protection Plan**
   a) The Creek Protection Plan is currently being updated and will be submitted under separate cover by Wednesday, May 14, 2008.

6) **Tree Removal/Protection Survey**
   a) We have made note of your comments and will pick up the summary notice from you, or other appropriate planning staff, to post on the street.

7) **Reports, Studies, and Technical Analysis**
   a) We acknowledge your comments. As you have stated, once our plans have been accepted as complete, we will re-engage the necessary peer reviewers for updates.

In addition to the items referenced above, we are submitting herewith on behalf of Booker Holton, twelve (12) copies of the revised Administrative DEIR for the City's review. We acknowledge that this document does not currently include reference to Greenhouse Gas Emissions, and are working to include such analysis and reference in the DEIR.

We would appreciate the opportunity to meet with you to discuss this letter. Please give me a call at (510) 839-4550 after you review this letter and I will arrange a meeting with the appropriate project representatives.

Thank you.

Very truly yours,

Ineda Adesanya, Urban Planner
Project Manager

Enclosures:

- Heather Klein, City of Oakland, Letter dated November 13, 2007
- Philip Basada, City of Oakland, Fire Department, Memorandum dated April 6, 2004

Copies: Patricia Curtin, Attorney
Collin Mbanugo, M.D.

CITY OF OAKLAND

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Community and Economic Development Agency
Planning & Zoning Services Division

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VIA EMAIL AND US MAIL

June 5, 2008

Ineda Adesanya
IPA Planning Solutions
1425 Clay Street, Suite 100
Oakland, CA 94612

RE: Skyline Terrace Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025.

Dear Ms. Adesanya:

Staff reviewed the additional documentation that you submitted on May 7, 2008 for the Skyline Terrace project (Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025) and finds the application **incomplete**. Specifically, staff finds that the application materials are deficient in the following areas:

Basic Application
- Grading Plan
- Cross Sections of the Site

Planned Unit Development Permit
- The proposed design rules/guidelines
- A phasing schedule
- Copies of the architect and landscape architect licenses

Creek Protection Permit
- Photos
- Detailed Site Plan showing the abutments, topography, etc.
- Landscape Plan both existing (with tree removal near creek) and proposed with the control measures indicated on the plan
- Profiles and Cross Sections of the Creek
- Grading near the creek
- Analysis of the bridge abutments on the flow of the creek
- Hydrology report that discusses the impacts for the bridge construction and permanent placement of the abutments on the creek flows.

Tentative Tract Map
- Inclusion of the Covington Parcel on the Map
- Name and Address of the Property Owner/Subdivder
- Contours with intervals of 5 feet to City of Oakland datum

- Original Lot Boundaries with lot numbers, as shown on earlier tracts, parcels,
- The location, width, improvement status, purpose, and names of all existing or platted streets (including distance to nearest intersecting street), easements, other public ways, and buildings within or adjacent to the tract.
- Location of all political subdivision lines, corporation lines, water courses, and other physical features.
- Location, type, and trunk diameter of trees measuring at least 9-inch diameter (4" diameter if Coast Live Oaks) at a location 4½' above grade.
- Existing sewers, culverts or other underground structures within the tract and immediately adjacent thereto with pipe sizes, grades and location indicated.
- Proposed vehicular access (including driveway width and slope) and building site location for each parcel.
- The proposed width of streets.
- The profile of proposed sanitary and storm water sewers and other public utilities, with grades and sizes indicated.
- Signed statement by subdivider indicating amount of street grading, paving, curbing, sidewalk and storm, sanitary and other improvements proposed to be constructed.
- Statement of restrictions to be imposed by subdivider as to use or occupancy of land, building setbacks, yard areas, value of construction and any other restrictions.

Reports, Studies, and Technical Analysis

- Updates to the analysis that reflect the new survey and configuration

Further discussion of these requirements is found in the *Status of the Project* section of this letter.

This letter also responds to your letter to the City dated May 7, 2008. Staff has reviewed the merits of the project in regard to the site plan, parallel road and secondary access. Staff has found that your project does not meet the findings for the Tentative Tract Map with this road configuration and is unapprovable for the following reasons:

- The project is not providing a secondary means of access that is within 300 feet of Skyline Boulevard, a public road.
- The parallel road does not provide a secondary means of access that meets the Fire Department's Road Access Standards which allow for roads between 300 and 600 feet.
- The parallel road does not meet the need for a physically separated secondary access /egress road or EVA from the main entrance.

SITE SURVEY AND SITE PLAN (SECONDARY ACCESS)

Oakland Municipal Code (OMC) Section 16.16.150 states that "Blocks shall not exceed one thousand (1,000) feet in length and dead end streets three hundred (300) feet." An exception or Variance to this requirement may be granted by the Planning Commission (which is the Advisory Agency) (Section 16.04.060, O.M.C.). Your plans have never shown a secondary means of access per Section 16.16.150, O.M.C. that connects or loops back on another road.

When the Planning & Zoning Division (which acts as staff for the Advisory Agency) takes an exception to a rule into consideration, we collaborate with other City agencies to determine whether or not such waiver would be appropriate. In this case, the issue at hand is largely related to life safety as it pertains to fire hazards. The Fire Department uses the Access Road Standards to apply mitigations to projects that are in excess of the Municipal Code requirements. The Standards can allow for roads between 300-600 feet if there are mitigations incorporated such as turn out bays, increased hydrant spacing, etc. In the instance of a dead end road exceeding 600 feet as is the case for the proposed subdivision, (the distance

from Skyline to the end of the cul-de-sac exceeds 1,400 feet) the required mitigation is a secondary access /egress road or EVA at the very least.

Further consideration finds that the project site is located in the Wildfire Prevention Assessment District. The City of Oakland's Safety Element of the General Plan specifically refers to the street length requirements as necessary for providing adequate access and egress in the event of another wildfire. Given the length of the dead end road and its location, the Fire Prevention Bureau, Building Services Division and the Planning and Zoning Division believe that a secondary access/egress road or EVA is a necessary mitigation to provide adequate, expedient access to the property for fire personnel and equipment, as well as emergency egress for residents.

Staff repeatedly sent letters over the course of the project history including those on April 8, 1998, November 1, 2000, and February 15, 2002 stating that no subdivision is permitted on a public or private street that is more than 600 feet in length without a second access /egress road or EVA.

In March of 2004, you accepted the need for a second access /egress road or EVA that was under control of the applicant and submitted a proposal that included two possible EVA routes, one accessing the project from the York Trail, a City-owned parcel, and one from the Covington property. Both of the access points were potentially viable alternatives, separately by 260 and 700 feet respectively. At this point, staff felt that you had presented a potentially viable project and we continued processing the application.

After the new survey (performed in 2007) confirmed that the York Trail option was not viable from an emergency access standpoint and the other alternative was not feasible from a cost perspective, you significantly revised your plans to reflect a parallel road proposal and submitted plans to the City in March 2007. At two DTRAC meetings (in April and May 2007) the parallel road was discussed at a staff level. You note in your May 7, 2008 letter that the Fire Marshall and the Public Works Department had no comment on the proposed road. Since receipt of your letter, planning staff has reviewed the plans with the supervisors for each department including Interim Director of Building Services, the Interim City Engineer, the Deputy Fire Chief, the Major Projects Manager and Deputy Director of Planning and Zoning, and the Assistant Director of Design and Construction Services. A project coordinator for Building Services, the Fire Marshal, and the Fire Protection Engineer, also attended the meeting. It was consensus among the department managers that although the parallel road might be seismically separate and have different elevations it essentially acts as one road with a 4' median. It was also consensus among the staff that the parallel road did **not** meet the requirements for 1) secondary access per Section 16.16.050, O.M.C. and the Fire Department's Access Road Standards, or 2) it's mitigation in an EVA alternative.

While the parallel road may reduce some environmental impacts, it does not adequately address the emergency response to the development or the public health and safety risks to the proposed residents discussed above. The supervisors who reviewed the project found that emergency response to a fire moving up and across the canyon would be severally compromised and residents effectively trapped with such a road configuration that is not physically separate. Without a viable secondary access/egress road or EVA that meets the Fire Prevention Bureau's Access Road Standards, staff does not believe that we could meet the findings for the Variance.

In your letter you mention several other projects that do not have a secondary access road or emergency vehicular access routes. These tracts include:

- The Alta Villa Estates
- The Woodside Glen Court Subdivision
- Skyline Circle
- Terrabella Way

- Leona Quarry

The Leona Quarry development had a road that was connected by an emergency vehicle access route creating a loop that connected near the street intersection. If a fire were to occur on along one portion of the loop residents and emergency personnel had another way to egress the site. This proposal was found to be acceptable given the width of the road at the intersection and the fact that residents and the emergency response teams could use a completely different route if a fire occurred with the loop. In the case of the Woodside Glen Court Subdivision, the proposed road was 400 feet from the intersection of Woodside Glen and Woodminister. This road length, large turnaround and additional mitigation measures was found to be acceptable for emergency response. The development on Terrabella Way was approved in the late 1980's. It is a private road that loops and is accessed from Redwood Road in two places more than 675' apart. Skyline Circle is again a loop road with the split occurring close to the intersection with Skyline Boulevard. Staff is unsure about the requirements and mitigation measures for the Alta Villa Estates which was approved in the late 1990's. The City tries to be consistent in our interpretations of the regulations. However, each project is unique with different constraints. In any event, if, as you contend, past projects do not fully meet City requirements, staff is not required to continue that practice just for the sake of consistency.

In regards to the purchase of the Covington property, the fact that you proceeded based on these preliminary and informal DTRAC conversations with staff, without the concurrence from the direct supervisors, and with no written documentation, was at your own risk. Staff did not advise you to purchase the property and the City can not take responsibility for the implications of such purchase. Even if staff had made such recommendations in writing, the decision-making bodies (Planning Commission and City Council) are not legally bound by such, as the final decision on whether the TTM met the findings would be made by the Planning Commission and the City Council. Typically, we have found that approval of the proposal is a condition of sale of the property. In short, you proceeded at your own risk. At this juncture, staff is not convinced that you can meet the loop road or the main road/separate EVA requirement. It took from 1999 until 2004 to find an appropriate EVA access alternative. Unfortunately, the survey that was used to develop these alternatives was inaccurate and now has required a substantial change to the project. This is major issue in pursuing the project.

STATUS of the PROJECT

Tentative Tract Map

According to your letter, the Covington property was purchased to allow expansion of the easement for the parallel road. According to the Interim Director of Engineering Services and the Interim City Engineer you cannot own an easement against yourself across your own property. By purchasing the property the easement goes away in a merger of title. This requires the whole property, including the original Covington parcel, to be analyzed in the EIR. CEQA needs to take into account the whole of the action which includes the use of that parcel for access. In addition the subdivision map would need to change to reflect the fact that the easement no longer exists and that two parcels would be merged and resubdivided.

Your letter states that your intention is not change the land use on the property but actually you are changing the land use by merging and resubdividing that parcel. What happens to the extra piece of land to the left of the road? Is this included in the road parcel? Your letter also states that the road does not eliminate the access road to the existing home on the property. However because of the development proposal, a portion of the driveway is eliminated. The documentation staff has received does not show the driveway or access to the house and would need to be included as change to the driveway is a result of the

development project. As stated above CEQA needs to take into account the whole of the action, as does the subdivision map.

You state in your letter that the TTM was only submitted to reflect the proposed revisions to the main access and EVA roads and that once the City has commented on these revisions you with submit a comprehensive TTM set. That set must contain the following requirements as noted on the Tentative Tract Map requirements for the TTM to be considered complete:

- Name and Address of the Property Owner/Subdivder
- Contours with intervals of 5 feet to City of Oakland datum
- Original Lot Boundaries with lot numbers, as shown on earlier tracts, parcels.
- The location, width, improvement status, purpose, and names of all existing or platted streets (including distance to nearest intersecting street), easements, other public ways, and buildings within or adjacent to the tract.
- Location of all political subdivision lines, corporation lines, water courses, and other physical features.
- Location, type, and trunk diameter of trees measuring at least 9-inch diameter (4" diameter if Coast Live Oaks) at a location 4½' above grade.
- Existing sewers, culverts or other underground structures within the tract and immediately adjacent thereto with pipe sizes, grades and location indicated.
- Proposed vehicular access (including driveway width and slope) and building site location for each parcel.
- The proposed width of streets.
- The profile of proposed sanitary and storm water sewers and other public utilities, with grades and sizes indicated.
- Signed statement by subdivider indicating amount of street grading, paving, curbing, sidewalk and storm, sanitary and other improvements proposed to be constructed.
- Statement of restrictions to be imposed by subdivider as to use or occupancy of land, building setbacks, yard areas, value of construction and any other restrictions.

In summary, the new survey required significant changes to the project which is very different then the one noticed for environmental review. The addition of another parcel adds a further complication. Staff requires the TTM submittal be amended in order to move forward with the entitlement process. Thus, the subdivision map, and the application, are in error and hence **incomplete**.

Basic Application Materials

Staff received the new title report which was noted in the November 13, 2007 letter. However, staff has still not received the following information as required as part of the basic application materials, and thus the submittals remain incomplete.

A grading plan and site cross sections are essential tools to understand the final topography of the site, site work in relation to land stability and water quality, traffic considerations with the amount of cut and fill to be hauled on and off-site, whether the road slopes and the house plans are reflective of the proposed condition, as well as many other issues. You must have this information or you would not be able to accurately calculate the slopes and the placement of the retaining walls. Furthermore you note that you have detailed cut and fill calculations which would require a grading plan and cross sections to be developed. It is incorrect that this requirement is unreasonable and far in excess of what is normally required for hillside subdivisions and PUD's. The findings for both the TTM and PUD require that staff evaluate the topography and impacts to the hillside. You note in your letter that there are many other approved projects that did not have to provide this information. The grading plan for Siena Hill can be

found on the tract map sheets, the overview plan, and the site development plans. These are Basic Application requirements for PUD permits and staff is consistent in requesting these items. To the extent that staff may have overlooked some submittal requirements in the past, does not require staff do the same here. Again, consistency for consistency's sake, is not the goal.

Planned Unit Development Permit

As of the date, staff has not received the proposed design rules/guidelines, or a phasing schedule as requested. Staff would like to have copies of the architect and landscape architects licenses for the project file. Staff received the development chart June 4th and will be reviewing in the following weeks. However, staff still considers the PPUD application to be **incomplete**.

Staff acknowledges your intent not to apply for a final planned unit development permit (FPUD) concurrently with your PPUD.

Creek Protection Plan

Staff received the revised Creek Protection Plan on May 15, 2008 Staff is still reviewing the document but it still seems incomplete because it does not include the following required items.

1. Photos
2. Detailed Site Plan showing the abutments, topography, etc.
3. Landscape Plan both existing (with tree removal near creek) and proposed with the control measures indicated on the plan
4. Profiles and Cross Sections of the Creek
5. Grading near the creek
6. Analysis of the bridge abutments on the flow of the creek

The Creek Protection Plan briefly discusses the creek hydrology in Section 1.3 but does not discuss the impacts of the bridge construction and permanent placement of the abutments on the creek flows. This section references documents that have not been updated to reflect the bridge location and abutments. Furthermore, these studies were done showing the relocation of the creek. Therefore, the study seems not only incomplete but inaccurate.

Thus, Staff still considers the Creek Protection Permit application to be **incomplete**.

Reports, Studies, and Technical Analysis and EIR

Staff cannot review the administrative draft of the EIR considering all of the outstanding items. Staff is concerned that you have proceeded with another version of the document without requesting the City's latest Thresholds of Significance, Standard Conditions of Approval and Uniformly Applied Development Standards. In an example, staff recently spoke with Joseph McNeil, the Consulting Arborist for the project regarding updates to his studies to include the Standard Conditions of Approval. He indicated that no one had contacted him regarding the project. Furthermore, you note that until the documents are considered complete these will not be updated. This poses the question of whether these updates are already included in the analysis in the administrative draft EIR. Staff has had a difficult time during the history of the project understanding what document is up to date and accurate because the revisions are done piecemeal or without guidance.

In closing, staff has reviewed your submittal. The application is still not considered accurate or complete at this time. In addition, staff has concerns regarding the overall feasibility of the project at this juncture. We suggest that a meeting with the applicant's development team might be in order before any additional

work proceeds on this project. Please contact me at (510)238-3659 or at hklein@oaklandnet.com to schedule this meeting at your earliest convenience or if you have any questions regarding this letter.

Sincerely,

Heather Klein
Planner III
Major Projects Division

Gary Patton
Major Projects Manager
Deputy Director of Planning and Zoning

cc: Dan Lindheim, Director, Community and Economic Development Agency
Ray Derania, Interim Director of Building Services
Jon Ewigleben, Engineering Services
David Mog, Engineering Services
Vitaly Troyan, Interim City Engineer, Design and Construction Services Division
Mike Neary, Assistant Director, Design and Construction Services Division
James Edwards, Deputy Fire Chief
Philip Basada, Fire Protection Engineer
Don Smith, Project Coordinator for Building Services
Mark Wald, City Attorney
Leslie Estes, Watershed Program Supervisor

CITY OF OAKLAND
Oakland Fire Department
Fire Prevention Bureau

250 Frank Ogawa Plaza, Suite 3341
Oakland, CA 94612
(510) 238-3851 - VOICE
(510) 238-6739 - FAX

MEMORANDUM

To: **Office of Planning and Zoning**
Attn: **Gary Patton, Deputy Director**
From: **James Edwards, Deputy Chief/Fire Marshal**
Date: **August 7, 2008**
Re: **SKYLINE RIDGE ESTATES – Revised Tentative Tract Map No. 7491 – 22 lot subdivision**

Summary. The Fire Prevention Bureau Code Enforcement Unit has reviewed the latest two alternative designs to develop 13.66 acres of property into 22 lots of single family home sites in the high fire severity zone of the Oakland Hills. This project was further reviewed by the Fire Chief. Fire Code provisions and concerns on water supply, but most importantly fire apparatus access and mutual response agreements with Fire Departments from other cities are the main considerations that differentiate the observations made for these alternatives from the initial proposal.

The applicant proposes to subdivide the large parcel into new residential lots located in the Wildfire Prevention Assessment District. The proposed development will create over 1300 feet of dead-end streets from two different approaches at Skyline Boulevard with less than 400 feet of separation.

The area had previously been identified for inadequate vegetation controls with existing non-rated buildings having non-rated roof covering. The proposed access roads will exceed the 600-foot maximum limit where a secondary apparatus access road is required per the City's currently adopted Fire Code Ordinance.

The subject property is located within an area at risk of wildfires. The project conditions set by the Fire Department is not intended to supersede the more restrictive conditions enforced by other city agencies. The applicant shall meet the more restrictive municipal code provisions required by other agencies unless adequate alternatives are accepted by the Advisory Agency.

If the project is to be approved by the Advisory Agency, please attach the following conditions of approval:

1. **Utilities and Service Systems, Hydrant Spacing:**

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a. 400-foot spacing between hydrants shall be installed with available fire flow of at least 1000 gpm at 20 psi. On-site water supply mains and hydrants shall be provided along all fire apparatus access roads at 400-foot maximum spacing. Ref: 2007 CFC Appendix C.
b. No overhead power cables or utilities that may interfere with fire truck ladder rescue or fire fighting shall be installed in front of any new building proposed for this development. All utilities shall be under grounded to eliminate hazards posed to rescue and fire fighting personnel. Ref.: 2001 CFC Section 901.4.3.

