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| <b>Location:</b> 512-24 Henry St (See map on reverse)               |   |
| <b>Assessors Parcel Numbers:</b> 004 -0101-022-00; -023-00; -024-00 |   |
| <b>Proposal:</b>  | Tentative Tract Map to subdivide three parcels into 10 lots. This item previously came before the Planning Commission for the approval of a Conditional Use Permit for a mini-lot development and design review for 10 units. |
| <b>Applicant:</b>   | Henry II Developers Inc   |
| <b>Owner:</b>   | Henry II Developers Inc   |
| <b>Planning Permits Required:</b>                                   | Tentative Tract Map to subdivide 3 lots into 10 lots.   |
| <b>General Plan:</b>  | Mixed Housing Type Residential  |
| <b>Zoning:</b>  | R-36 Small Lot Residential Zone   |
| <b>Environmental Determination:</b>                                 | Exempt, Section 15332 of the State CEQA Guidelines; in-fill development.  |
| <b>Historic Status:</b>   | Vacant Lot located in the South Prescott Historic District  |
| <b>Service Delivery District:</b>                                   | 1   |
| <b>City Council District:</b>                                       | 3   |
| <b>Staff recommendation:</b>  | Decision on application based on staff report   |
| <b>For further information:</b>                                     | Contact case planner Robert D. Merkamp at (510) 238-6283 or by email at <a href="mailto:Rmerkamp@oaklandnet.com">Rmerkamp@oaklandnet.com</a> .  |

**SUMMARY**

The applicant, Henry II Developers Inc, proposes to construct 10 new residential units on three currently vacant lots in West Oakland. The proposal is to create new for-sale market rate and affordable housing units in this neighborhood, which is a mixture of single and multi-family residences. The applicant had previously been granted approval for a Conditional Use Permit for a mini-lot development which allowed them to waive certain standards of the R-36 zone such as setbacks and parking location so long as the development as a whole conformed to the regulations. The applicant also received a Conditional Use Permit for a density bonus pursuant to changes made to state law last year. The Planning Commission heard this earlier request at their meeting of October 19, 2005 (see attached staff report) and approved the mini-lot development and the Design Review of the project. The applicant is now requesting the approval of a Tentative Tract Map to create 10 lots.

The proposed subdivision complies with the applicable zoning standards with respect to the Conditional Use Permit Mini-Lot Criteria that are found in the findings section of the attached previous staff report. The proposal is in conformance with all applicable standards of the Zoning Code, Subdivision Regulations, and General Plan. Staff recommends that the Commission approve the project subject to attached findings and conditions of approval.

## PROPERTY DESCRIPTION

The project site is flat and located in a residential neighborhood. The neighborhood has no significant topographic features of note.

## GENERAL PLAN ANALYSIS

The General Plan Designation for this site is Mixed Housing Type Residential which seeks to create a variety of housing types, including single family, duplex, and small multi-family residential uses. The designation also comes with an upper density limit of 30 units per gross acre. The project conforms to this density and upholds the General Plan's goals for creating a variety of different housing styles. The site is surrounded by a mixture of single and multi-family residential units and will directly contribute to the maintenance of this pattern through its addition of 10 attached single-family residences.

The proposed Project is also consistent in all significant respects with the following General Plan objectives and policies:

Policy N3.1, Facilitating Housing Construction. Facilitating the construction of needed housing units, infill development that is consistent with the General Plan should take place throughout the City of Oakland. **The project provides 10 units of new, for sale housing and redevelops a vacant lot in an existing neighborhood in the City of Oakland. The new higher density housing should benefit the local neighborhood (through adding new residents for community serving businesses) as well as for the city at large, providing new higher density housing in the area surrounding the urban core.**

Policy N3.2, Encouraging Infill Development. In order to facilitate the construction of needed housing units, infill development that is consistent with the General Plan should take place throughout the City of Oakland. **The proposed townhouse development will bring a vacant lot back into circulation. The property is well served by public transportation, being within easy walking distance of the West Oakland BART station.**

## ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines lists projects that qualify as exemptions from environmental review. The project falls under the categorical exemption listed in Section 15332, which states that projects characterized as in-fill development meeting certain conditions are exempt from environmental review.

The criteria for both of these exemptions are listed below. The type in **bold** is how the project meets these conditions.

### Infill exemption criteria

1. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. **As demonstrated in the "General Plan Analysis Section" of this report, the application is consistent with all applicable General Plan Policies and the General Plan Designation. The "Zoning Analysis" and the "Required Findings" sections of this report demonstrate that, with the previously approved mini-lot development, the project is consistent with the regulations of the Zoning Ordinance.**

2. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. **The project covers a little less than one-quarter of an acre of land. The site is located in the middle of a developed residential neighborhood in Oakland and is surrounded by urban uses.**
3. The project site has no value as habitat for endangered, rare, or threatened species. **The project is located in a highly urbanized area that contains no known endangered, rare, or threatened species.**
4. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. **The proposed structure would result in an insignificant traffic increase in a downtown urban area that has adequate road capacity. Further, the project would generate far fewer than the 2,000 vehicle trips per day that the Bay Area Air Quality Management District (BAAQMD) considers the normal minimum traffic volume that should require a detailed air quality analysis. The project would result in short-term localized impacts to air quality due to emissions from excavation and construction equipment and grading and construction activities. No significant decrease in air quality beyond that anticipated for the area under the Open Space, Conservation, and Recreation (OSCAR) Element of the Oakland General Plan is expected as a direct result of the proposal. Regardless, the applicant would be required to comply with all applicable City regulations and operating procedures prior to issuance of building or grading permits, including implementation of standard dust control measures.**
5. The site can be adequately served by all required utilities and public services. **The site is located in an urbanized area that is already well served by utilities and public services.**

## ZONING ANALYSIS

The zoning for this neighborhood is the R-36 Small Lot Residential Zone. The R-36 zone is intending to create a neighborhood of primarily single family homes and incorporates flexible setback and parking standards based on lot size. Duplexes and small multi-unit buildings are allowed with bigger lot sizes, to a ratio of one unit per 2500 square feet of lot area. The proposed site at 512-26 Henry Street would accommodate 3 dwelling units under the zoning regulations. The applicant received approval for a Major Conditional Use Permit for a density bonus to allow for 10 units total, tripling the density permitted by zoning.

## KEY ISSUES AND IMPACTS

Subdivision: The applicant proposes to subdivide one parcel into 10 separate lots. Most of these lots will not have street frontage and access will be achieved via an access easement road running down the center of the property.

Access: Access to the lots shall be obtained via an access easement which is represented on the map as the dashed lines running across the lot lines down the middle of the site and represents the driveway/maneuvering aisle for the property. One issue of note concerns the access driveway to be constructed to serve the property. This road serves more than the maximum of four lots are allowed under the PAE (Private Access Easement) standards. The subdivision regulations allow the City of Oakland to waive these standards when it is considered appropriate. Staff recommends that these standards be waived for several reasons. The reasons for limiting the scale and scope of PAE's is in most cases that they are being constructed across difficult terrain on landlocked parcels in the hills. That type situation makes it reasonable

to impose length restrictions as well as limiting the density being served but that is not an issue here. This project will have a different feel to it in that it will be much more like a residential street. There is not enough land to create a full sized public road but the PAE that is being created here will still allow for full access to and from the site. Site access has been reviewed and accepted by the Fire Prevention Bureau during the review of the mini-lot for purposes of access to the site as the depth of the road is not prohibitive for the operation of fire equipment.

**CONCLUSION**

Staff recommends approval of the Tentative Tract Map as it follows the Mini-Lot development plan approved by the Planning Commission in 2005.

**RECOMMENDATIONS:**

1. Affirm staff's environmental determination.
2. Approve the Tentative Tract Map subject to the attached findings and conditions.

Prepared by:

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ROBERT D. MERKAMP  
Planner III

Approved for forwarding to the  
City Planning Commission:

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GARY V. PATTON  
Deputy Director of Planning and Zoning

**ATTACHMENTS:**

- A. Tract Map
- B. CM05-224 Staff Report of October 19, 2005
- C. Final Action Letter for CM05-224

**FINDINGS FOR APPROVAL:**

This proposal meets the required findings under Sections 16.24.040 (Lot Design Standards) and 16.08.030 (Tentative Map Criteria) as set forth below. Required findings are shown in **bold** type; explanations as to why these findings {can *or* cannot} be made are in normal type.

**16.24.040 LOT DESIGN STANDARDS**

Lot design shall be consistent with the provisions of Section 16.04.010, Purpose, and the following provisions:

- A. **No lot shall be created without frontage on a public street, as defined by Section 16.04.030, except:**
1. **Lots created in conjunction with approved private access easements;**
  2. **A single lot with frontage on a public street by means of a vehicular access corridor provided that in all cases the corridor shall have a minimum width of twenty (20) feet and shall not exceed three hundred (300) feet in length. Provided further, the corridor shall be a portion of the lot it serves, except that its area (square footage) shall not be included in computing the minimum lot area requirements of the zoning district.**

The lots that are created here are clearly irregular and generally not acceptable in terms of size and location. However, this proposal received approval as a Mini-Lot development which seeks to create ownership opportunities on urban infill lots and allows the City of Oakland to make alternate findings to support developments where the individual lots do not meet the particular zoning standards. Standards such as lot width and placement can be waived under the mini-lot process. The mini-lot portion of the proposal was approved four months ago by the Planning Commission and this map is the fulfillment of that plan.

- B. **The side lines of lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.**

The lots that are created here are clearly irregular and generally not acceptable in terms of size and location. However, this proposal received approval as a mini-lot development which seeks to create ownership opportunities on urban infill lots and allows the City of Oakland to make alternate findings to support developments where the individual lots do not meet the particular zoning standards. Standards such as lot width and placement can be waived under the mini-lot process. The mini-lot portion of the proposal was approved four months ago by the Planning Commission and this map is the fulfillment of that plan.