2. Fire Apparatus Access Roads, Off-Street Parking, Fire Crew Access to individual lots:

a. Construction documents. Construction plans for fire access roads and plans for the water supply and distribution systems shall be submitted to Oakland Fire Department for review and approval prior to construction. Ref.: 2007 CFC 501.3, 501.4.
b. Construction of buildings. Access roads (and on site hydrants) shall comply with the City's amendments to the 2007 California Fire Code.
c. Fire apparatus access road widths shall adopt the fire department's access guidelines as adopted in the amended 2007 CFC Appendix D. The new Fire Code Appendix D as adopted by the City of Oakland and is applied to new and existing roads to allow not only the OFD ladder and engine apparatuses from the City's fire stations but also those from other cities where the city's Fire Department has mutual response agreements with other jurisdictions.
d. Fire watch and fire apparatus access shall be provided per 2007 CFC Chapter 5 and Appendix C during all phases of construction, especially upon delivery of combustible construction materials at the site.
e. All new fire apparatus roads shall not exceed 18 percent slope. The apparatus turnaround shall not exceed 5 percent slope.
f. Each building on a lot shall be provided with approved steps on grade that leads to the farthest exterior walls on grade when property slopes exceed 15 percent.
g. Follow the City's Public Works Agency if the road design standards are more restrictive than the new 2007 CFC Appendix D. The following shall be used to consider the options for parallel parking on public streets:
    i. 26 feet effective road width: 0'-0" parking on either side of the street where buildings served are 30 feet or less in height relative to the lowest grade of fire apparatus access per 2007 CFC Appendix D.
    ii. 26 feet effective road width: 0'-0" parking on either side of the street where the access road is served by hydrant/s per 2007 CFC Appendix D.

h. A secondary access/egress road is required per city's fire code ordinance because the proposed dead end street and access facility exceed 600 feet in length.
i. The separation distances of the proposed two access routes along Skyline Boulevard as shown by the two most recent alternatives are not logistically-acceptable to our operations crew. The imminent accumulation of vehicles owned by the residents, responding fire trucks and fire engines from OFD and other jurisdictions where the City has mutual response agreements with can not be avoided in the Skyline Boulevard, Parkridge Drive area. The most recent 1991 Oakland Hills Fire has provided lessons about the realities of the direction and movement of fire, locations of road constrictions where vehicular jammed traffic impaired fire crew and fire apparatus access to the scene of the incident in a timely manner.
j. 8-foot wide by 30-foot long turn outs shall be provided for every 300 feet of roadway beyond the 600-foot portion of the roadway starting from the beginning of the street.

The above may be modified to include Public Works Agency design standards and fire code exceptions. An effective road width having no less than 20 feet for fire apparatus and equipment staging shall be maintained. Ref.: 2007 California Fire Code Appendix C.

3. Vegetation Management

a. The Vegetation Management Unit enforces the rules applicable to the Wildfire Assessment District boundaries. However, certain trees may be regulated as noted below.
b. The trees selected shall be maintained to allow fire apparatus access: 20 feet of unobstructed road width and 13'6" clear height.
c. Please contact the Fire Prevention Bureau's Vegetation Management Unit at (510) 238-7388 and ask for Assistant Fire Marshall Leroy Griffin on current regulations in the fire hazard areas.

4. Building Permits

a. Each new building proposed in this development shall comply as required per City Ordinance for new construction in the fire hazard areas of the Oakland Hills.
b. All new buildings shall be equipped with an approved sprinkler system. Residential sprinklers shall be sized to deliver an amount of flow equivalent to the 2 most hydraulically demanding heads.
c. Only UL-listed fire alarm service providers (per NFPA 72 standards) shall monitor each residential sprinkler system.
d. Access roads and water supply availability shall meet or exceed the provisions of 2007 CFC Appendices C and D, as amended.

Klein, Heather

From: IPA Planning Solutions [ipa@facmania.com]
Sent: Friday, January 30, 2009 10:06 AM
To: Klein, Heather
Subject: Follow-up meeting request

IPA PLANNING SOLUTIONS, INC.

January 30, 2009

Hello Heather. I have left a couple of voice messages for you. We are ready to go to the next step. I have spoken with Booker and we would like to meet with you next week. I am also proposing to possibly bring in another Environmental Firm, like Lamphier Gregory, to the degree that it will help expedite the project and be acceptable to you and Gary. Please send me a response as soon as you can.

Best regards,

Ineda Adesanya
Chief Executive Officer

Pulling It All Together and Making It Happen!
446 SEVENTEENTH STREET SUITE 201 OAKLAND, CA 94612
TELEPHONE (510) 839-4550 FACSIMILE (510) 839-4545 EMAIL ipa@facmania.com

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CITY OF OAKLAND

DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Community and Economic Development Agency
Planning & Zoning Services Division

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TDD (510) 238-3254

VIA EMAIL AND US MAIL

February 10, 2009

Ineda Adesanya
IPA Planning Solutions
1617 Clay St
Oakland, CA 94612

RE: Skyline Terrace Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025.

Dear Ms. Adesanya:

On June 5, 2008 staff sent a letter to you determining that the application submitted on May 7, 2008 (for a 22 lot subdivision with a split, parallel road) was inaccurate and **incomplete**. The June 5th letter outlined the areas in which the application was deficient as well as our concerns regarding the overall feasibility of the project at that time.

Since that date, you have not submitted a revised project or provided a written response to our letter, although you, the owner, and other applicant representatives have met with City staff on a number of occasions, most recently on November 25, 2008 and January 27, 2009, to discuss the June 5th letter, the overall project, and specifically the EVA alternatives and fire codes. The purpose of this letter is to make you, the applicant, aware of staff's options for processing your project at this juncture. As discussed below, **the information requested in the June 5th letter must be received within forty-five (45) calendar days from the date of this letter (March 27, 2009) or the City will either consider your application to be withdrawn (Option 1) or it will recommend to the City Planning Commission that the application be denied (Option 2)**.

Option 1: It is City policy to issue an Inactive Letter if our records indicate that no progress has been made after 120 calendar days of the City's request for information. The Inactive Letter requests a response and submittal of the requested information within a certain period of time. If no response is received staff will consider the incomplete application to be **withdrawn**. Your project has been inactive for 250 days and this letter constitutes the Inactive Letter. If you fail to timely and adequately respond and the City elects to pursue this option, you will be notified in a separate writing of the City's decision to consider the application withdrawn.

Option 2: Our letter of June 5, 2008 outlines the deficiencies and overall infeasibility of the project as designed. Staff considers the project to be fundamentally flawed with respect to the General Plan, Zoning Ordinance, Creek Ordinance, Subdivision Regulations, and Fire Access Standards. Staff believes that we have enough information at this time to conclude that we cannot make the required findings for approval of the project.

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In addition, CEQA Section 15108 states that "the lead agency shall complete and certify the final EIR as provided in Section 15190 within one year after the date the lead agency accepts the application as complete." An additional ninety (90) day time extension may be provided upon consent of the applicant and the lead agency. It has been over four years since the Notice of Preparation was published. According to CEQA Section 15109, staff may disapprove a project for which there has been an unreasonable delay in meeting requests with suspension of the time periods described in Sections 15107 and 15108. At this point, the Interim Deputy Director of the Community and Economic Development Agency has determined that unreasonable delays have occurred in providing staff the accurate information required to complete the EIR despite the fact that planning staff have consistently worked with the sponsor's team to explore the feasibility of different strategies, types of analysis and other information that would speed the completion of the Draft EIR and processing the applications.

Therefore, staff could move forward to the Planning Commission with a recommendation for a **denial** of the project with the split parallel main and EVA road and the previous alternative with the York Trail and Covington EVA. If the Planning Commission disagrees with staff's findings for denial, the project or the alternative would not be approved since the environmental review documentation would not be complete. Rather, the Planning Commission's decision would merely keep the application current and active and you would still need to address the items in staff's June 5, 2008 letter.

If you decide to proceed, you would need to determine which plan is considered "the project" and submit the appropriate documents consistent with that particular plan as outlined in the June 5, 2008 letter within 45 days of the date of this letter (March 23, 2009). Only once staff has determined that the whole application is complete, would we recommend that you move forward with the environmental analysis of "the project" and toward Planning Commission review. Please be aware that a determination that the project is complete or any decision to keep the project active by staff or Planning Commission should not be construed as having an approved project or the likely possibility of an approved project. Rather, that decision only implies that the environmental analysis associated with the project can proceed. Staff would likely have the same concerns regarding our ability to meet the required findings, as noted in numerous memos and letters to you since 1998, unless the revised project resolves the fundamental issues raised in the June 5th letter.

Please submit the appropriate documents as outlined in the June 5, 2008 letter within 45 calendar days of the date of this letter (March 27, 2009). **Failure to adequately and timely respond to the June 5th letter will result in the application either being considered withdrawn (Option 1) for which a separate decision letter will be prepared and sent or staff will recommend denial to the Planning Commission (Option 2) at a future public hearing to be scheduled.**

City staff has met on numerous occasions with you, the owner and other applicant representatives to discuss the June 2008 letter, the EVA and access issues as well as other requirements to move this project along. We do not believe any further meetings or discussions are appropriate at this time. Rather, we need to timely receive a written response to the June 5th letter along with the requested materials that will hopefully address the fundamental problems associated with the application.

Sincerely,

Heather Klein
Planner III
Major Projects Division

Gary Patton
Major Projects Manager
Deputy Director of Planning and Zoning

cc: Dr. Collin Mbanugo, Owner
Dan Lindheim, City Administrator
Eric Angstadt, Interim Deputy Director, Community and Economic Development Agency
Mark Wald, Deputy City Attorney
Ray Derania, Interim Director of Building Services
Jon Ewigleben, Engineering Services
David Mog, Engineering Services
Mike Neary, Deputy Director, Department of Engineering and Construction
James Edwards, Deputy Fire Chief
Philip Basada, Fire Protection Engineer
Don Smith, Project Coordinator for Building Services
Leslie Estes, Watershed Program Supervisor

March 26, 2009

Gary Patton, Major Projects Manager
Heather Klein, Planner III
City of Oakland, Major Projects Division
Community and Economic Development Agency
250 Frank Ogawa Plaza, 3rd Floor
Oakland, CA 94612

Sent via email and USPS mail

Re: Skyline Terrace Estates – APN: 037A-3141-001-15
Case File Numbers: PUD06-280; TTM 7491; T06-0078; CP06-117; and ER99-0025

Dear Mr. Patton and Ms. Klein:

Please accept this letter as a formal response to your letter of February 10, 2009. Out of necessity, the following response is largely one of defense. However, please know that it our desire to cooperate and work with staff to expeditiously complete our application and obtain development entitlements for which the City can be proud to have supported.

In my last formal letter to you regarding the subject project (dated May 7, 2008), I expressed our desire to continue to work closely with staff to resolve any remaining project concerns in an effort to publish the Draft EIR, without further delay. After receiving your letter dated June 5, 2008, indicating the incomplete status of our application, we proceeded to submit some of the incomplete items, including the Revised PDP Zoning Matrix and the Updated Creek Protection Plan.

Of the items listed as incomplete, the most significant was the concept and placement of the Emergency Vehicle Access (EVA). As we have expressed to you verbally, we believe that all other items listed involve completing the work as opposed to changing a concept or design. It was and continues to be financially imprudent to proceed with completing the (non-EVA related) items, until the EVA matter has been resolved. With this as our premise, we proceeded to make efforts to contact and work with City representatives to resolve this matter. I have documented more emails and phone calls than I can tabulate at this time, and our team has formally met with City representatives at least five (5) times between the receipt of your June 5, 2008 letter and your February 10, 2009 letter, to discuss different plans and concepts for the EVA. Representatives we have met with include staff from the Planning, Public Works, Engineering and Fire departments. An average delay in response of 30 days occurred each time we attempted to contact or meet with City representatives to show and

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discuss our progress toward resolving the EVA matter, significantly contributing to the overall delay in the project's progress. **The purpose of this explanation is to formally disagree with your determination that our project has been inactive for 250 days, and therefore reject the formal designation of your letter as the City's "Inactive Letter".** We believe that your Option 1 is not appropriate or warranted.

In our last formal meeting on January 26, 2009, our team left encouraged, having agreed that the next step would be to meet with Planning staff to discuss refining the alternatives so as to gain staff's support in moving the project forward. That same day, I began phoning and emailing Ms. Klein to set up such meeting. After several days of no response, Ms. Klein informed me that we would receive a letter and that a meeting may not be necessary after the letter had been received. We received the letter on February 10, 2009. We still felt a meeting with Planning staff was appropriate and needed, and after several requests and attempts to schedule a meeting or phone conference with Planning staff, a phone conference call was granted on March 16, 2009. During this phone call, we were able to clarify our options and determine which concepts and approaches we felt would be most supported by staff in an effort to move the project forward most expeditiously.

Since the March 16th phone conference, I have begun to work with the consultant team of planners, engineers and designers to complete our application per your June 5, 2008 letter. You quote CEQA time limits for certifying an EIR within one year after the date the lead agency accepts the application as complete, and you point out the fact that it has been over four years since the Notice of Preparation was published. This inaccurately implies that you have accepted our application as complete. As described above, we believe the project delays have been caused at least partially by the City and as such feel equally that your Option 2 is not appropriate at this time. **We are hereby requesting approximately 60 days, until June 1, 2009 in which to submit a complete application.**

We sincerely thank you for your assistance in processing this challenging but worthwhile project in and for the City of Oakland.

Please Note: The Tentative Tract Map No. referenced in both of your letters of June 5, 2008 and February 10, 2009 is incorrect. It should be TTM 7491.

Very truly yours,

Ineda Adesanya, Urban Planner
Project Manager

Copy: Collin Mbanugo, M.D.

446 Seventeenth Street Suite 201 Oakland CA 94612 510.839.4550 ipa@facmania.com

CITY OF OAKLAND

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Planning & Zoning Services Division

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VIA EMAIL AND US MAIL

April 15, 2009

Ineda Adesanya
IPA Planning Solutions
1617 Clay St
Oakland, CA 94612

RE: Skyline Terrace Case File Numbers PUD06-280; TTM7491; T06-0078; CP06-117; and ER99-0025.

Dear Ms. Adesanya:

Staff received your letter dated March 26, 2009, requesting an additional sixty days to address the areas of your application that are considered **incomplete** and deficient.

Our latest letter dated February 10, 2009, determined that your application had been inactive for 250 days. This was determined based on the fact that you had not submitted any additional documents to address the incomplete and deficient areas of the application in response to our letter dated June 5, 2008. In your letter (March 26, 2009), you cite delays in proceeding with the project due to the inability to arrange meetings with City staff. While these meetings might have been necessary for you to clarify your project description, our June 5th letter was very detailed in outlining what was needed to move the project forward. In addition, the meetings are not considered an adequate response to our letters. Therefore, staff disagrees with the statement that the project has been active and that City delays are at fault.

However, staff has reviewed your request and agrees to provide you additional time to submit the necessary documentation. **The information requested in the June 5, 2008 letter must be received within sixty (60) calendar days from the date of this letter (June 15, 2009). No further extensions shall be granted.**

The letter dated February 10, 2009 outlined staff's options for processing your project at this juncture and these options are still applicable (see Attachment A for reference). Failure to adequately and timely respond to the June 5th letter will result in the application either being considered withdrawn (Option 1) for which a separate decision letter will be prepared and sent or staff will recommend denial to the Planning Commission (Option 2) at a future public hearing to be scheduled.

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In summary, City staff has met on numerous occasions with you, the owner and other applicant representatives to discuss the June 2008 letter, the EVA and access issues as well as other requirements to move this project along. We do not believe any further meetings or discussions are appropriate at this time. Rather, we still need to timely receive a written response to the June 5th letter along with the requested materials that will hopefully address the fundamental problems associated with the application.

Again, please submit the appropriate documents as outlined in the June 5, 2008 letter within 60 calendar days of the date of this letter (June 15, 2009). No further extensions shall be granted.

Sincerely,

Heather Klein
Planner III
Major Projects Division

Gary Patton
Major Projects Manager
Deputy Director of Planning and Zoning

Attachment A: City of Oakland letter dated February 10, 2009

cc: Dr. Collin Mbanugo, Owner
Desley Brooks, Councilmember for District 6
Dan Lindheim, City Administrator
Walter Cohen, Director Community and Economic Development Agency
Eric Angstadt, Deputy Director, Community and Economic Development Agency
Mark Wald, Deputy City Attorney
Ray Derania, Interim Director of Building Services
Jon Ewigleben, Engineering Services
David Mog, Engineering Services
Mike Neary, Deputy Director, Department of Engineering and Construction
James Edwards, Deputy Fire Chief
Philip Basada, Fire Protection Engineer
Don Smith, Project Coordinator for Building Services
Leslie Estes, Watershed Program Supervisor

IPA PLANNING SOLUTIONS, INC.

June 15, 2009

Heather Klein, Planner III
Gary Patton, Major Projects Manager
City of Oakland, Major Projects Division
Community and Economic Development Agency
250 Frank Ogawa Plaza, 3rd Floor
Oakland, CA 94612

Sent via hand delivery

Re: Skyline Terrace Estates – APN: 037A-3141-001-15
Case File Numbers: PUD06-280; TTM 7491; T06-0078; CP06-117; and ER99-0025

Dear Ms. Klein and Mr. Patton:

We are pleased to submit this letter and the attached plans and documents in response to your letter dated April 15, 2009. After significant study and technical analysis of the many factors involved in the development of the subject property, we have revised the project and alternatives. This revision is directly responsive to our last formal meeting and telephone conference call where we discussed a reduction in density and a shortened access roadway with proper elements for fire access. In concert with the change in concept, we no longer wish to pursue a Planned Development. This revised project concept also provides for fewer and less significant environmental impacts.

We are prepared to submit all required plans and information to complete our application for vesting TTM 7491, tree permit T06-0078, creek protection permit CP06-117, and environmental review permit ER99-0025 upon your concurrence on the revised project concept. We are committed to getting the completed documents submitted efficiently. We have retained an environmental planning peer reviewer who is working with Booker Holton to revise, update and complete the Administrative Draft EIR.

Thank you for your patience and continued assistance in processing this challenging but worthwhile project in and for the City of Oakland.

Very truly yours,

Ineda Adesanya, Urban Planner
Project Manager

Copy: Collin Mbanugo, M.D.

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446 Seventeenth Street Suite 201 Oakland CA 94612 510.839.4550 ipa@facmania.com

Excerpt from revised
Administrative Draft EIR

Skyline Terrace
VTTM 7941

June 2009

3 PROJECT DESCRIPTION

3.1 Project Location, Ownership and Current Use

The proposed Skyline Terrace project site (project) is located within the Oakland Hills in the City of Oakland. Regional access provided by either Interstate 580 or State Route 13, about 1.5 miles southeast of Redwood Road and 2.0 miles northwest of Keller Avenue on Skyline Boulevard (see **Figure 1**). The site is nearly directly across from City of Oakland Fire Station No. 21 at the intersection of Skyline Boulevard and Park Ridge Drive. The site is located near the crest of the second and highest range of the northwesterly trending Oakland Hills. A small spur ridge centered on the property extends from Skyline Boulevard in a southwest direction. **Figure 2** depicts the project site and the surrounding area.

The project site is east of and overlooks the East San Francisco Bay, bounded on the west and south by the Leona Regional Open Space Reserve. The property is bounded to the north and east by residential properties. The Leona Regional Open Space Reserve is oriented in a northwest direction and is a relatively deep, wooded and brushy canyon that separates the adjacent hills into two ranges. A second, smaller brushy canyon borders the northern side of the project site. This smaller canyon drains toward the southwest and enters the Leona Regional Open Space Reserve and Rifle Range Branch.

The project site is a 13.6-acre undeveloped site, Assessor's Parcel Number (APN) 37A-3141-1-15, privately owned by Dr. C. Mbanugo. The owner of the 13.6 acre project site also now owns the adjacent 3.43-acre former Covington property (APN 37A-3142-036) that is not considered part of the proposed project. The former Covington parcel is developed and includes a single-family dwelling and a detached pool house. The project site is surrounded primarily by open space owned by the City of Oakland to the north and East Bay Regional Park District to the south. There are six single-family homes zoned R-1 to the northeast of the project site off Skyline Boulevard.

3.2 Project History and Objectives

The proposed project is a result of an effort by the property owner to subdivide the 13.6-acre undeveloped parcel into a single-family home subdivision. The project objectives include the following:

- Provide a financially viable project, with a density that would result in eight (8) net developable units and a private roadway that could accommodate single-family homes with an average lot size of 1.6 acres, resulting in a gross density of 1.0 single-family dwelling unit per acre (43,560 square feet), compatible with the R-1 zoning of the surrounding residential area.
- Provide housing that will help meet the City's economic growth goals and policies, specifically meeting the demands for housing in Oakland and increasing the supply of housing as set forth in the City's Land Use, Transportation, and Housing Elements of the General Plan.

- Increase the property tax base and utility user taxes for the City.
- Provide for the ability to construct high-quality hillside housing to meet existing and future needs of those desiring to live in Oakland, and to reduce vehicle miles traveled for employees of the Oakland area.
- Maximize the efficient use of a hillside property by clustering homes and by creating a grading concept that results in an aesthetically pleasing development that conforms to the City's regulations.
- Create a land use plan and infrastructure/utility plan that respects the character of the existing surrounding residential area and is compatible in design with adjacent residential neighborhoods.
- Utilize a site layout that is consistent with and is sensitive to the unique configuration and constraints of the site by following the existing slope, to the most feasible degree, and respecting existing views from the site.

3.3 Project Characteristics

The proposed project would provide for the ability to develop an existing 13.6-acre vacant parcel into a seven (7+1) single-family home subdivision located on a small knoll along the southwest side of Skyline Boulevard, between Colburn Place and Graham Place (**Figure 3**). The subject site is adjacent to and east of the Leona Heights Regional Open Space Preserve. The project site would result in physical changes to the undeveloped land by construction of a new primary private access road with retaining walls, bridge, and water and sewer connections via a force main.

The applicant's primary objective for this project is to provide for an economically viable, high quality, 7-unit detached single-family residential development. The project would cluster the development, preserving the majority of the steepest portions of the site as natural open space, limiting the scope and size of the development in order to minimize or avoid impacts to the neighborhoods and open space surrounding the property.

The project would result in approval of a Vesting Tentative Tract Map (VTTM) to subdivide the parcel into eight lots (7+1), with one lot to provide the private access road. New construction would include a main access road, bridge for creek crossing, infrastructure for water and sewer connections, and seven lots at a minimum of one-acre to enable the construction of single-family dwellings (see **Figure 3**). Of the 13.6 acres, 12.87 acres would be subdivided into 7 parcels. The remaining acreage, approximately 0.73 acres, would constitute a private roadway leading from Skyline Boulevard to the subdivision. Each parcel could accommodate one residential dwelling. The lots would be approximately 43,614 square feet to 103,333 square feet each for an average 1.6 acre sized lots. Residents would access the lots from Skyline Boulevard by a 990-ft long road

that would terminate as a cul-de-sac within the interior of the project site. One lot would be "flag-shaped" with a approximate 25 foot frontage.

ACCESS

The private road or common area parcel (Lot 8) would start at Skyline Boulevard, cross Rifle Range Creek with a 70 foot bridge, include eight on-street guest parking spaces on the north side, one dedicated fire lane and a nine-foot wide by 50 foot long fire pullout, then terminate in a cul-de-sac at approximately 990 feet. The common area private roadway ownership would be shared by all property owners by a legal instrument.

Safety improvements to Skyline Boulevard for vehicles entering or leaving the project site would include "flaring" the entrance to the site to improve "line of sight" for vehicles on Skyline as they approach the project entrance.

Slope Stabilizing Retaining Walls

The retaining wall above the main access road would be a two-stepped tiered structure. Mitigating design elements, including landscaping would ensure that these and all other visible retaining walls would be planted at the base and top of each tier to blend and "settle" them into the landscape. All of the retaining walls would be designed to resist static and earthquake loads.

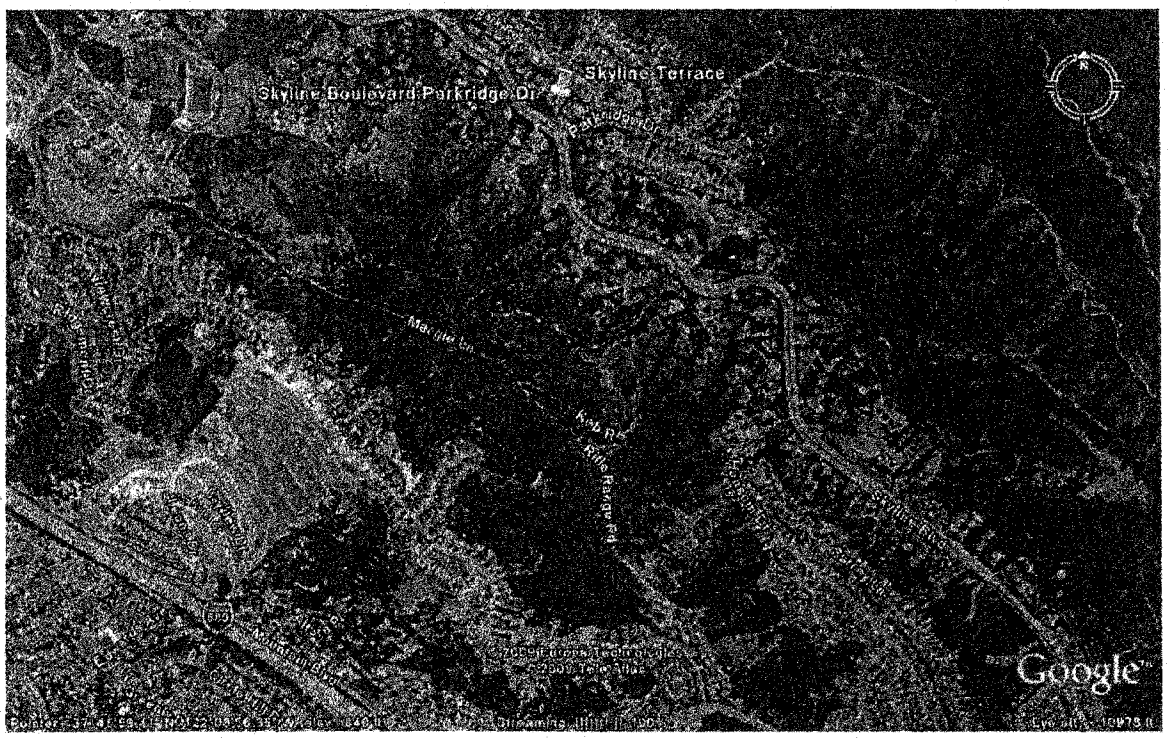
LAND USE

The project site is zoned R-30 and is designated single family residential by the City of Oakland General Plan. The applicant proposes to request approval for a VTTM based on R-1 zoning comparable to the surrounding area.

FIGURE 1

Project Site
ANTHONY CHABOT
REGIONAL PARK
OAKLAND
OAKLAND
OAKLAND
TN
MN
15½°
MILE
Printed from TOPO! ©2001 National Geographic Holdings (www.topo.com)

FIGURE 2 – PROJECT LOCATION



STORM DRAINAGE

Four storm drain pipes would convey water from the project's street drainage system along the higher portion of the northern bank of the intermittent creek located on the southern border of the project site, with outfall to the creek channel by way of energy dissipaters located at the lateral end of the pipes. The project would comply with the latest requirements for storm water control through bioswales or other infrastructure.

WATER

Water conveyance and treatment for the proposed project would be provided by East Bay Municipal Utility District's (EBMUD) existing water supply, distribution system, and treatment facilities. The new water line shall be connected to the existing water mains in Skyline Boulevard.

WASTEWATER

Wastewater conveyance and treatment for the proposed project would be provided by the City of Oakland. The sewer line shall be a "force main" with effluent connecting to the existing sewer line in Skyline Boulevard.

ELECTRICITY/NATURAL GAS/TELEPHONE

The proposed project would utilize existing electricity, gas, and telephone lines that serve the vicinity of the project site.

OTHER SERVICES

Fire protection in the City of Oakland is provided by the Oakland Fire Department. Station No. 21 is located directly across from the project site on Skyline Boulevard. The City of Oakland Police Department provides law enforcement services within the City limits.

LANDSCAPING

The goal of the landscaping concept for the Skyline Terrace project is to preserve the spatial sense of the surrounding valley and hillside while conveying a sense of privacy and seclusion. This would be accomplished by preserving the grassland hillsides and ridges and reintroducing oak trees and native drought-resistant shrubs along the creek alignment and, on the lower hillside.

The rural character of the entry road into the community would be reflected in an open oak woodland landscape. Widely dispersed groves of native trees act as

theme trees simulating a previous serene environment while enhancing the overall landscape.

GRADING

The project would include grading of slopes and placement of fill for the main access road between elevations of 950 feet and 1100 feet. The proposed engineered contours would generally conform to existing topography and maximize opportunities for material reuse on the site.

CONSTRUCTION PHASING

Construction and development phasing has yet to be determined.

3.4 Regulatory Requirements, Permits, and Approvals

The City of Oakland is the Lead Agency responsible for preparation of the EIR (CEQA Guidelines Section 15051). The City intends to use the EIR to address all required discretionary City actions for the project and any actions required to enter into long-term agreements for the project.

Following certification of the Final EIR, the City Planning Commission would make a decision on the discretionary permits required by the proposed project. The project's proposed residential use is a permitted use under the Oakland General Plan, Hillside Residential land use designation and the R-30 One-Family Residential land use designation and the R-30 One-Family Residential Zone (Section 17.16.040), and would be processed as a Vesting Tentative Tract Map (VTTM).

The EIR is intended to assess the impacts of the entire project and any discretionary actions that may be required, included (without limitation):

- Vesting Tentative Tract Map (VTTM)
- Tree Removal/Protection Permit under Section 12.36
- City of Oakland Creekside Protection Permit and Plan
- Grading Permit
- City of Oakland Building/Construction Permits (for the road)

- California Department of Fish & Game: Stream or Lake Alternation Agreement to build creek over crossings
- Regional Water Quality Control Board, San Francisco Bay Region: Permit for wastewater discharge/Section 401 water quality certification for effects on water quality
- Implementation of mitigation measures, as required

Responsible agencies may also consider this EIR in acting on or approving a project upon which it has jurisdiction. A responsible agency is a public agency, other than the lead agency, that has discretionary approval over the proposed project (i.e., state resources agencies).

GREENWOOD & MOORE, INC.
Civil Engineers · Designers · Land Surveyors · Planners

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Castro Valley, California, 94546
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Toll Free: 877-581-2772
Facsimile: 510-581-6913
www.greenwoodmoore.com

June 12, 2009

Ineda Adesanya
IPA Planning Solutions
446 17th Street
Suite 201
Oakland, CA 94612

Re: Skyline Terrace
Skyline Blvd.
Oakland, CA
G&M Job No. 20080.36

Dear Ineda,

Please find the attached *Preliminary 1 Acre Lot Site Plan* for your review and approval. The intent of this preliminary site plan is to show the intended subdivision configuration. This document can be presented to the City and other agencies for review and comment prior to the preparation of more detailed plans and specifications. Upon approval of the design concept, we will proceed with the engineering needed to submit for a Vesting Tentative Tract Map package. This package shall include the following basic information:

Tentative Tract Map

1) Prepare a new Vesting Tentative Tract Map as described in the above referenced preliminary site plan.

Grading & Drainage Plan

2) Prepare a grading plan for the main road only (individual lot designs are excluded). The following shall be included:
   a) Horizontal control plan showing the size and location of the new roadway.
   b) Plan and profile of the new roadway

c) Cross sections of the new roadway at 50' intervals extending 25' from each side of the road right of way.

d) Three (3) site cross sections.

e) Profile and cross sections of the adjacent Rifle Range creek at 50' intervals extending 50' from each side of the creek center line. The length of the creek profile shall extend 150' above and below the new bridge(s) crossing the creek.

f) Preliminary design of sanitary sewer and water main lines in the new roadway. The sewer line shall be a "force main" with effluent connecting to the existing sewer line in Skyline Blvd. The new water line shall be connected to the existing water mains in Skyline Blvd.

g) Preliminary design of the on-site storm drain line for the new roadway only. The storm drain shall deposit water into one (1) existing adjacent creek.

Preliminary Earthwork Calculations

3) Preliminary on-site earthwork calculations to determine the estimated amounts of cut and fill for the proposed design.

Thank you for your attention to this matter. If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

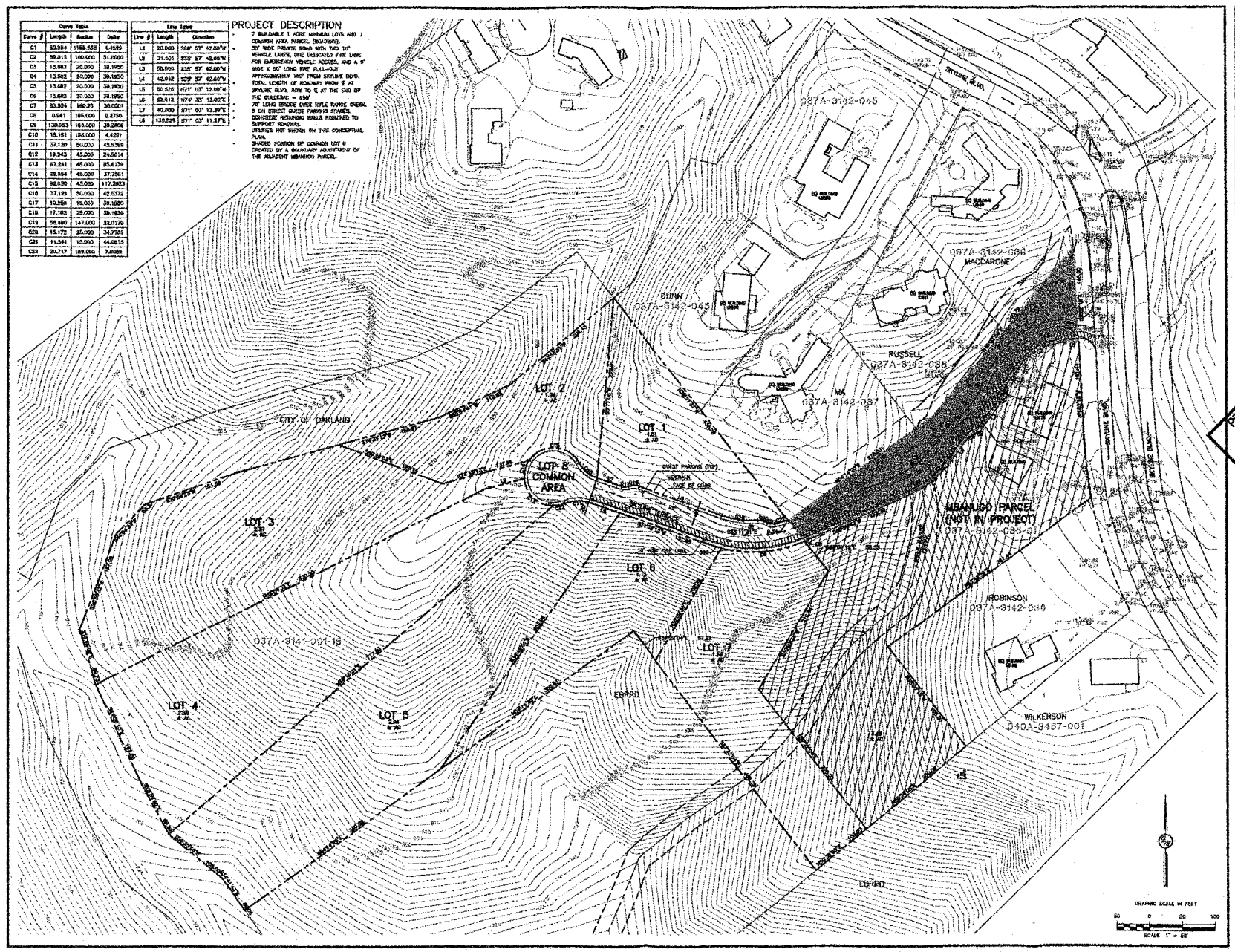
Jeffrey Moore, P.E.
President
C042628

Curve Table			
Curve #	Length	Radius	Delta
C1	89.954	1155.538	4.4589
C2	89.013	100.000	51.0000
C3	13.963	20.000	39.1950
C4	13.962	20.000	39.1950
C5	13.962	20.000	39.1950
C6	13.962	20.000	39.1950
C7	83.924	160.25	30.0001
C8	0.941	195.000	0.2770
C9	130.663	195.000	38.2806
C10	15.151	195.000	4.4571
C11	37.120	50.000	43.5369
C12	19.343	45.000	24.6014
C13	67.241	45.000	85.6139
C14	28.554	45.000	37.3561
C15	92.035	45.000	117.2823
C16	37.181	50.000	42.5372
C17	10.258	19.000	30.1883
C18	17.102	25.000	39.1939
C19	56.490	147.000	22.0175
C20	15.172	25.000	34.7709
C21	11.541	15.000	44.0815
C22	20.717	155.000	7.6589

Line Table		
Line #	Length	Direction
L1	20.000	S88° 57' 42.00"W
L2	31.521	S33° 57' 42.00"W
L3	50.000	S28° 57' 42.00"W
L4	42.942	S28° 57' 42.00"W
L5	50.526	N71° 02' 12.09"W
L6	62.912	N74° 33' 13.00"E
L7	40.000	S71° 02' 13.39"E
L8	135.525	S77° 03' 11.27"E

PROJECT DESCRIPTION

- 7 BUILDABLE 1 ACRE MINIMUM LOTS AND 1 COMMON AREA PARCEL (ROADWAY).
- 30' WIDE PRIVATE ROAD WITH TWO 10' VEHICLE LANES, ONE DEDICATED FIRE LANE FOR EMERGENCY VEHICLE ACCESS, AND A 9' WIDE X 60' LONG FIRE PULL-OUT APPROXIMATELY 150' FROM SKYLINE BLVD. TOTAL LENGTH OF ROADWAY FROM ℄ AT SKYLINE BLVD. ROW TO ℄ AT THE END OF THE CULDESAC = 690'
- 70' LONG BRIDGE OVER RIFLE RANGE CREEK.
- 8 ON STREET GUEST PARKING SPACES.
- CONCRETE RETAINING WALLS REQUIRED TO SUPPORT ROADWAY.
- UTILITIES NOT SHOWN ON THIS CONCEPTUAL PLAN.
- SHADED PORTION OF COMMON LOT 8 CREATED BY A ROADWAY EASEMENT OF THE ADJACENT MBANUDO PARCEL.



GREENWOOD & MOORE, INC.
Civil Engineers • Planners
Land Surveyors • Planners
7418 Bancroft Avenue, Suite 100, Oakland, California 94605
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REVISIONS

PRELIMINARY NOT FOR CONSTRUCTION

SKYLINE TERRACE
SKYLINE BLVD.
OAKLAND, CA

PRELIMINARY 1 ACRE LOT LAYOUT
VESTING TENTATIVE TRACT 7491

FILENAME:	
CHECKED BY:	JB
DRAWN BY:	JB
SCALE:	1"=50'
DATE:	6-11-09
PROJECT NO.	2008-036
SHEET NO.	SP-1

CITY OF OAKLAND

DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Community and Economic Development Agency
Planning & Zoning Services Division

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VIA EMAIL AND US MAIL

July15, 2009

Ineda Adesanya
IPA Planning Solutions
1617 Clay St
Oakland, CA 94612

RE: Skyline Terrace Case File TTM7491

Dear Ms. Adesanya:

Staff received your letter dated June 15, 2009 along with two revised lot configurations and a project description. This submittal was in response to our previous meetings regarding a reduction in density and shortened access road. Your letter requests general staff concurrence with the concept plans before submittal of the other documentation that would result in a complete application. Staff agrees that the submittal does not constitute the additional documentation outlined in our June 5, 2008 letter and therefore the project is still considered **INCOMPLETE.** Furthermore, staff could not complete a thorough Planning and Zoning permit review without more detailed submittal and therefore these comments are preliminary and subject to change based upon more formal and detailed review of a complete application.

The Planning and Zoning Division, Engineering Services Division, and the Fire Prevention Bureau reviewed the two revised, conceptual proposals. In general, staff is more supportive of a large lot estate subdivision concept than the previous 22-lot proposal and we are committed to working with you should you choose to pursue this concept idea further. However, there are still significant issues related to the length of the road, treatment of the interface with adjacent open spaces, the creek crossing, and other issues indicated in the letters dated November 13, 2007 and June 5, 2008. Below is a more detailed list of staff's preliminary concerns that still need to be addressed to our satisfaction.

Other Parcel (13175 Skyline)
The plans show the parcel at 13175 Skyline but note that the parcel is not included in the proposed project. Since the alternatives submitted show a new road parcel (not an easement) that includes 13175 Skyline land, this parcel must be included in the proposed project. Furthermore, it is also not clear from the plans how this parcel is being accessed. It is staff's understanding that the new parcel, road construction, and grading would remove the driveway to this parcel. Is this parcel now being accessed off the private road or is a new driveway being proposed? This would have to be part of the proposed project and included in the CEQA project description.

Access Road
The plans show an 1170' dead-end private road in one option and a 990' dead-end private road in the other option. As noted in previous letters and meetings this roadway length is not meeting the Subdivision Regulations or the newly adopted Fire Code. While we are pleased that the roadway has been reduced

B-12 [redacted]

down from a 1400' long road, the proposed length shown in the plans is still in excess of the 600 ft maximum.

Creeks
The plans do not show the location or the details of the bridge over the creek. This will be an important factor in our general consideration of a proposed project scheme. The Guide to Oakland's Creek Ordinance generally prohibits structures spanning a creek. These Guidelines require that the applicant justify to the City's satisfaction that the development, if permitted, would be carried out only to the extent necessary to avoid a taking. Thus, the project may be too dense in this regard.

Density
Although the proposed alternatives in concept appear to meet some General Plan and Zoning regulations, based on the other factors in this letter staff finds the project still too dense, unable to meet the lot design standards, Fire Code standards, creek standards, median lot size (median is 3 acres without counting the open space parcels adjacent) of the surrounding lots, or many General Plan policies and objectives. We are recommending a further reduction in lots and length of the roadway in order to comply with the standards and guidelines.

Open Space
The submitted project description states that the lots are clustered to preserve the majority of the steepest portions of the site as natural open space. The project description also references a landscaping concept that will preserve the surrounding hillside. However, the proposed alternatives propose a subdivision with lot lines that extend to the edge of the larger property. There are no building pads that show how steep hillsides will be preserved or how the site interfaces with adjacent open spaces.

PUD
The project applicant will need to apply for a Planned Unit Development Permit. The City will not consider a private road with a bridge, retaining walls, major grading, force main sewer, water conveyance, storm drainage, electrical lines of this type without the assurance offered by a PUD that this infrastructure will be in place prior to development or sale of the proposed lots.

In summary, City staff is generally supportive of a large lot concept. However there is much work remaining in order for you to submit a complete application and complete the environmental review process. We have met on numerous occasions with you, the owner and other applicant representatives to discuss the June 2008 letter, density, and access issues as well as other requirements to move this project along. We are looking forward to continuing to work with you on the proposal and urge you to submit plans that are more compatible with these City standards outlined above and in the previous referenced correspondence.

Sincerely,

Heather Klein
Planner III
Major Projects Division

Gary Patton
Major Projects Manager
Deputy Director of Planning and Zoning

cc: Dr. Collin Mbanugo, Owner
Desley Brooks, Councilmember for District 6
Dan Lindheim, City Administrator
Walter Cohen, Director Community and Economic Development Agency
Eric Angstadt, Deputy Director, Community and Economic Development Agency
Mark Wald, Deputy City Attorney
Ray Derania, Interim Director of Building Services
Jon Ewigleben, Engineering Services
David Mog, Engineering Services
Mike Neary, Deputy Director, Department of Engineering and Construction
James Edwards, Deputy Fire Chief
Philip Basada, Fire Protection Engineer
Don Smith, Project Coordinator for Building Services
Leslie Estes, Watershed Program Supervisor

Collin A. Mbanugo, M.D., F.A.C.S.

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P.O. BOX 8353
EMERYVILLE, CA 94662

Via e-mail and US Mail

July 29. 2009

Re: Skyline Terrace Case File TTM7491

Dear Ms. Klein,

The purpose of this letter is to request that subsequent communication on the Skyline Terrace Project be directed to me the owner as the primary project coordinator. You were on vacation when I called to relay this information. I spoke to Mr. Gary Patton and discussed my need to become the project coordinator to facilitate first hand direct communication during this phase of development of the submitted alternative. My preferred e-mail address is: drmbanugo@yahoo.com.

I will use this opportunity to acknowledge receipt if your letter dated July 15, 2009. First, I am pleased with City Staff "generally supportive of a larger lots concept". We will continue working with City Staff to further develop the concept. The following responds to City outlined concerns:

Other Parcel (13175 Skyline). As stated on the submitted revised alternative, a lot line adjustment application will be submitted to include areas necessary for roadway construction and maintenance to serve the proposed development. Access to 13175 Skyline via one or both existing driveways will be evident. The proposed lot line adjustment will be included in the CEQA Project Description.

Access Road: We had two separate meetings with City Planning Staff in presence of the Fire Marshall. The consensus at the meeting was to develop an alternative supportable by Fire Services Bureau. The submitted revised concept was done in consultation with, and concurrence by the Fire Marshall; Chief James Edwards. Fire Services Bureau will support a road length 1000 ft or less with mitigation.

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Creeks: The location and the details of the bridge over the creek were submitted with the 22 lot version and can be modified to fit the revised submitted map. Since the purchase of 13175 Skyline Blvd. in 2007, submitted plans have been modified to show the bridge structure, **crossing, not spanning the creek.**

Density: The project site is zoned R30. The adjacent Hillcrest Estates is zoned RI. The proposed revised alternatives are now consistent with RI zoning. The submitted alternative has reduced the density by more than two thirds. Median lot size rule is usually not applicable to different zonings. We are hopeful staff will support our submitted alternatives and allow a chance at a financially viable project as stated on our revised project description. The revised submitted alternative is consistent with existing adjacent development.

Open Space: The proposed revised alternative will strive to develop a subdivision consistent with adjacent RI Hillcrest Estates. There are several Hillcrest Estates parcels also abutting the adjacent Leona Canyon Open Spaces as shown on Assessors Map 37A-3142. Once developed, and improvements in place, the individual lot owner will have to apply for individual design review for the home site. We will modify our project description to reflect this fact.

PUD: We will continue to work with City Staff and hope to achieve the same assurances through conditions of approval of final tract map.

In summary, I will like to thank City Staff for support of larger lots concept and very much need your guidance as we develop this concept further.

Sincerely,

Collin A. Mbanugo, M.D.

CAM: ODLH

CC: Dan Lindheim, City Administrator
Walter Cohen, Director Community & Economic Development Agency
Eric Angstadt, Deputy Director Community & Economic Development Agency
Mark Wald, Deputy City Attorney
James Edwards, Deputy Fire Chief
Leslie Estes, Watershed program Supervisor
Gary Patton, Major Projects Manager, Deputy Director of Planning & Zoning
Ineda Adesanya, IPA Planning Solutions, Inc.
Desley Brooks, Councilmember for District 6

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VIA EMAIL AND US MAIL

August 18, 2009

Collin Mbanugo, M.D.
P.O. Box 8353
Emeryville, CA 94662

RE: Skyline Terrace Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025.

Dear Dr. Mbanugo:

Staff received your letter dated July 29, 2009, written, in part, to provide new contact information, and also in response to our latest letter of July 15, 2009, finding your application to still be **INCOMPLETE**. Your July 29th letter did not include revised plans or additional documentation outlined in our June 5, 2008, February 10, 2009 and July 15, 2009 letters and therefore the project is still considered **INCOMPLETE.**

The purpose of this letter is to remind you of staff's options for processing your project, as detailed in our February 10, 2009 letter. As discussed in more detail below, **the information requested in the June 5, 2008 letter must be received within thirty (30 calendar days from the date of this letter (no later than September 18, 2009) or the City will pursue one of the two options indicated in our letter to Ineda Adesanya dated February 10, 2009. Option 1 will be to consider your application withdrawn or staff will recommend to the City Planning Commission that the application be denied (Option 2).**

Option 1: It is City policy to issue an Inactive Letter if our records indicate that no progress has been made after 120 calendar days of the City's request for information. The Inactive Letter requests a response and submittal of the requested information within a certain period of time. If no response is received staff will consider the incomplete application to be **withdrawn**. Your project has been inactive for a significantly longer period and the February 10, 2009 letter constituted the Inactive Letter. If you fail to timely and adequately respond and the City elects to pursue this option, you will be notified in a separate writing of the City's decision to consider the application withdrawn.

Option 2: Our letter of June 5, 2008, February 10, 2009 and July 15, 2009, outlines the deficiencies and overall infeasibility of the project as designed. Staff considers the project to be fundamentally flawed with respect to the General Plan policies, Creek Ordinance, Subdivision Regulations, and Fire Access Standards. Staff believes that we have enough information at this time to conclude that we cannot make the required findings for approval of the project.

Therefore, staff could move forward to the Planning Commission with a recommendation for a **denial** of the project with the seven and eight lot subdivisions, the proposal with a split parallel main and EVA road and the previous alternative with the York Trail and Covington EVA. If the Planning Commission disagrees with staff's findings for denial, the project or the alternative would not be approved since the

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environmental review documentation would not be complete. Rather, the Planning Commission's decision would merely keep the application current and active and you would still need to address the items in staff's June 5, 2008, February 10, 2009, and July 15, 2009 letters.

If you decide to proceed, you would need to determine which plan is considered "the project" and submit the appropriate documents consistent with that particular plan as outlined in the June 5, 2008 letter within 30 days of the date of this letter (September 18, 2009). Only once staff has determined that the whole application is complete, would we recommend that you move forward with the environmental analysis of "the project" and toward Planning Commission review. Please be aware that a determination that the project is complete or any decision to keep the project active by staff or Planning Commission should not be construed as having an approved project or the likely possibility of an approved project. Rather, that decision only implies that the environmental analysis associated with the project can proceed. Staff would likely have the same concerns regarding our ability to meet the required findings, as noted in numerous memos and letters to you since 1998, unless the revised project resolves the fundamental issues raised in the June 5, 2008, February 10, 2009, and July 15, 2009 letters.

Please submit the appropriate documents as outlined in the June 5, 2008 letter within 30 calendar days of the date of this letter (September 18, 2009). **Failure to adequately and timely respond to the June 5th letter will result in the application either being considered withdrawn (Option 1) for which a separate decision letter will be prepared and sent or staff will recommend denial to the Planning Commission (Option 2) at a future public hearing to be scheduled.**

Furthermore, city staff has met with your and other representatives on several occasions, discussed the City's concerns, and reviewed alternatives. In our last letter dated July 15, 2009, City staff indicated that, while we were supportive of a lower density proposal, we are not inclined to support either the 7-lot or 8-lot alternative. Staff found the proposal too dense and not meeting the appropriate codes. We recommended that you continue to reduce the density and length of the road to meet the newly adopted Fire Code. Upon receipt of your letter, staff still does not believe that either alternative addresses these issues. We are reiterating that these options only begin to address the important issues outlined in our November 13, 2007 and June 5, 2008 letters. Below is our brief response to your July 29th letter.

- The division of the parcel at 13175 Skyline to create another parcel for the main access road to the proposed project can't be completed with a lot line adjustment (Parcel Map Waiver application). The parcel at 13175 Skyline needs to be included in the application.
- The Fire Services Division is not supporting the proposed road length and this was not agreed to with Ms. Adesanya. The Fire Services Division agreed to only review the plans.
- Plans need to be submitted that show the details of the bridge over the creek and the guidelines require that the applicant prove to the City's satisfaction that the development, if permitted, would be carried out only to the extent necessary. At this time staff does not consider 7-8 lots off of the road a necessity.
- The project is still too dense, unable to meet the lot design standards, Fire Code standards, creek standards, median lot size of the surrounding lots, or many General Plan policies and objectives. We recommend a further reduction in lots in order to comply with the standards and guidelines.
- Staff requires that the project include a conservation easement in perpetuity that protects steep slopes, habitat, and prohibits further development.
- The project applicant will need to apply for a Planned Unit Development Permit. Staff will not consider a private road with a bridge, retaining walls, major grading, force main sewer, water conveyance, storm drainage, electrical lines of this type without the assurance offered by a PUD that this infrastructure will be in place prior to development or sale of the lots. Conditions of Approval can't provide these assurances.

In summary, City staff has provided clear direction to you and we are still not inclined to support any of the submitted proposals. We recommend that you continue to reduce the density and length of the road to meet the newly adopted Fire Code.

We do not believe any further meetings or discussions are appropriate at this time. Rather, we need to timely receive a written response to the June 5, 2008 and July 15, 2009 letter along with the requested materials that will hopefully address the fundamental problems associated with the application **no later than September 18, 2009**. Although we are looking forward to reviewing a proposal that is more compatible with these City standards, no further extensions shall be granted for providing the requested materials.

Sincerely,

Heather Klein
Planner III
Major Projects Division

Gary Patton
Major Projects Manager
Deputy Director of Planning and Zoning

cc:
Desley Brooks, Councilmember for District 6
Dan Lindheim, City Administrator
Walter Cohen, Director Community and Economic Development Agency
Eric Angstadt, Deputy Director, Community and Economic Development Agency
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Collin A. Mbanugo, M.D., F.A.C.S.

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EMERYVILLE, CA 94662

Heather Klein, Planner III
Major Projects Division
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, California 94612-2032

September 11, 2009 Via E-Mail and US Mail

Re: Skyline Terrace Case File TTM7491

Dear Heather and Gary,

This letter acknowledges your letter dated August 18, 2009. Your letter arrived while I was on summer vacation.

Please note that the East Bay Regional Park District has expressed interest in acquiring the 13.66 Acre (Skyline Terrace) property.

My preliminary discussion with EBRPD staff include a promise to hold off on pursuing entitlement of the project during the negotiation process.

As a result, to respect the process and show good faith, I am requesting a 90 day extension on the deadline to submit additional materials to allow time for negotiation with EBRPD.

Sincerely,

Collin A. Mbanugo

Cam: odlh

Cc: Walter Cohen, Director CEDA

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CITY OF OAKLAND

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Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

VIA EMAIL AND US MAIL

September 22, 2009

Collin Mbanugo, M.D.
P.O. Box 8353
Emeryville, CA 94662

RE: Skyline Terrace Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025.

Dear Dr. Mbanugo:

Staff received your letter dated September 11, 2009, which merely requests a ninety (90) day extension to submit revised plans or additional documentation because you are in preliminary negotiations with the East Bay Regional Park District regarding acquisition of the Skyline Terrace property.

The Planning and Zoning Division hereby grants your request for an extension of the September 14, 2009 deadline, established in our August 18, 2009 letter. You have 90 days from the date of this letter **(December 21, 2009)** to submit the materials we have previously requested. If staff is informed that negotiations are not proceeding in a timely manner or have concluded before the 90 day extension has expired, staff will notify you and you will then have 30 days to submit the materials, or staff will pursue one of the options outlined in the August 18th letter.

Sincerely,

Heather Klein
Planner III
Major Projects Division

for

Gary Patton
Major Projects Manager
Deputy Director of Planning and Zoning

cc:
Desley Brooks, Councilmember for District 6
Dan Lindheim, City Administrator
Walter Cohen, Director Community and Economic Development Agency
Eric Angstadt, Deputy Director, Community and Economic Development Agency
Mark Wald, Deputy City Attorney

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Ray Derania, Deputy Director of Building Services
Jon Ewigleben, Engineering Services
David Mog, Engineering Services
Mike Neary, Deputy Director, Department of Engineering and Construction
James Edwards, Deputy Fire Chief
Philip Basada, Fire Protection Engineer
Don Smith, Project Coordinator for Building Services
Lesley Estes, Watershed Program Supervisor

Collin A. Mbanugo, M.D., F.A.C.S.

GENERAL & VASCULAR SURGERY
DIPLOMATE, AMERICAN BOARD OF SURGERY
P.O. BOX 8353
EMERYVILLE, CA 94662

December 16, 2009 Via e-mail & US Mail

Walter Cohen, Director CEDA
250 Frank Ogawa Plaza, Suite 3315
Oakland, California 94612

RE: Skyline Terrace Project TTM 7491; APN 037A-3141-001-015

Dear Mr. Cohen,

The purpose of this letter is twofold. First, to inform you of the status and progress with EBRPD discussions to acquire above property. Second, to request removal and replacement of Ms. Heather Klein as City Planner for the Skyline Terrace Project.

1. Status with EBRPD

In August 2009, I was contacted by Mr. Clinton Killian, an Oakland Attorney and former Chair of the Planning Commission. Mr. Killian stated that EBRPD has interest in acquiring the above property given its adjacent location to Leona Open Space Preserve. A neighbor Ms. Laura Dunn spearheading the opposition to the above project (Essentially because of location of the project in her back yard, NIMBY) has been in long discussion with neighbors and an overwhelming number appear to support EBRPD acquisition of the property.

As a resident of the same neighborhood and a long time resident of the City of Oakland, I made a promise to EBRPD that I would hold off on pursuing the subdivision during our negotiation. In September, 2009 the EBRPD district Board authorized negotiation. In October 2009 we visited the property with Ms. Darnell an Appraiser. In October and November Ms. Darnell has been in touch with the Planning Department in putting together an appraisal report.

It is my understanding the report would be completed this month. I remain very committed to negotiate with EBRPD and hopeful we will come to an agreement.

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2. **Removal of Ms. Heather Klein as Planner for the Skyline Terrace Project:**

I do not believe Ms. Klein has the credibility to continue shepherding this project as the primary City Planner, given her conduct and bias the past two and half years. Let me explain.

The following documents are attached only as a partial list of how I came to this conclusion.

- Determination of completeness of Application, March 3, 2004.
- Notice of Preparation of Draft Environmental Impact Report, May 10, 2004
- Comments from Fire Services – from Heather Klein May 01, 2007
- Letter from Heather Klein confirming discussion at 2 separate DTRAC meetings, July 16, 2007
- Meeting minutes from independent Peer Review Engineering Firm (BKF) May 9, 2008.

The above documents speak for themselves. What has happened in the past 2 ½ years has been a series of conspiring and maneuvering to derail this project by moving the project in a direction of financial infeasibility.

In retrospect, the beginning of this conspiracy coincided with the departure of Ms. Claudia Cappio, former CEDA Director with untouchable, impeccable integrity who strongly believes in utmost responsible and fair approach in administering City policy.

It is inconceivable, such behind the scene conniving would have been tolerated under Ms. Cappio's watch.

Let me briefly review the attached document.

- **Determination of completeness of application March 03, 2004.**

The application was deemed **complete** based on my providing evidence of an alternate means of EVA as clearly stated. Reason was clearly stated that if for some reason we were unable to use the City owned Trail then an alternate mean of EVA can be used. Subsequently after I went through the expense of purchasing 13175

Skyline Blvd property, to make use of the alternate EVA, the conniving began, by Planning Department to deny this alternative means of EVA.

- **Notice of preparation of Draft EIR May 10, 2004.** Once again, this public notice which was scoped before the Planning Commission with public input is very clear as to use of the alternative EVA access.

  On this basis we spent the next two years in conjunction with the Planning Department preparing the Draft EIR dated October 2007. The Planning Department has since refused to release the Draft EIR for public review. More than thirty copies of this Draft EIR remains with Ms. Klein to this date.

- **Comments from Fire Services.** Speak to acceptability by Fire Services of our alternative before the Draft EIR was concluded in October 2007. Once again the Planning Department refused to release the Draft EIR for public review.

- Letter from Ms. Heather Klein confirming discussions at two separate DTRAC meetings speaks for itself. Yet City refuses to publish our prepared Draft EIR for public review.

- **Meeting minutes from Independent Peer Review, reputable Engineering firm (BKF) May 9, 2008.** Note, representation by Public Works and fire Prevention. Once again, were willing to move the project forward with some minor modifications. Once again, Ms. Klein and some members of the Planning Department conspired behind the scenes to thwart the process, refusing to release our prepared Draft EIR.

What has happened since has been a series of collusion and behind the scene conniving to move and keep the application in incomplete status.

You can see from the documents provided above, the current status of this project should be to release the Draft EIR as prepared and have the minimum one acre plan as alternative.

I believe Ms. Klein has either joined this faction in Planning Department bent on derailing anything with the Mbanugo name on it or she is strongly influenced by this faction.

Finally, the application should never have been changed to **incomplete** status since we continue to have the ability to use the alternative EVA used in the first instance to deem the application **complete.** Just think about this for a moment. There is something very wrong in play here!

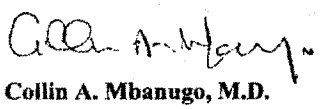
Imagine the impunity, gall and audacity it must have taken Ms. Klein to refuse to release a Draft EIR, prepared spending millions of dollars according to City guidelines and public scoping with communications as evidenced above.

What was obvious at the time was that Ms. Claudia Cappio's departure was imminent; therefore basically no one was "minding the store". This faction saw this as an opportunity to thwart and change the direction of the Project. This is embarrassing and no way to administer City Policy.

City employees must be held accountable. This is not a Monarchy. Taxpayers are footing these salaries and directly bearing the cost of this madness! When jobs are lost from lack of accountability or maliciousness, the taxpayers indirectly suffer the consequences while the City employee continues to draw salary at taxpayer's expense.

I am available to meet at your convenience and go over several other pieces of evidence supporting my conclusions.

Sincerely,



Collin A. Mbanugo, M.D.

Cam: odlh

Attachments: Determination of Completeness of Application
Notice of Preparation of Draft EIR
Comments from Fire Services
Meeting Minutes from Independent Peer Review Engineering Firm

Cc; Eric Angstadt, Deputy Director, CEDA
Heather Klein, City Planner
John Russo, City Attorney
Mark Wald, Deputy City Attorney
Dan Lindheim, City Administrator
C. Blake Huntsman, Chair Planning Commission
Douglas Boxer, Vice Chair Planning Commission
Sandra Galvez Planning Commissioner
Michael Colbruno, Planning Commissioner,
Madeline Zayas-Mart, Planning Commissioner
Vien Truong, Planning Commissioner
Vince Cribbs, Planning Commissioner

CITY OF OAKLAND

Community and Economic Development Agency, Planning & Zoning Services Division
250 Frank H. Ogawa Plaza, Suite 3330, Oakland, California, 94612-2032

March 3, 2004

Ineda Adesanya
IPA Planning Solutions, Inc.
560 14th Street Suite 100A
Oakland, CA 94612

RE: Skyline Ridge Estates Case File No. TTM 7491; APN: 037A-3141-001-015

DETERMINATION OF COMPLETENESS OF APPLICATION
Pursuant to §65943 of the California Government Code

Dear Ms. Adesanya,

In the Planning and Zoning Department's letter dated January 20, 2004, staff deemed the above referenced Vesting Tentative Tract Map application to be incomplete until the issue of providing emergency vehicle access (EVA) is resolved. Staff stated that the "the ability to use the York Trail for emergency vehicle access (EVA) has not been established and cannot be without action of the City Council. This issue is critical to the overall feasibility of the project and the site layout as shown on the plans and without the use of the York Trail, the project will need an alternative means of EVA or a secondary access."

Upon receipt and review of the new written project description dated March 3, 2004 showing two emergency vehicle access options and the corresponding plans and documents, I have determined that the application is complete as determined by Municipal Code Title 16 Section 16.08.010.

As mentioned in the previous letter, please be aware that other key issues have been raised during the community meetings. These include geology, hydrology, biological resources, and traffic. As part of the environmental review process for this project, the City reserves the right to retain independent consultants, at the sole expense of the applicant, in order to review baseline site conditions, previous technical reports and conclusions, prepare environmental review documents, findings, potential mitigation strategies, etc.

Please contact me at (510) 238-3659 should you have any questions or comments regarding this letter.

Sincerely,

Heather Klein
Planner II

CITY OF OAKLAND

Community and Economic Development Agency, Planning & Zoning Services Division
250 Frank H. Ogawa Plaza, Suite 3330, Oakland, California, 94612-2032

NOTICE OF PREPARATION
OF DRAFT ENVIRONMENTAL IMPACT REPORT

The Oakland Community and Economic Development Agency, Planning Division, is preparing a Draft Environmental Impact Report (EIR) for the project identified below, and we are requesting your comments on the scope and content of the EIR. According to CEQA Section 15060(d), staff has determined that an EIR is clearly required and we will not prepare an Initial Study for the project. The probable environmental effects are summarized below. Staff will be holding an Environmental Scoping Session for this project and this is scheduled for **Wednesday, May 19, 2004 at Oakland City Hall, One Frank H. Ogawa Plaza, Oakland, CA 94612 in Hearing Room 1 at 6:30 P.M.**

The City of Oakland is the Lead Agency for this project, which means that we are the public agency with the greatest responsibility for either approving it or carrying it out. We are sending this notice to Responsible Agencies and other interested parties. Responsible Agencies are those public agencies, besides the City of Oakland, that also have a role in approving or carrying out the project. Responsible Agencies will need to use the EIR that we prepare when considering approvals related to the project. When the Draft EIR is published, it will be sent to all Responsible Agencies and to others who respond to this Notice of Preparation or who otherwise indicate that they would like to receive a copy.

Please send us any response you may have within 30 days from the date you receive this notice and before June 10, 2004. Your response, and any questions or comments, should be directed to Heather Klein, City of Oakland, Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612. (510) 238-3659. Please reference case number **ER99-0025** in your response.

PROJECT TITLE: Skyline Ridge Estates

PROJECT LOCATION: APN 037A-3141-001-15; The project is located on undeveloped knoll off of Skyline Boulevard between Colbourn Place and Graham Place and adjacent to Leona Canyon Regional Open Space Preserve. The knoll is bordered by two creeks that have been determined by the City of Oakland.

PROJECT SPONSOR: Collin Mbanugo

PROJECT DESCRIPTION: The applicant has applied for a Vesting Tentative Tract Map to subdivide an undeveloped 13.6 acre knoll off of Skyline Boulevard into 22 parcels. One home would be built per parcel. The homes would be approximately 4,000 S.F. on 10,000 S.F. average lots. The lots would be accessed from Skyline Boulevard by a 1,400-ft long, 20-ft to 30-ft wide road that would terminate as a cul-de-sac within the interior of the site. The primary access road to the project would cross a determined, yet unnamed, creek and therefore require the construction of a 32-ft wide by 116-ft long bridge. This bridge would require major grading resulting in a realignment of a portion of the creek bed to the north side of the proposed road. Improvements to the vehicle access on Skyline Boulevard include "line of sight improvements" and the construction of acceleration and deceleration lanes. As part of providing a secondary emergency vehicle access (EVA) the EIR will evaluate two different options. One option is to improve 1,200-ft long by 20-ft wide portion of the City-owned York Trail, from Skyline Boulevard to Leona Canyon Regional Open Space Preserve, for combined pedestrian, equestrian, and emergency vehicle access (EVA). Presently, the York Trail is unimproved and described for pedestrian/equestrian purposes only. Construction of the combined trail/EVA use would require the fill and realignment of a small portion of a creek bed, along with major grading and retaining walls to accommodate a 20-ft wide all weather surface. Clearing and re-vegetating along the trail is also proposed. The other EVA option

ATTACHMENT A

is located on the southeastern side of the project site and is approximately 400-ft long by 20' wide. The EVA would be accessed off of Skyline Boulevard and connect up to proposed road. This EVA option would also cross a determined, yet unnamed, creek requiring the construction of an 18-ft wide by 50-ft long bridge. The proposal also includes a small private pump station, to be constructed between lots 11 and 12. A number of special status animal species are known to occur within several miles of the project site.

The EIR will include analysis that will cover all other discretionary permits from other responsible agencies and will include a Creek Permit and Tree Protection/Removal Permit from the City of Oakland. The EIR will also evaluate a range of alternatives, including a no project alternative and an alternative that would mitigate the identified significant impacts.

The proposed use is consistent with the General Plan land use designation of Hillside Residential and is surrounded by single family homes and regional parkland. A school, a church, and the fire station are also located nearby. The zoning designation for the site is R-30 One Family Residential Zone, which allows for residential and appropriate civic uses.

PROBABLE ENVIRONMENTAL EFFECTS: It is anticipated that the proposed project may have the following environmental effects: traffic and circulation impacts, hydrology impacts, geology and soils impacts, hazards impacts, utility and service system impacts, noise impacts, air quality impacts, biological resources, land use and planning impacts, aesthetic impacts, and cumulative impacts.

DATE: May 10, 2004
File No. ER 99-0025

Claudia Cappio
Director of Development
Environmental Review Officer

Collin Mbanugo

From: drmbanugo@yahoo.com
Sent: Wednesday, July 23, 2008 7:58 PM
To: collin@mbanugo.com
Subject: Fw: Comments from Fire Services

Sent via BlackBerry by AT&T

From: "Ineda" <ineda@facmania.com>
Date: Wed, 23 Jul 2008 18:07:51 -0700
To: <drmbanugo@yahoo.com>
Subject: FW: Comments from Fire Services

[illegible]

[illegible]
[illegible] Planning Solutions, Inc.
[illegible] Street
[illegible]
[illegible]
[illegible]

From: Klein, Heather [mailto:HKlein@oaklandnet.com]
Sent: Tuesday, May 01, 2007 9:35 AM
To: ineda@facmania.com
Cc: Basada, Philip; Collins, Gary
Subject: Comments from Fire Services

1. The previous alternative was acceptable to the Fire Services in meeting the intent of a separate secondary fire apparatus access road because it provided access from a separate location. The applicant needs to submit plan, profiles, and sections of the previous alternatives on the new topography to determine feasibility from the City's standpoint. Please include the creek profile on these drawings.
2. If the previous alternatives are considered by Fire Services and Environmental Services as unfeasible, a turnaround or hammerhead to Fire Services standards is required right after the bridge for emergency staging. Philip Basada will provide these specifications to the developer.
3. The bridge shall be 40' paved with at least one 5' sidewalk. Public Works will indicate whether two sidewalks are required.
4. The road other than the bridge will be 47' paved with at least one 5' sidewalk. Public Works will indicate whether two sidewalks are required. The extra width will provide parking at the curb. The reason for the extra road width is that is likely that parking would happen anyway and this would interfere with emergency response.
5. A secondary water supply is required due to the bridge. This can take place either in a secondary tank or individual tanks.
6. The new homes shall be 1 hour fire rated and made of noncombustible materials. More restrictive design criteria will be used in sizing the automatic sprinkler system in the homes, i.e. a six-head

minimum discharge instead of a two-head discharge under a normal NFPA 13D design parameter.
A class A roof will be required by Ordinance 11485.

7. A vegetation management plan is required.
8. Fire hydrants shall be provided at 300' spacing.

Heather Klein
Planner III
City of Oakland

250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612
ph: (510) 238-3659
fax:(510) 238-6538
email: hklein@oaklandnet.com

7/24/2008

CITY OF OAKLAND

July 26, 2007

Joel Weingarten
Europa Group
3613 Pontina Court
Pleasanton, CA 94566

RE: Case File Number: PUD06-280, TTM7491, T06-00078, CP06-117, ER99-0025
Skyline Boulevard; APN: 037A-3141-001-15

Dear Mr. Weingarten,

Planning staff received your request for meeting on July 27, 2007 to resubmit certain drawings and documents that are crucial to the continuation of processing the permit entitlements for this project. Staff welcomes this meeting as an opportunity to ensure that all documents and drawings are consistent and an accurate representation of the current project situation.

The purpose of this letter is to make you, the applicant, aware of staff's current position and to outline our concerns regarding the status of the project at this critical juncture.

Revised Survey and Site Plan

On March 29, 2007, planning staff attended a meeting at the office of IPA Planning. The purpose of the meeting was to discuss the results of the revised survey which had important implications for the proposed project. At that meeting the engineer, Jeffrey Moore, explained that the York Trail emergency vehicle access (EVA) wasn't feasible for emergency evacuation and fire response due to the steep slopes. He also stated that the cost of constructing a bridge that would be necessary for the other EVA access made that route infeasible.

City staff reviewed two EVA proposals at two consecutive Development Technical Review Advisory Committee (DTRAC) meetings. The first proposal was to create two parallel roads: one for main access and one for emergency vehicle access. The two roads would separately intersect with Skyline Boulevard and, further into the project, connect together. At the first DTRAC meeting on April 23, 2007, several City department representatives felt that one wider road would accomplish the same purpose as two parallel roads. The DTRAC representatives asked that the applicant return to DTRAC with additional information on why the prior two EVA proposals were infeasible and for review of a wider road alternative. At the second DTRAC meeting on May 7, 2007, staff reviewed a second proposal which was a wider street and a split road. The meeting concluded with the City's Public Works Agency's Design and Construction; ROW Management Divisions; and Fire Services accepting either alternative. However, Fire Services was generally amenable to a wider road only with strict mitigations. The meeting minutes from the second DTRAC meeting indicate that the project engineer and applicant were to meet with Fire Services and Planning and Zoning for additional discussion of the secondary water supply. To my knowledge, this meeting has not been scheduled.

Since the second DTRAC meeting and after further review of the proposals, the Engineering Services and Planning and Zoning Division's findings have not changed regarding the need for a second access which is required for new public streets. These findings support the City's earlier letters to the applicant on April 8, 1998, November 1, 2000, and

BKF
ENGINEERS SURVEYORS PLANNERS

2737 North Main Street, Ste 200
Walnut Creek, CA 94597
925-940-2200/925-940-2299 fax

Meeting Minutes

Date of Meeting: May 9, 2008
Location: Oakland Department of Public Works
Project No: 20085054
Author: Chris Mills
Subject: Skyline Terrace Estates Application

Participants and Distribution (name, fax and email):

Owner - Developer

BKF Engineers - Civil
Chris Mills (cmills@bkf.com)
City of Oakland Public Works
Marcel Uzegbu – Supervising Civil Engineer (MUzegbu@oaklandnet.com)
City of Oakland Fire Prevention
Gary Collins – Assistant Fire Marshal (gcollins@oaklandnet.com)
Philip Basada -- Fire Protection Engineer (pbasada@oaklandnet.com)
IPA Planning Solutions
Ineda Adesanya (ipa@facmania.com) Copied, not present

The following summarizes the meeting and is not meant to be a literal transcript. If these notes do not reflect your understanding of the conversation, please notify the author immediately.

Fire Department comments on project were as follows:

- Fire Department indicated that they need 70' diameter at face of curb in cul-de-sac for turnaround. Current plan appears to provide. Verify sidewalk width = 5'.
- Fire Department will require 26' clear width on residential street. Street currently designed to be 30' total width with parking on one side. Public Works and Fire Department agreed that parking width is 7'. Total road width, curb to curb will need to be 33' to accommodate parking and Fire Department access.
- Hydrant spacing will need to be 300' maximum.
- With respect to home construction, Fire Department will require 1-hour exterior wall envelope in each building and 6-hydraulically remote sprinkler heads per house.
- Developer must submit for approval and implement a Vegetation Management Plan. This is not necessary at entitlement phase, but will be required later (either at recordation of Final Map, issuance of first building permit, or issuance of first certificate of occupancy)
- Fire Department takes no exception to the orientation of the emergency vehicle access and verified that 22' clear width on both the main access street and the EVA is acceptable.

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ENGINEERS SURVEYORS PLANNERS

2737 North Main Street, Ste 200
Walnut Creek, CA 94597
925-940-2200/925-940-2299 fax

- Fire Department will require "step access" along the sides and around the backs of each home.

Fire Department requirements will be delineated in project Conditions of Approval.

Public Works comments were as follows:

- Marcel is concerned with the separation of the main access road and the EVA from a seismic stability perspective. Chris suggested that the project proponent we would provide a letter from the structural engineer indicating that the bridges are structurally independent from each other. Marcel would like the project team to investigate whether the northern roadway can be moved closer to the property line. Chris indicated that moving the road to the north was constrained by the existing creek, but that the project team would investigate the possibility.
- The dead-end street limit is 600' from end of EVA split to back of cul-de-sac, measured at the face of curb. Marcel suggested that the cul-de-sac be shortened and that lots 10, 11, 12 and 13 effectively become flag lots. In that event, parcel frontage on the cul-de-sac for each parcel will be 25' minimum. Design will have to be careful to accommodate Fire Department access to the flag lot houses. The "median" that separates the EVA from the main road can also be extended, but must stop short of the driveway to Lot 22.
- Public Works takes no exception to the streets being private, but noted that they still need to be designed and constructed to public street standards and that no gates will be allowed.

Public Works is expecting that project documents will be resubmitted to accommodate the changes relative to street width and cul-de-sac length.

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Community and Economic Development Agency
Planning & Zoning Services Division

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VIA EMAIL AND US MAIL

January 14, 2010

Collin Mbanugo, M.D.
P.O. Box 8353
Emeryville, CA 94662

RE: Skyline Terrace Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025.

Dear Dr. Mbanugo:

Staff received your letter dated December 16, 2009, outlining the status of the negotiations with the East Bay Regional Park District (EBRPD) for the Skyline Terrace property. Although your letter did not expressly include a request for an extension to our December 21, 2009 deadline (as noted in our September 22, 2009 letter) and you did not respond to our e-mail dated December 16, 2009 seeking clarification, staff is assuming that you are requesting an extension to continue acquisition negotiations with EBRPD.

The purpose of this letter is to inform you that your request for an extension of the deadline has been **DENIED.** Staff is denying this request for the following reasons. Your land use applications, including applications for a planned unit development near a creek, removal trees, and to subdivide the property, are completely separate from the negotiations with the EBRPD for purchase of the property. You can continue to pursue negotiations with the EBRPD regardless of the status of your land use applications. Furthermore, you have had since June 5, 2008 to submit additional requested materials and this request is not in any way contingent on negotiations with EBRPD.

Based upon the foregoing, your assumed request for an extension to the December 21, 2009 deadline has been **DENIED.**

Please submit all of the appropriate documents as outlined in the June 5, 2008 letter within 14 calendar days of the date of this letter (January 28, 2010). Failure to adequately and timely respond to the requested information contained in the June 5th letter will result in staff recommending denial of your application to the City Planning Commission, indicated as Option 2 in our letter to Ineda Adesanya dated February 10, 2009 and to you dated August 18, 2009.

Sincerely,

Heather Klein
Planner III
Major Projects Division

B-18

Gary Patton
Major Projects Manager
Deputy Director of Planning and Zoning

cc:

Desley Brooks, Councilmember for District 6
Dan Lindheim, City Administrator
Walter Cohen, Director Community and Economic Development Agency
Eric Angstadt, Deputy Director, Community and Economic Development Agency
Mark Wald, Deputy City Attorney
Ray Derania, Deputy Director of Building Services
Jon Ewigleben, Engineering Services
David Mog, Engineering Services
Mike Neary, Deputy Director, Department of Engineering and Construction
James Williams, Deputy Fire Chief
Philip Basada, Fire Protection Engineer
Don Smith, Project Coordinator for Building Services

Collin A. Mbanugo, M.D., F.A.C.S.

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EMERYVILLE, CA 94662

Heather Klein, Planner III
Major Projects Division, City of Oakland
250 Frank Ogawa Plaza, Suite 3315
Oakland, California 94612

VIA US MAIL & E-MAIL

January 27, 2010

Re: Skyline Terrace Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025

Dear Ms. Klein,

Your letter of January 14, 2010 failed to address the issues raised on the second part of my letter of December 16, 2009. (Attached herein). While threatening to send the Skyline Terrace application to the Planning Commission for denial; your purposeful avoidance of addressing the second part of the letter which deals with the status of the Skyline Terrace Project application is quite consistent with my continued concern about your credibility to continue shepherding this project as the primary City Planner. I have attached herein copy of your acknowledgment of me, the property owner as the project applicant dated August 4, 2009.

It should not come as a surprise that my knowledge and comprehensive study of the status on the project began after I became the applicant.

Another reason why I strongly believe you should be replaced as the City planner on Skyline Terrace Project is the relationship and apparent friendship you have forged with Ms. Laura Dunn over the years. This relationship I believe, is affecting your judgment and discretion on this project. As you well know, Ms. Dunn, spearheading the opposition, lives

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adjacent to the Skyline Terrace Project. What you may not know is that prior to her purchasing the lot where her current home is in 1997, I had a detailed conversation with Ms. Dunn and Mr. Stephen McGrath who sold her the lot. Mr. McGrath and I showed her the preliminary plans of the Skyline Terrace Project at the time with 25 lot proposal. In short Ms. Dunn did not have to purchase her lot. She made her decision despite the clear disclosure and then chose to spearhead the fight to ensure my private land (13.66Acres) remain permanent open space.

How did I know the facts stated above? I was the first buyer in Escrow with Mr. McGrath in 1996 to purchase the same lot before Ms. Dunn came along in 1997 and offered more money to Mr. McGrath.

Here is the story!

Mr. McGrath was the owner of 13085 Skyline Blvd. in 1996, a 2.8 Acre parcel with one residence. The 1.5 acre site where Ms. Dunn's house (13095 Skyline Blvd) was part of the 2.8 acre parcel that I helped Mr. McGrath split from his then residence at 13085 Skyline. I had an agreement with Mr. McGrath to purchase the lot at a set price after the split. I paid the cost of filing the tentative map. Mr. McGrath and I attending several planning and staff meetings including meeting with then Planning Director, Mr. Willie Yee then, Councilman, Mr. Nate Miley, and then CEDA Director, Mr. Kofi Bona to successfully split the lot. Ms. Dunn came into the picture in 1997 and offered more money to Mr. McGrath and purchased the lot after all my efforts. I make this point to let you know Ms. Dunn does not deserve the type of relationship you have forged with her to "kill" the Skyline Terrace Project.

Most residents in Hillcrest Estates will not be opposed to the minimum one acre lot we submitted as alternative. You should be replaced as the Project Planner to allow a more independent planner take over the project and do the right thing for the tax paying citizens of Oakland.

East Bay Regional Park District

As a courtesy to EBRPD I waited for over five months and provided all requested materials including prior appraisals, Deed and all encumbrances on the property. It's clear the EBRPD has more interest in "taking' my property than buying it. The City must not collude in this conspiracy.

It is peculiar that the written response to questionnaire from EBRPD appraiser from the City dated November 2, 2009 was not used by the appraiser since the report date was October 30, 2009. The usual criteria applied by several appraisers on the parcel over the past twenty years was purposefully ignored by this appraiser. This parcel was purchased at a market rate in excess of $1,000,000 more than twenty years ago in 1990.

Open space is not in short supply in the vicinity of the project There are over 400 Acres owned by EBRPD. Colluding with EBRPD to 'take' my 13.6 acre parcel of land is wrong. Gearing my application toward approving a non feasible project amounts to taking my land and will result in a negative significant local economic impart in our community; especially in these economic times.

Finally my application should be restored back to "**complete**" status to allow development of the alternative plans submitted which are minimum one acre lots consistent with the surrounding existing developments. Your emphases on insisting on material from your letter of June 5, 2008 when we submitted an alternative on June 15, 2009 appear dishonest and geared towards taking my land.

The next step is to restore my application back to "**complete**" status while we develop the alternative. This has been discussed in two separate meetings in 2009. While you agree at the meetings on next steps; you write subsequent letters not consistent with the meeting consensus in attempting to take my private property.

There must be other qualified City Planners not saddled with your biases that can take over this project and apply City policy in a reasonable manner.

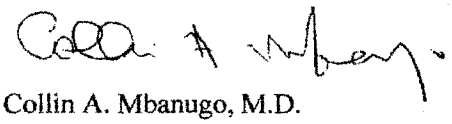
I have done all that is requested on this project including purchasing an adjacent property to comply within the Creek Protection Ordinance and utilize the alternative Emergency access if necessary, cited in the complete letter of March 3, 2004, (attached herein).

We continue to run a significant deficit in this City with constant budget crises; we must not continue to discourage development in compliance with City policies because of personal malice and envy.

We need jobs in this community. Governor Schwarzenegger has been Court ordered to release over 40,000 prisoners. Some of these parolees will end up in our community. They will need Jobs. I know! I am the designated Surgeon for the prisons in Vacaville, Solano and San Quentin. While the Mayor has hired an excellent Police Chief, I continue to strongly believe we need jobs, jobs, jobs to make a significant long standing dent on crime.

I am not asking for any "**HAND OUTS OR SUBSIDIES**". I am simply asking to develop my land based on City guidelines and reasonable administration of City Policy.

Sincerely,



Collin A. Mbanugo, M.D.

Cam: odlh

Attachments: Dr. Mbanugo letter of December 16, 2009
Heather Klein's confirmation of Dr. Mbanugo as project applicant, August 4, 2009
Letter from Heather Klein confirming discussions at two separate DTRAC meetings
Determination of completeness of Application
Notice of Preparation of Draft EIR
Comments from Fire Services
Meeting Minutes from Independent Peer Review Engineering Firm

Cc: Walter Cohen, Director, CEDA
Eric Angstadt, Deputy Director, CEDA
Gary Patton, Deputy Director Zoning
Dan Lindheim, City Administrator
John Russo, City Attorney
Mark Wald, Deputy City Attorney
Gerald Simon, Fire Chief
James Williams, Deputy Fire Chief
Philip Basada, Fire Engineer
C. Blake Huion ntsman, Chair Planning Commiss
Douglas Buxer, Vice Chair Planning Commission
Sandra Galvez Planning Commissioner

Michael Colbruno, Planning Commissioner,
Madeline Zayas-Mart, Planning Commissioner
Vien Truong, Planning Commissioner
Vince Cribbs, Planning Commissioner
Desley Brooks, Councilwoman, District 6
Ron Dellums, Mayor
Ignacio De La Fuente, Vice Mayor
Jane Brunner, President, City Council
Jean Quan, Mayoral Candidate
Don Perata, Mayoral Candidate
Bishop Bob Jackson, President, Oakland African American Chamber of Commerce
Will Hardee, Director Oakland African American Chamber
Merlin Edwards, Edward Consulting
Joseph Haraburda, President, Oakland Metropolitan Chamber of Commerce
Bishop Bob Jackson, President OAACC
Pat O'Brien, Director EBRPD
Nancy Wenninger, EBRPD
Liz Musbach, EBRPD
Margaretta J. Darnell, MAI EBRPD
Ray Derania, Deputy Director of Building Services
Jon Ewigleben, Engineering Services
David Mog, Engineering Services
Mike Neary, Deputy Director, Department of Engineering & Construction
Don Smith, Project Coordinator for Building Services
Nate Miley, Supervisor, Alameda County

YAHOO! MAIL Classic

Re: Skyline Terrace Case File TTM7491 Tuesday, August 4, 2009 12:19 PM

From: "drmbanugo@yahoo.com" <drmbanugo@yahoo.com>
To: "Klein, Heather" <HKlein@oaklandnet.com>

Thank you.
Sent via BlackBerry by AT&T

From: "Klein, Heather"
Date: Tue, 4 Aug 2009 12:16:39 -0700
To: COLLIN A MBANUGO<drmbanugo@yahoo.com>
Subject: RE: Skyline Terrace Case File TTM7491
Collin,
I am in receipt of you letter dated July 29, 2009. You will now be the applicant and our contact info for your will be changed.

Heather Klein, CGBP, LEED AP
Planner III
City of Oakland

250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612
ph: (510) 238-3659
fax:(510) 238-6538
email: hklein@oaklandnet.com

Please consider the environment before printing this e-mail

From: COLLIN A MBANUGO [mailto:drmbanugo@yahoo.com]
Sent: Wednesday, July 29, 2009 12:18 PM
To: Klein, Heather ; Patton, Gary
Cc: Lindheim, Dan ; Cohen, Walter ; Angstadt, Eric ; Wald, Mark ; Edwards, Jacquelyn (Deborah); Estes, Lesley ; Ipa@facmania.com; Brooks, Desley ; COLLIN@MBANUGO.COM
Subject: Skyline Terrace Case File TTM7491

see attached.

CITY OF OAKLAND

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Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

VIA EMAIL AND US MAIL

February 25, 2010

Collin Mbanugo, M.D.
P.O. Box 8353
Emeryville, CA 94662

RE: Skyline Terrace Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025.

Dear Dr. Mbanugo:

I received your letter dated December 16, 2009 and a copy of your letter to Case Planner, Heather Klein, of January 27, 2010 regarding the Skyline Terrace Project. The purpose of this letter is to respond to the allegations in your letter regarding the conduct of the City and specifically your request for the removal of Heather Klein, as Case Planner for your project and the City's alleged collusion with East Bay Regional Park District to lower the value of the property.

I have reviewed your request to remove the current Case Planner, Heather Klein, from the project and assign another planner. I find no evidence to support your accusations of any bias on the part of Ms. Klein toward you or your project or any conspiracy to move your project toward financial infeasibility. Therefore, Heather Klein will not be removed as the Case Planner for the project nor will another case planner be assigned.

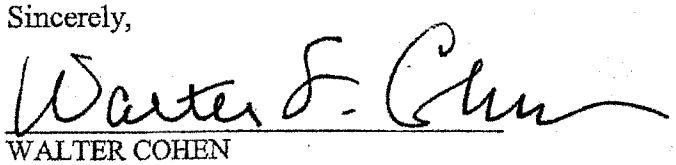
Ms. Klein has followed the appropriate procedures in processing your project over the past six years. She has specifically informed you in letters and subsequent meetings of the steps needed to move the project forward toward a decision. Furthermore, the Planning Department has granted multiple extensions in order to provide you with enough time to complete your application, submit the necessary documents consistent with that application, and address the City's concerns.

Secondly, the accusation that the Planning Department is in collusion with East Bay Regional Park District (EBRPD) to devalue your property is without merit. In order to provide a transparent process from the City's end, we specifically requested that the EBRPD appraiser put all questions in writing. Planning Staff responded back in writing and you were provided a copy of the City's responses to the appraiser's questions on November 2, 2009. Other than facilitating contact information and providing the November 2, 2009 letter and additional public documents (all of which are available in the Planning Case file and most of which involved correspondence between you and the City), the City of Oakland was not

B-20

involved in the appraisal process. If you have any questions about the appraisal process, you should contact EBRPD staff directly.

Sincerely,



WALTER COHEN
Community and Economic Development Agency
Agency Director

CITY OF OAKLAND

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Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
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TDD (510) 839-6451

VIA EMAIL AND US MAIL

March 5, 2010

Collin Mbanugo, M.D.
P.O. Box 8353
Emeryville, CA 94662

RE: Skyline Terrace Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025.

Dear Dr. Mbanugo:

I received your letter dated December 16, 2009 and a copy of your letter to Case Planner, Heather Klein, of January 27, 2010 regarding the Skyline Terrace Project. The purpose of this letter is to inform you of the Community and Economic Development Agency's (CEDA) final position on your project and to inform you of our intention to bring the project forward to the Planning Commission for a denial. Our reasons for denial are outlined below and were contained in numerous correspondences with you prior to the January 28, 2010 deadline.

Over the past year, in letters dated February 10, 2009, July 15, 2009, and August 18, 2009, CEDA has informed you that you must determine which of your multiple submittals is "the project" and you have not done so. You also have not submitted the appropriate documents, as outlined in our June 5, 2008 and July 15, 2009 letters. In the absence of these documents, Planning staff cannot continue processing your project. As we have advised you, the Planning Department still has the same overall concerns regarding your one-acre seven and eight-lot proposals that we did for your 22-lot proposal and this was outlined to you in staff's July 15, 2009 letter.

Your assumption that there is a Draft Environmental Impact Report (EIR) and that it is ready for publication is inaccurate. The administrative draft document submitted to Ms. Klein is dated October 2007. That draft document reflects a 22-lot proposal and includes an eight-lot proposal (with a common area road parcel) as an Alternative. The document does not include any mention of a seven-lot proposal (with a common area road proposal). In any event, none of the analysis in the draft document has been updated to reflect the submitted proposals and these reports and technical studies are required to be updated as noted in our July, 16, 2007, November 13, 2007 and August 18, 2009 letters.

Per Public Resources Code Section 21082.1(c)(3), environmental documents prepared pursuant to CEQA must reflect the independent judgment of the City of Oakland as the lead agency. The final responsibility for the content and adequacy of the EIR lies at the sole discretion of the City of Oakland. The administrative draft document you submitted cannot be reviewed nor approved by City staff because you have not defined your project or submitted appropriate studies consistent with that plan. Moreover, since the draft studies were originally completed, both the City and state agencies have adopted new thresholds of significance, standards and regulations regarding the preparation of environmental documents and required analysis. Your administrative draft document does not reflect any of these new policies, and

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therefore, the document is incomplete and inadequate. For these reasons, there is no Draft EIR and the document cannot be reviewed, approved, or published by the City in its current form.

In summary, the Planning Department has given you ample opportunities to define your project and submit the required information. You have failed to adequately and timely respond to the requested information in these letters by the stated deadlines therein. Therefore, in accordance with previous correspondence, including the City's last letter to you dated January 14, 2010, I have directed Ms. Klein to schedule a public hearing before the Planning Commission with a recommendation to deny (a) the 22-lot proposal; (b) the seven-lot proposal with a common area parcel for a road; and (c) the eight-lot proposal with a common area parcel for a road. Staff will inform you of the date of the public hearing when it has been scheduled.

Sincerely,

WALTER COHEN
Community and Economic Development Agency
Agency Director

Collin A. Mbanugo, M.D., F.A.C.S.

GENERAL & VASCULAR SURGERY
DIPLOMATE, AMERICAN BOARD OF SURGERY
P.O. BOX 8353
EMERYVILLE, CA 94662

Walter Cohen, Director CEDA
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, California 94612

March 9, 2010 Via US Mail and E-Mail

Re: (Skyline Terrace Case File Numbers PUD06-280: TTM7481; T06-0078: CP06-117; and ERT99-0025)

Dear Mr. Cohen,

I received your letter dated March 5, 2010 and your decision to take the Skyline Terrace Project to the Planning Commission for a denial. A review for your letter outlines two reasons for your decision.

1. **Need to determine which of our "multiple " Submittals is "The Project"**
2. **We have not submitted the appropriate documents, as outlined in City letter of June 5, 2008.**

I will address your two reasons separately because the reality is that we cannot comply with reason number two without resolving reason number one.

1. **Need to determine which of our "multiple submittals is "The project"**

There are really only two submittals.

- The 22 lot proposal publicly noticed in the preparation of EIR.
- The eight lot minimum one acre alternative in our analysis of the Draft EIR. Submitted June 15, 2009.

3300 WEBSTER STREET • SUITE 900 • OAKLAND, CA 94609 • 510-272-9610 • FAX (510) 272-9612

B-22 [redacted]

During the public scoping before the Planning Commission, the Planning Commission specifically directed we include the minimum one Acre lots as an alternative since the majority of the neighbors stated this preference, during the hearing.

After City Planning rejected the parallel access road alignment for reasons that it was different from either of the two emergency access roadways used to deem the application complete, We then agreed to use our alternative emergency access road if necessary.

It is not accurate as stated in City Letter of June 5, 2008 that we rejected use of the alternate emergency access. I have attached a copy of the map as it appeared for both emergency accesses used to deem the application "complete" in March 2004. After the City letter of February 10, 2009, our project team had two separate meetings with the City Staff.

We agreed to change project descriptions to reflect the minimum one acre 8 lots as **"The Project"** and keep the 22 lot proposal as the alternative. When we submitted the eight lot version on June 15, 2010, based on our discussion with City Staff, we left open the option of adding the alternative emergency access used to deem the application complete if necessary. We were also aware that Fire Services discretion and mitigation can vary based on density; given that we have reduced the density by two thirds.

In summary,

What we have done is to show a willingness to make our one acre alternative (8 lots) "The Project" given neighbors preference, and the 22 lot proposal as the alternative and at the same time willing to use the Alternative Emergency Vehicle Access used to deem the project complete. (Original map attached).

2. We have "not submitted the appropriate documents as outlined in City letter of June 5, 2008".

To my knowledge, we have never disputed the need to submit all documents as described in City Letter of June 5, 2008. We simply wanted to resolve the issues related to Fire Access and Safety with the Fire Department before producing that level of "detail" in light of our 8 lot submittal, on June 15, 2009, **as "The Project"**

We will like to get Fire Access Mitigation, Plan and Review from Fire Services, add the alternative emergency access to the 8 lot proposal if necessary and restore our **complete** application status before complying with the detail requirement listed in the June 5, 2008 letter. I believe this approach will clear up whatever confusion may be plaguing this project.

The City made itself clear in the June 5, 2008 letter they were not pleased with the parallel access road plan because it did not provide a separate access point. We are simply going back to what was publicly noticed in terms of emergency Vehicle access.

In reference to the time frame you mentioned, in the past year, I clearly communicated with City Staff regarding my discussion with EBRPD up to as late as December 16, 2009 and January 27, 2010.

Additionally, discussions with a number of reputable consulting engineering firms confirms that the Engineering details and document updates requested in City June 5, 2008 letter cannot possibly be completed in just two weeks stated in the City January 14, 2010 two week deadline.

In summary, We need Fire Services comments and mitigation on the submitted 8 lot proposal, we can add the alternate Emergency access to the submitted 8 lot proposals then restore the application to **complete** status to allow us to proceed with updating our studies including the administrative Draft EIR in keeping with the June 5, 2008 City letter.

We have already paid significant amount of fees including. Subdivision, Creek protection permit and Tree removal fees.

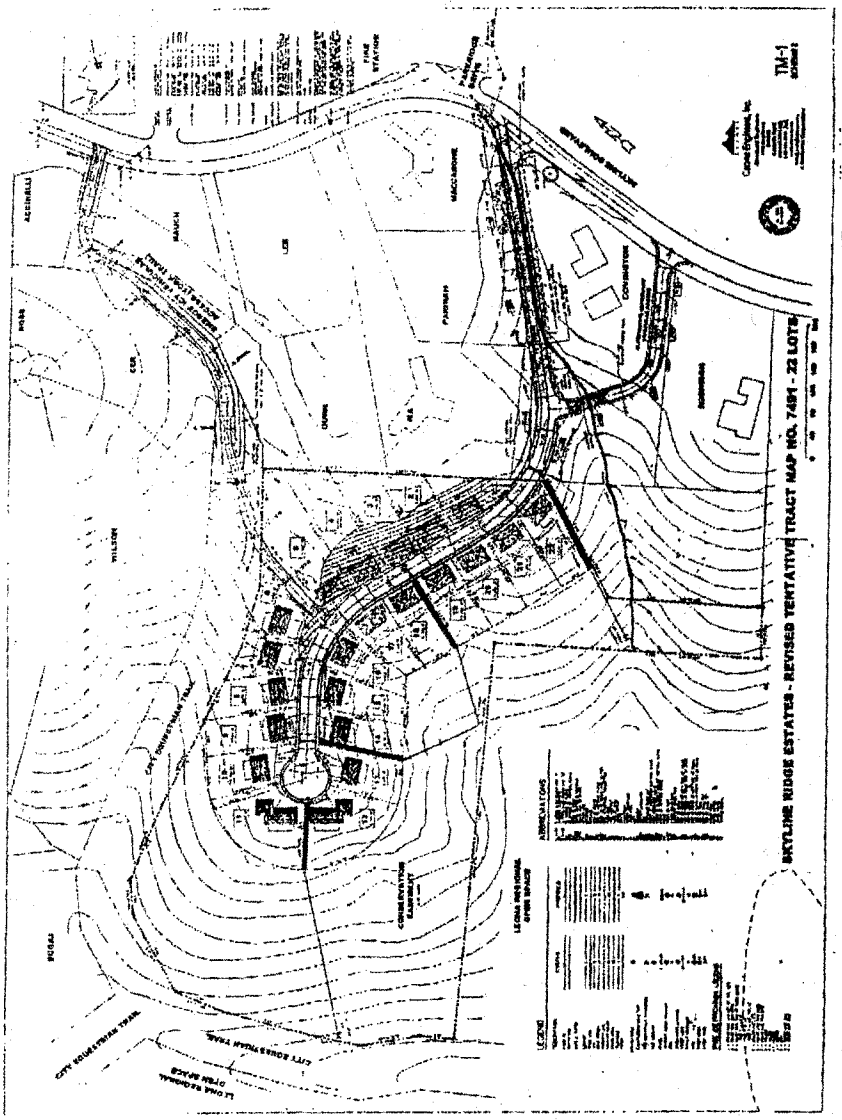
Sincerely,

Collin A. Mbanugo, M.D.

CAM:

Cc: John Russo, City Attorney
Mark Wald, Deputy City Attorney.
Heather Klein, City Planner

City: OAKLAND State: CA Zip: 94608
Lender: EQUITY BANCORP, INC



PO BOX 348016, SACRAMENTO, CA 95834 916-928-4448 / FAX: 916-928-4358

CITY OF OAKLAND

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Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

VIA EMAIL AND US MAIL

March 22, 2010

Collin Mbanugo, M.D.
P.O. Box 8353
Emeryville, CA 94662

RE: Skyline Terrace Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025.

Dear Dr. Mbanugo:

This letter acknowledges receipt of your letter dated March 9, 2010. Your letter indicates that there are only two submittals: the twenty-two (22)-lot proposal and the eight (8)-lot proposal with a common area parcel for a road submitted June 15, 2009. For reasons already indicated, I have directed Ms. Klein to schedule a public hearing before the Planning Commission with a recommendation to deny both proposals. Staff will inform you of the date of the public hearing when a hearing has been scheduled.

At the public hearing you will have an opportunity to present evidence to the Planning Commission to support the continued processing of entitlements for your project. However, any decision to keep the project active by the Planning Commission should not be construed as having an approved project or the likely possibility of an approved project. Rather, that decision only implies that you must decide on one project and submit the appropriate documents to City staff in order to proceed. Again, the Planning Department still has the same overall concerns regarding your eight-lot proposal that we did for your twenty-two-lot proposal as outlined to you in staff's July 15, 2009 letter.

Sincerely,

WALTER COHEN
Community and Economic Development Agency
Agency Director

B-23

Collin A. Mbanugo, M.D., F.A.C.S.

GENERAL & VASCULAR SURGERY
DIPLOMATE, AMERICAN BOARD OF SURGERY
P.O. BOX 8353
EMERYVILLE, CA 94662

received 3/26/10 (lew)

Walter Cohen, Director CEDA
250 Frank Ogawa Plaza, Suite 3315
Oakland, California 94612

March 26, 2010 via US Mail and E-Mail

RE: Skyline Terrace Project TTM 7491; APN 037A-3141-001-015

Dear Mr. Cohen,

This is a follow up to my letter of March 09, 2010. I have submitted to City Planner, Ms. Heather Klein, copies of the Skyline Terrace Project with the alternative emergency access used to deem the application complete in 2004.

I also submitted copies to Fire Protection Services. I am waiting for the following:

- Fire Access Mitigation Plan from Fire Protection Services.
- Restoring the application to complete status

We will then update our studies as well as our Draft Environmental Impact Report. Thank You.

Sincerely,

Collin A. Mbanugo

Cam: odlh

Cc: John Russo, City Attorney
Mark Wald, Deputy City Attorney

3/26/10

Items enclosed in this letter are hereby returned. This is not a complete submittal as outlined in previous letters sent to you.

Heather A. Klein, Planner III

3300 WEBSTER STREET • SUITE 900 • OAKLAND, CA 94609 • 510-272-9610 • FAX (510) 272-9612

B-24

Klein, Heather

From: COLLIN A MBANUGO [drmbanugo@yahoo.com]
Sent: Thursday, April 29, 2010 3:25 PM
To: Cohen, Walter
Cc: Klein, Heather; Wald, Mark; Collin Mbanugo
Subject: Skyline Terrace Project
Attachments: April.STP.AEIR.2010.pdf

Dear Mr. Cohen,

Please find attached Project description for the Skyline Terrace Project utilizing the alternate Emergency Vehicle access used to deem the application complete.

Sincerely,

Collin A. Mbanugo

cc: Heather Klein
Mark Wald

B-25
4
BMLB

3 PROJECT DESCRIPTION

3.1 Project Location, Ownership and Current Use

The proposed Skyline Terrace project site [project) is located within the Oakland Hills in the City of Oakland. Regional access provided by either Interstate 580 or state Route 13, about 1.5 miles southeast of Redwood Road and 2.0 miles northwest of Keller A venue on Skyline Boulevard (see **Figure 1**). The site is nearly directly across from City of Oakland Fire Station No. 21 at the intersection of Skyline Boulevard and Park Ridge Drive. The site is located near the crest of the second and highest range of the northwesterly trending Oakland Hills. A small spur ridge centered on the property extends from Skyline Boulevard in a southwest direction. **Figure 2** depicts the project site and the surrounding area.

The project site is east of and overlooks the East San Francisco Bay, bounded on the west and south by the Leona Regional Open Space Reserve. The property is bounded to the north and east by residential properties. The Leona Regional Open Space Reserve is oriented in a northwest direction and is a relatively deep, wooded and brushy canyon that separates the adjacent hills into two ranges, A second, smaller brushy canyon borders the northern side of the project site. This smaller canyon drains toward the southwest and enters the Leona Regional Open Space Reserve and Rifle Range Branch.

The project site is a 13.6-acre undeveloped site, Assessor's Parcel Number (APN) 37A3141-1-15, privately owned by Dr. C. Mbanugo. The owner of the 13.6 acre project site also now owns the adjacent 4.43-acre former Covington property APN 37A-3142-036) that is not considered part of the proposed project. The former Covington parcel is developed and includes a single-family dwelling and a detached pool house, the project site is surrounded primarily by open space owned by the City of Oakland to the north and East Bay Regional Park District to the south. There are six single-family homes zoned R-I to the northeast of the project site off Skyline Boulevard.

3.2 Project History and Objectives

The proposed project is a result of an effort by the property owner to subdivide the 13.6acre undeveloped parcel into a single-family home subdivision. The project objectives include the following:

- Provide a financially viable project. with a density that would result in eight (8) net developable units and a private roadway that could accommodate single-family homes with an average lot size of 1,6 acres, resulting in a gross density of 1.0 single-family dwelling unit per acre (43,560 square feet), compatible with the R-I zoning of the surrounding residential area.

- Provide housing that will help meet the City's economic growth goals and policies, specifically meeting the demands for housing in Oakland and increasing the supply of housing as set forth in the City's Land Use, Transportation, and Housing Elements of the General Plan.

- Increase the property tax base and utility user taxes for the City.
- Provide for the ability to construct high-quality hillside housing to meet existing and future needs of those desiring to live in Oakland, and to reduce vehicle miles traveled for employees of the Oakland area.
- Maximize the efficient use of a hillside property by clustering homes and by creating a grading concept that results in an aesthetically pleasing development that conforms to the City's regulations.
- Create a land use plan and infrastructure/utility plan that respects the character of the existing surrounding residential area and is compatible in design with adjacent residential neighborhoods.
- Utilize a site layout that is consistent with and is sensitive to the unique configuration and constraints of the site by following the existing slope, to the most feasible degree, and respecting existing views from the site.

3.3 Project Characteristics

The proposed project would provide for the ability to develop an existing 13.6-acre vacant parcel into a eight (8) single-family home subdivision located along the southwest side of Skyline Boulevard, between Colburn Place and Graham Place (**Figure** 3). The subject site is adjacent to and east of the Leona Heights Regional Open Space Preserve. The project site would result in physical changes to the undeveloped land by construction of a new primary private access road with retaining walls, bridge, and water and sewer connections via a force main.

The applicant's primary objective for this project is to provide for an economically viable, high quality, 8-unit detached single-family residential development limiting the scope and size of the development in order to minimize or avoid impacts to the neighborhoods and open space surrounding the property.

The project would result in approval of a vesting Tentative Tract Map (VTTM) to subdivide the parcel into eight lots. New construction would include a main access road, bridge for creek crossing, infrastructure for water and sewer connections, Of the 13.6 acres, 12.87 acres would be subdivided into 8 parcels. The remaining acreage, approximately 0.73 acres, would constitute a private roadway leading from Skyline Boulevard to the subdivision. Each parcel could accommodate one residential dwelling. The lots would be approximately 43,614 square feet to 103.333 square feet each for an average 1.6 acre sized lots. Residents would access the lots from Skyline Boulevard by a 1100-ft long road that would terminate as a cul-de-sac within the interior of the project site.

ACCESS

The private road would start at Skyline Boulevard, cross Rifle Range Creek with a 70 foot bridge; include eight on-street guest parking spaces on the north side. An emergency Vehicular access roadway from Skyline Blvd. through South portion of 13175 Skyline Blvd. will connect the primary access roadway before crossing the Creek. The common area private roadway ownership would be shared by all property owners by a legal instrument.

Safety improvements to Skyline Boulevard for vehicles entering or leaving the project site would include "flaring" the entrance to the site to improve "line of sight" for vehicles on Skyline as they approach the project entrance.

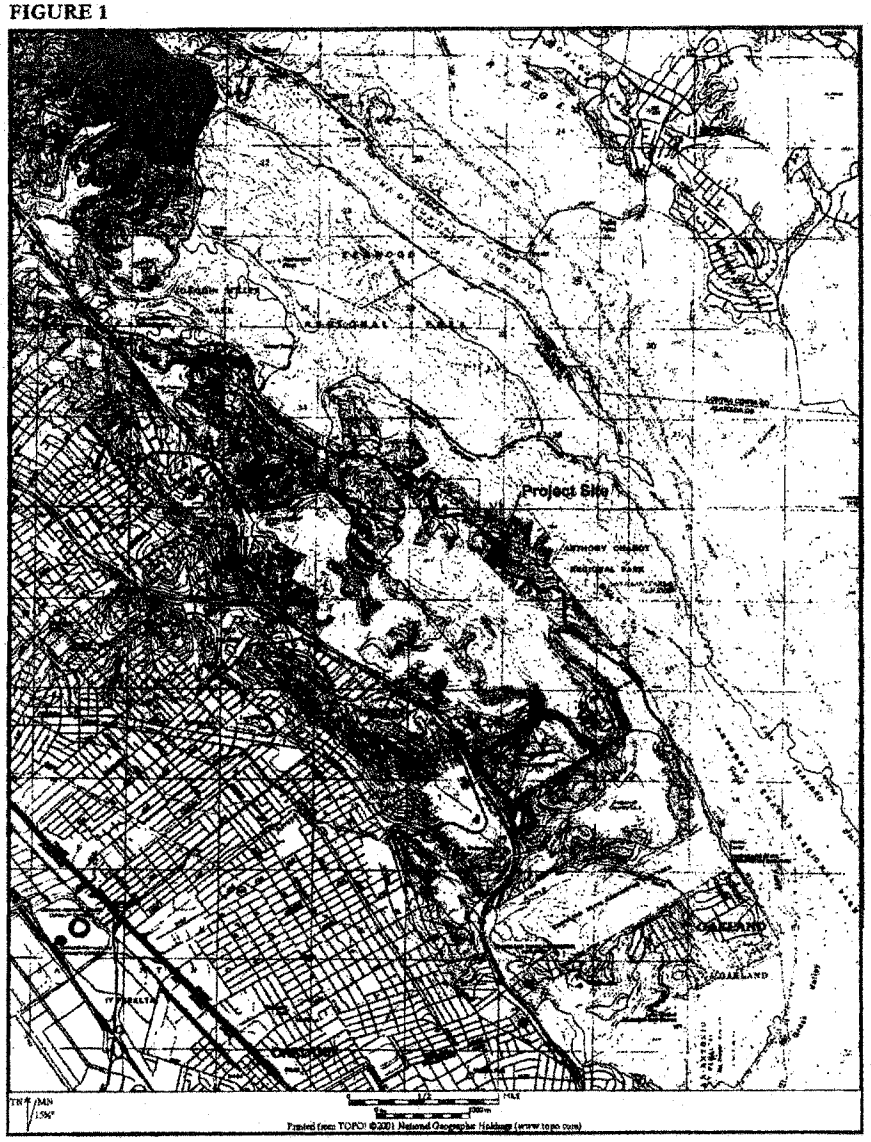
Slope *Stabilizing Retaining* Walls

The retaining wall above the main access road would be a two-stepped tiered structure. Mitigating design elements, including landscaping would ensure that these and all other visible retaining walls would be planted at the base and top of each tier to blend and "settle" them into the landscape. All of the retaining walls would be designed to resist static and earthquake loads.

LAND USE

The project site is zoned R-30 and is designated single family residential by the City of Oakland General Plan. The applicant proposes to request approval for a VTTM based on R-l zoning comparable to the surrounding area.

FIGURE 1


Project Site
OAKLAND
Printed from TOPO! ©2001 National Geographic Holdings (www.topo.com)

STORM DRAINAGE

Four storm drain pipes would convey water from the project's street drainage system along the higher portion of the northern bank of the intermittent creek located on the southern border of the project site, with outfall to the creek channel by way of energy dissipaters located at the lateral end of the pipes. The project would comply with the latest requirements for storm water control through bioswales or other infrastructure.

WATER

Water conveyance and treatment for the proposed project would be provided by East Bay Municipal Utility District's (EBMUD) existing water supply, distribution system, and treatment facilities. The new water line shall be connected to the existing water mains in Skyline Boulevard.

WASTEWATER

Wastewater conveyance and treatment for the proposed project would be provided by the City of Oakland. The sewer line shall be a "force main" with effluent connecting to the existing sewer line in Skyline Boulevard.

ELECTRICITY/NATURAL GAS/TELEPHONE

The proposed project would utilize existing electricity, gas, and telephone lines that serve the vicinity of the project site.

OTHER SERVICES

Fire protection in the City of Oakland is provided by the Oakland Fire Department. Station No. 21 is located directly across from the project site on Skyline Boulevard. The City of Oakland Police Department provides law enforcement services within the City limits.

LANDSCAPING

The goal of the landscaping concept for the Skyline Terrace project is to preserve the spatial sense of the surrounding valley and hillside while conveying a sense of privacy and seclusion. This would be accomplished by preserving the grassland hillsides and ridges and reintroducing oak trees and native drought-resistant shrubs along the creek alignment and, on the lower hillside.

The rural character of the entry road into the community would be reflected in an open oak woodland landscape. Widely dispersed groves of native trees act as

theme trees simulating a previous serene environment while enhancing the overall landscape.

GRADING

The project would include grading of slopes and placement of fill for the main access road between elevations of 950 feet and 1100 feet. The proposed engineered contours would generally conform to existing topography and maximize opportunities for material reuse on the site.

CONSTRUCTION PHASING

Construction and development phasing has yet to be determined.

3.4 Regulatory Requirements, Permits, and Approvals

The City of Oakland is the Lead Agency responsible for preparation of the EIR (CEQA Guidelines Section 15051). The City intends to use the EIR to address all required discretionary City actions for the project and any actions required to enter into long-term agreements for the project.

Following certification of the Final EIR, the City Planning Commission would make a decision on the discretionary permits required by the proposed project. The project's proposed residential use is a permitted use under the Oakland General Plan, Hillside Residential land use designation and the R-30 One-Family Residential land use designation and the R-30 One-Family Residential Zone (Section 17.16.040), and would be processed as a vesting Tentative Tract Map [VTIM).

The EIR is intended to assess the impacts of the entire project and any discretionary actions that may be required, included (without limitation):

- vesting Tentative Tract Map (VTIM)
- Tree Removal/Protection Permit under Section 12.36
- City of Oakland Creekside Protection Permit and Plan
- Grading Permit
- City of Oakland Building/Construction Permits (for the road)

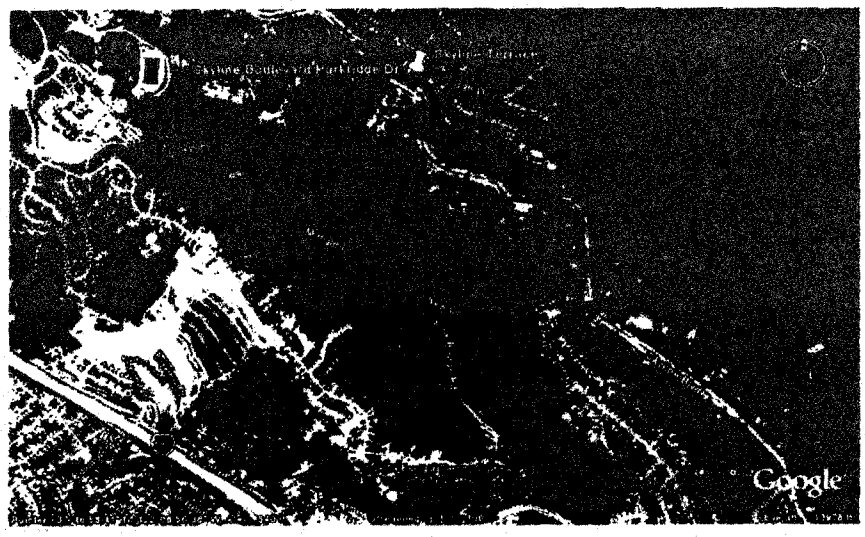
- California Department of Fish & Game: Stream or Lake Alternation Agreement to build creek over crossings

- Regional Water Quality Control Board, San Francisco Bay Region: Permit for wastewater discharge/Section 401 water quality certification for effects on water quality

- Implementation of mitigation measures, as required

Responsible agencies may also consider this EIR in acting on or approving a project upon which it has jurisdiction. A responsible agency is a public agency, other than the lead agency, that has discretionary approval over the proposed project (i.e., state resources agencies).

FIGURE 2 – PROJECT LOCATION



CITY OF OAKLAND

DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
FAX (510) 238-6538
TDD (510) 238-3254

VIA EMAIL AND US MAIL

May 17, 2010

Collin Mbanugo, M.D.
P.O. Box 8353
Emeryville, CA 94662

RE: Skyline Terrace Case File Numbers PUD06-280; TTM7481; T06-0078; CP06-117; and ER99-0025.

Dear Dr. Mbanugo:

This letter confirms the meeting on April 30, 2010 with you; Mr. Kelechi Charles Emeziem, your attorney; Mark P. Wald, Senior Deputy City Attorney; Heather Klein, Project Case Planner; and myself. This meeting was held at your request to discuss Agency Director Walter Cohen's March 5 and March 22, 2010 letters to you. As detailed below, staff has decided to bring the item forward to the Planning Commission for a decision on the project and these significant issues.

The purpose of this letter is to reiterate staff's position on your project as discussed at April 30th meeting. First, the twenty-two (22)-lot proposal, the eight (8)-lot proposal with a common area parcel for a road submitted June 15, 2009, and the revised eight (8)-lot proposal with a common area parcel for a road submitted March 26, 2010 are all considered **INCOMPLETE** because you have not submitted all of the information, outlined in our June 5, 2008 letter and subsequent letters.[1]

[1] The March 2, 2004 "Completeness Letter" that you referenced during our meeting is not relevant since you have substantially revised the project since that letter was issued. By way of example, and not of limitation, the significant revisions include significant grade changes as a result of a new survey, a reduction in the number of units from 22 to 8 lots, a realignment of the main road, the re-alignment of the secondary access road, the elimination of the secondary access using the York Trail, the elimination of the conservation easement, the acquiring of an additional parcel, bridge construction near the creek and the length, location, and possible height of the bridge. These revisions required that your other documents be updated including, but not limited to grading plans, cross sections, creek protection plan, tree survey, and planned unit development documents as outlined in the city's June 5, 2008 letter. To date these plans have not been submitted. Thus, your application has substantially changed, the additional documents have not been submitted and the 2004 Completeness Letter does not apply. Even if it were to apply, as discussed at the meeting, it does not provide you with any vested rights to an approval.

B-26

Secondly, each submittal[2] has the same fundamental flaw with regards to a lack of secondary access that meets the City's Fire and Subdivision Codes. This flaw was discussed in several letters to you including June 5, 2008, June 15, 2009, and August 18, 2009. Specifically, the amended Oakland Fire Code (O.M.C. Section 15.12.020) establishes a maximum 600 foot length for dead end streets including public and private streets, as well as streets with shared access facilities. Per the Fire Code, the only acceptable mitigation is a secondary means of access/egress. The Fire Code also states that if a secondary access is required, the maximum distance from any parcel to the through street is 600 feet.

In your "original" (and now superseded) 22-lot proposal, the main road exceeds 600 feet so a secondary access is required. Both of the proposed secondary access routes (over the previous Covington parcel and the York Trail) are over 600 feet from Skyline to the furthest parcel. In the eight (8)-lot proposal with a common area parcel for a road submitted June 15, 2009, the main road and secondary access road (i.e., fire lane) are parallel, contiguous to each other and both are over 600 feet in length. In the revised eight (8)-lot proposal with a common area parcel for a road submitted March 26, 2010, the main road is over 600 feet in length and the secondary access road is also over 600 feet in length (approximately 1100 feet).

In the April 30th meeting, you claimed that your projects comply with the Fire Code (O.M.C. Section 15.12.020) based on Figure 8 located in Section D102 Minimum Standards. This is erroneous. This figure only refers to dead-end fire apparatus access roads and specifically those roads that terminate in a "Y" turnaround. The figure specifically states that the roadway length is to be between 150 to 600 feet. None of your proposals contain this feature and even if the projects did contain this type of turnaround then Section 15.12.020 (which requires a secondary access road if the main road is longer than 600') is still applicable.

The Subdivision Regulations (O.M.C. Section 16.16.150) require that dead end streets shall not exceed 300 feet; however, for dead end streets exceeding 300 feet in length, the City will consider a Variance where the Fire Code specifies permissible alternatives (O.M.C. 16.04.060). As stated above for dead end streets exceeding 600 feet, the only permissible alternative specified in the Fire Code is a secondary means of access/egress. Thus, all of the submittals would require a Variance to the Subdivision Regulations. We do not believe a Variance can be supported here because you do not meet finding 3: "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."

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[2] We note that your recent correspondence sent on March 9, 2010 (page 1) states that there are two proposals: the 22-lot proposal noticed in the Notice of Preparation for an EIR, and the 8-lot proposal with a parallel road and fire pull out submitted on June 15, 2009. On page two of that letter you state that you have shown "a willingness to make our one acre alternative (8 lots) "The Project" given neighbors preference and the 22 lot proposal as the alternative and at the same time willing to use the Alternative Emergency Vehicle Access used to deem the project complete." As stated earlier in footnote 1, the City considers the 22-lot proposal to have been superseded and hence withdrawn, but we'll nevertheless recommend its denial to put closure on this issue. Later on March 26, 2010 you submitted a different 8 lot-proposal with another secondary access road alignment and on April 29th also submitted a written project description that seemed to suggest that was the project you wanted evaluated. However, when staff repeatedly requested confirmation of this, you stated that it was the 22-lot proposal that is the project. You appear to want to rely on the 22-lot proposal because of the Completeness letter of March 2004, and your erroneous belief that it provides you with an approval, but yet want staff to evaluate the more recent submittal of March 26, 2010. In short, you still have yet to confirm the actual project.

Furthermore, failure to provide a Code compliant secondary access would also result in a Significant and Unavoidable Impact in the Environmental Impact Report (EIR). Given that the Fire Code and Subdivision standard was developed and set forth as a CEQA threshold as a matter of life safety, the Planning and Zoning Division cannot make the required Tentative Map findings that the Project not result in substantial impacts to health and safety.

Moreover, staff cannot move forward in recommending approval of the project and a CEQA required Statement of Overriding Considerations (findings that the benefits of the project would outweigh the potential impacts associated with reduced life safety standards), especially given that the project is located within the Wildfire Assessment District and an area identified as a Very High Fire Hazard Severity Zone.

Therefore, as discussed in the April 30, 2010 meeting, and as detailed above, staff believes that enough information has been submitted to schedule a public hearing before the Planning Commission with a recommendation to deny all the proposals based upon the failure of all the submittals to meet the secondary road access requirements.

Staff will be scheduling the item for a public hearing before the Planning Commission with a recommendation for denial, with a tentative date of July 7, 2010. You will be formally notified of the meeting date, at least 17 days in advance, and will have an opportunity to present evidence to the Planning Commission to support the continued processing of you application. However, be advised that any decision to keep the project active by the Planning Commission should not be construed as having an approved project or the likely possibility of an approved project. Rather, that decision only implies that you must decide on one project and submit the appropriate documents to City staff in a timely manner in order for staff to continue processing the application. In doing so, you proceed at your own risk with the knowledge that staff will not support the project, when it eventually returns to the Planning Commission (after completion of the EIR and other requirements) for consideration. Also note that the EIR will be required to address all the other issues identified in our previous letters. This analysis could also raise environmental and other concerns about the project's compliance with other required land use related findings, separate and apart for the lack of secondary access discussed above.

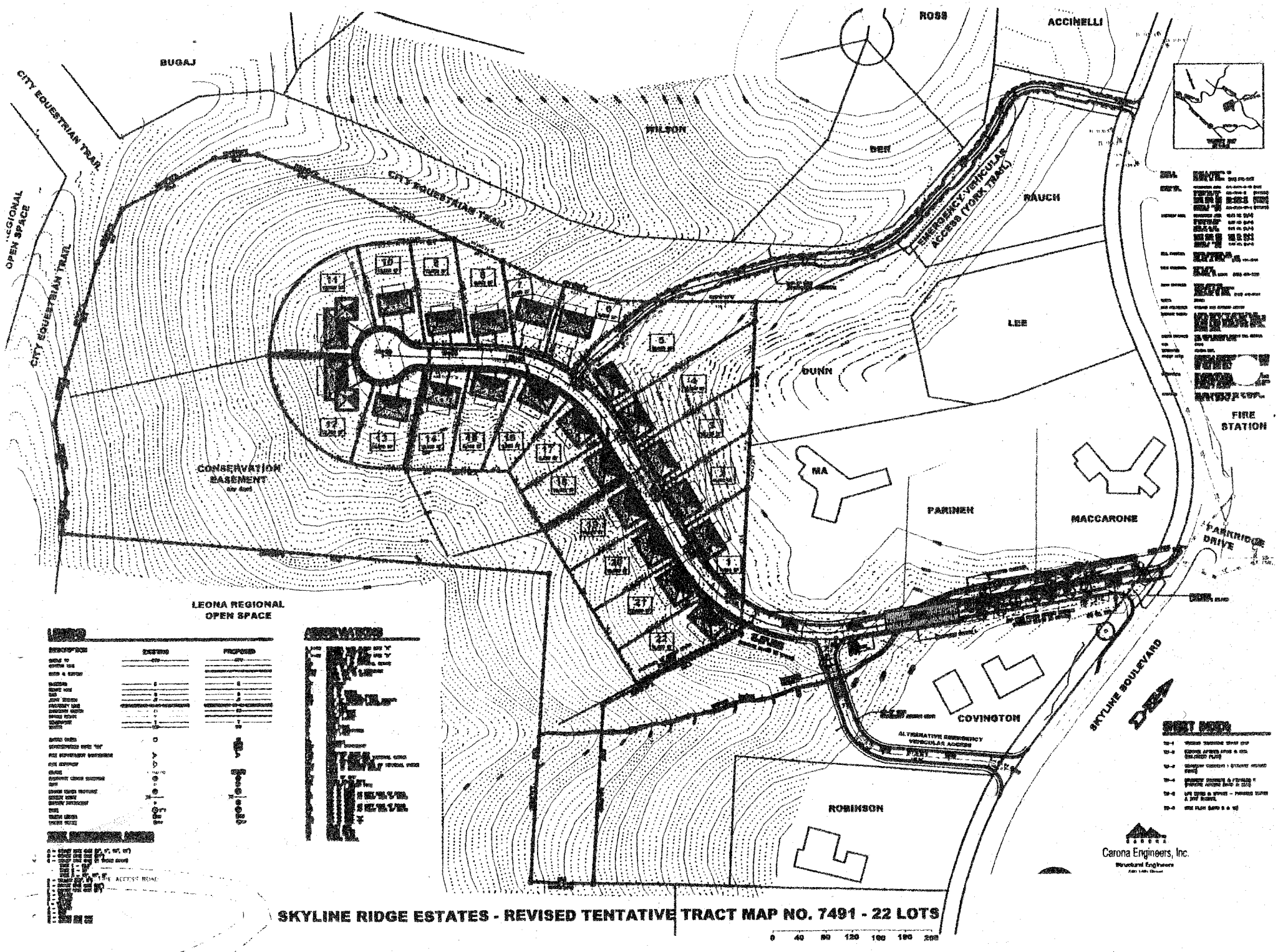
At this point, please do not submit any further materials as staff will not process them. Per Director Walter Cohen's March 22, 2010 letter to you, staff has made a final determination that the project and the secondary access issue will be heard before the Planning Commission. This approach is in the best interests of all concerned.

Sincerely,

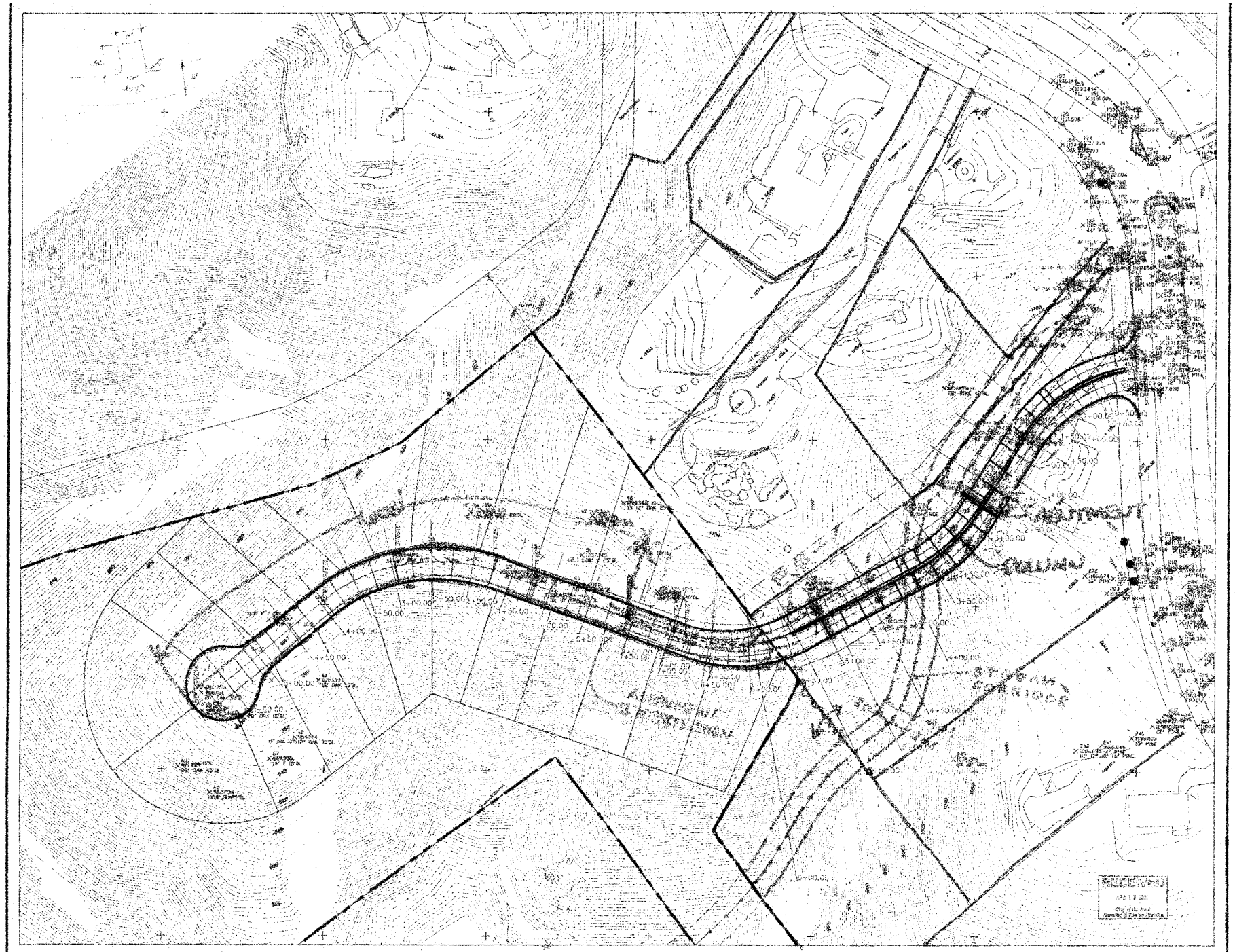
Eric Angstadt
Deputy Director
Community and Economic Development Agency

cc: Mr. Kelechi Charles Emeziem, Attorney for Dr. Collin Mbanugo
Dan Lindheim, City Administrator
Walter Cohen, Director Community and Economic Development Agency

Mark Wald, Senior Deputy City Attorney
Leroy Griffin, Assistant Fire Marshall
James Williams, Fire Marshall
Heather Klein, Case Planner



ATTACHMENT C-1



GREENWOOD & MOORE, INC
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Land Surveyors • Planners
3111 Coach Valley Blvd., Ste. 200, Coach Valley, California 95630
Tel 916-635-3770 Fax 916-635-3773 www.greenwoodandmoore.com

REVISIONS

SKYLINE

PLAN VIEW

FILENAME
CHECKED BY
DRAWN BY
SCALE 1:40
DATE 04-13-07
PROJECT NO. 2007-001
SHEET NO. 1 OF 5

N:\Jobfiles\2007\2007-001 Skyline Ridge Temecula\dwg\2007-001_Design 7-EVA-InsideCreekEnd&ParallelRoads.dwg, 4/10/2007 12:05:18 PM

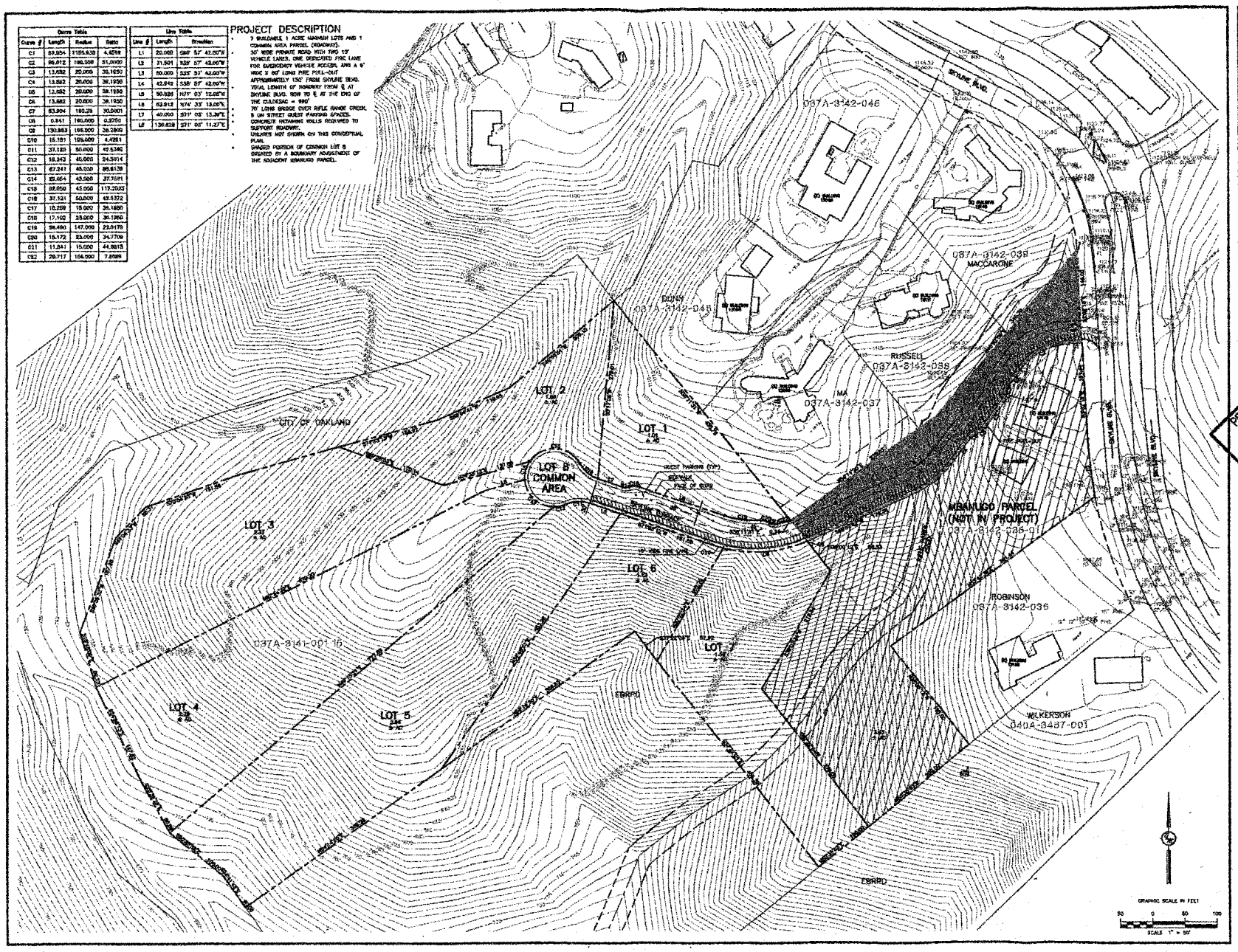
Attachment C-2

Curve Table			
Curve #	Length	Radius	Delta
C1	89.954	1195.930	4.4598
C2	86.012	100.000	51.0000
C3	13.682	20.000	39.1950
C4	13.682	20.000	39.1950
C5	13.682	20.000	39.1950
C6	13.682	20.000	39.1950
C7	63.904	180.29	20.0001
C8	0.841	100.000	0.9750
C9	130.853	198.000	38.2809
C10	15.191	195.000	4.4261
C11	37.189	50.000	42.5382
C12	18.343	45.000	24.3614
C13	67.241	45.000	85.6139
C14	85.664	45.000	37.7591
C15	88.050	45.000	112.2003
C16	37.121	50.000	42.5172
C17	18.259	19.000	38.1850
C18	17.102	25.000	39.1950
C19	98.490	147.000	23.0179
C20	15.172	23.000	34.7709
C21	11.841	15.000	44.8813
C22	28.717	156.000	7.2089

Line Table		
Line #	Length	Direction
L1	20.000	S88° 57' 42.00"W
L2	31.501	N38° 07' 42.00"W
L3	50.000	S25° 31' 42.00"W
L4	42.843	S38° 57' 42.00"W
L5	50.526	N71° 03' 12.05"W
L6	62.912	N74° 33' 13.05"E
L7	40.000	S71° 03' 13.30"E
L8	139.628	S71° 03' 11.27"E

PROJECT DESCRIPTION

- 7 BUILDABLE 1 ACRE MINIMUM LOTS AND 1 COMMON AREA PARCEL (ROADWAY).
- 30' WIDE PRIVATE ROAD WITH TWO 13' VEHICLE LANES, ONE DEDICATED FIRE LANE FOR EMERGENCY VEHICLE ACCESS, AND A 9' WIDE X 60' LONG FIRE PULL-OUT APPROXIMATELY 150' FROM SKYLINE BLVD.
- TOTAL LENGTH OF ROADWAY FROM ℄ AT SKYLINE BLVD. NOW TO ℄ AT THE END OF THE CULDESAC = 990'
- 70' LONG BRIDGE OVER RIFLE RANGE CREEK.
- 8 ON STREET GUEST PARKING SPACES.
- CONCRETE RETAINING WALLS REQUIRED TO SUPPORT ROADWAY.
- UTILITIES NOT SHOWN ON THIS CONCEPTUAL PLAN.
- SHADED PORTION OF COMMON LOT 8 CREATED BY A BOUNDARY ADJUSTMENT OF THE ADJACENT MIRAMUNDO PARCEL.



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2311 Camino Ramon, Ste. 200, Camino Valley, California, 94583
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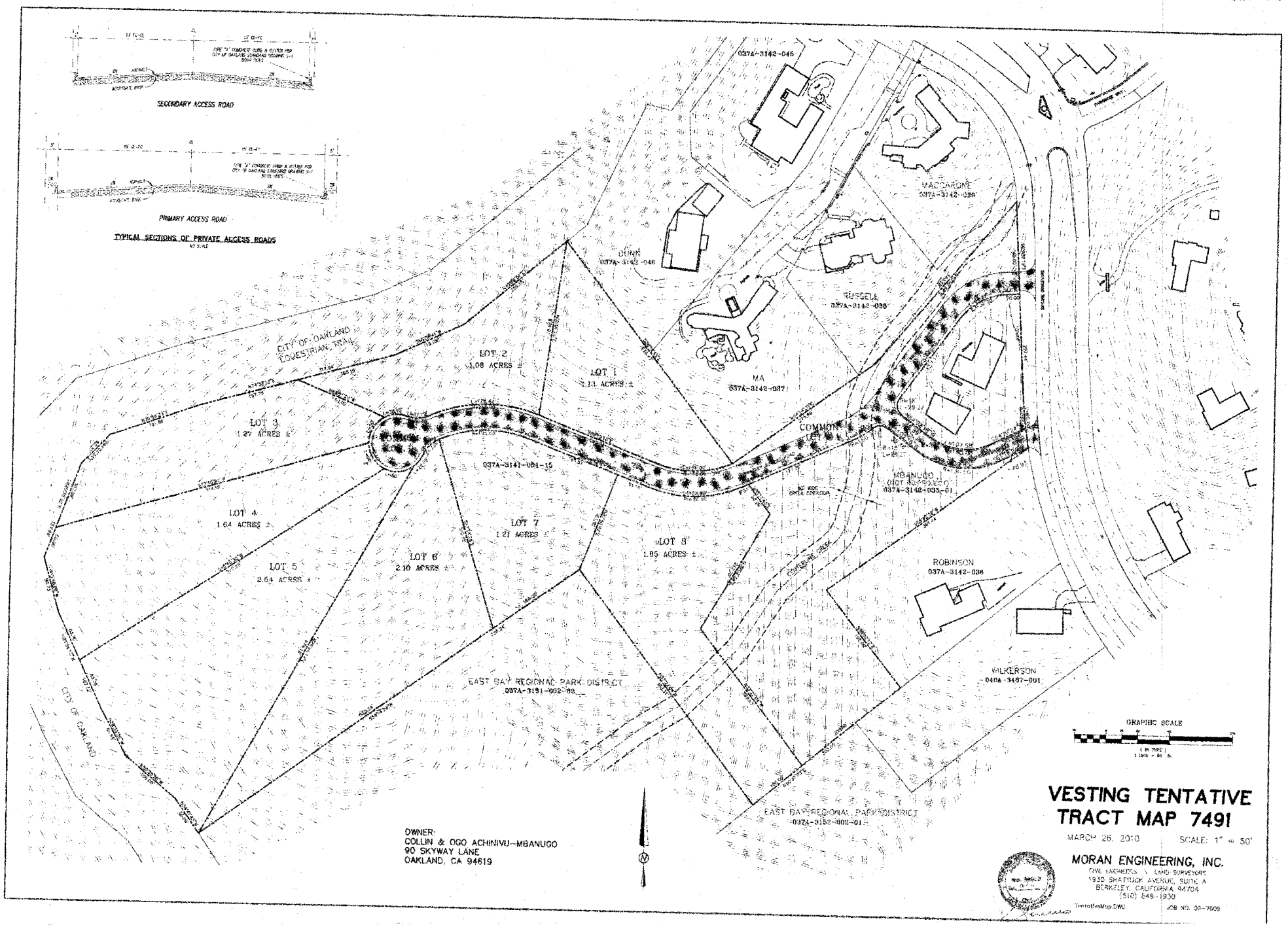
REVISIONS

PRELIMINARY NOT FOR CONSTRUCTION

SKYLINE TERRACE
SKYLINE BLVD.
OAKLAND, CA.

PRELIMINARY 1 ACRE LOT LAYOUT
VESTING TENTATIVE TRACT 7491

FILENAME:
CHECKED BY: JM
DRAWN BY: JB
SCALE: 1"=50'
DATE: 6-11-09
PROJECT NO.: 2008-036
SHEET NO.: SP-1

Attachment C-3

Attachment C-4