- C. **All applicable requirements of the zoning regulations shall be met.**

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***CONDITIONS OF APPROVAL***

- D. Lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding area except:**
- 1. Where the area is still considered acreage;**
  - 2. Where a deliberate change in the character of the area has been initiated by the adoption of a specific plan, a change in zone, a development control map, or a planned unit development.**

The lots that are created here are clearly irregular and generally not acceptable in terms of size and location. However, this proposal received approval as a mini-lot development which seeks to create ownership opportunities on urban infill lots and allows the City of Oakland to make alternate findings to support developments where the individual lots do not meet the particular zoning standards. Standards such as lot width and placement can be waived under the mini-lot process. The mini-lot portion of the proposal was approved four months ago by the Planning Commission and this map is the fulfillment of that plan.

- E. Lots shall be designed in a manner to preserve and enhance natural out-croppings of rock, specimen trees or group of trees, creeks or other amenities.**

The project site has no notable topography, rock out-croppings, stands of trees, creeks, or other such natural features.

**16.08.030 - TENTATIVE MAP FINDINGS (Pursuant also to California Government Code §66474 (Chapter 4, Subdivision Map Act))**

The Advisory Agency shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

- A. That the proposed map is not consistent with applicable general and specific plans as specified in the State Government Code Section 65451.**

The General Plan is Mixed Housing Type Residential which would allow potentially up to 8 units on the property. While the applicant has proposed to construct 10 units on this property they received permission to exceed the General Plan through the granting of a density bonus under all applicable state and local laws. Therefore, findings were able to be made that the project was indeed consistent with the General Plan.

- B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.**

The General Plan is Mixed Housing Type Residential which would allow potentially up to 8 units on the property. While the applicant has proposed to construct 10 units on this property they received permission to exceed the General Plan through the granting of a density bonus under all applicable state and local laws. Therefore, findings were able to be made that the project was indeed consistent with the General Plan.

***CONDITIONS OF APPROVAL***

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

The site is flat and rectangular and well sized to accommodate this proposal.

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

The site is flat and rectangular and well sized to accommodate this proposal.

**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.**

This site is not a known habitat and is unlikely to cause substantial environmental damage.

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

There should be no adverse health effects. This is in a residential development located in a residential neighborhood and it will introduce no new use classifications that are incompatible with the surrounding neighborhood.

**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 (This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.).**

There are no easements on this property at present to allow the public access to anything.

**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.**

The subdivision has ample southern exposures that will enhance natural solar access and heating and cooling opportunities.

## CONDITIONS OF APPROVAL

### STANDARD CONDITIONS:

#### 1. **Effective Date, Expiration, and Extensions**

##### *a. Ongoing.*

This approval of the Tentative Tract Map shall expire two (2) calendar years from the date of this letter, the effective date of its granting, unless the applicant files a Tract Map with the City Engineer within two (2) years from the date of this letter. Failure to file a Tract Map within these time limits shall nullify the previous approval or conditional approval of the Tentative Tract Map. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Zoning Administrator may grant an extension of this permit, and up to two subsequent extensions upon receipt of a subsequent written request and payment of appropriate fees received no later than the expiration date of the previous extension.

#### 2. **Scope of This Approval**

##### *a. Ongoing.*

The project is approved pursuant to the Subdivision Regulations of the Municipal Code only and shall comply with all other applicable codes, requirements, regulations and guidelines, including but not limited to those imposed by the City's Building Services Division and the City's Fire Marshal.

#### 3. **Changes to Approval**

##### *a. Ongoing.*

Changes to approved plans that would amend the Tentative Map shall be submitted to and approved by the Zoning Administrator prior to recordation of the Parcel Map.

#### 4. **Modification of Conditions or Revocation**

##### *a. Ongoing.*

The City Planning Department reserves the right, after notice and public hearing, if required, to alter Conditions of Approval or revoke this permit if it is found that the approved facility or use is violating any of the Conditions of Approval, any applicable codes, requirements, regulations or guidelines, or is causing a public nuisance.

#### 5. **Defense, Indemnification & Hold harmless**

##### *a. Within ten (10) business days of the filing of a claim, action or proceeding that is subject to this provision, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes this condition of approval.*

The applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Oakland, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, Oakland Redevelopment Agency, Oakland City Planning Commission and their respective agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Planning and Zoning Division, Oakland City Planning Commission, the City of Oakland Redevelopment Agency or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such

defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

**6. Recycling Space Allocation Requirements**

**a. *Prior to issuance of building permit***

The design, location and maintenance of recycling collection and storage areas shall comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28 and with the recycling space requirements of the Planning Code. The recycling location and area shall be clearly delineated on the building permit plans.

**7. Water, Wastewater and Storm Sewer Service**

**a. *Prior to issuance of building permit***

The project sponsor shall provide the necessary information to the Public Works Agency, Design and Construction Services Division to confirm the existing capacity of the water, wastewater and storm service systems that serve the project site and the projected project demand. The project sponsor shall be responsible for payment of the required installation or hookup fees to the affected service providers. The project sponsor shall also be responsible for payment of sewer and/or storm water improvement fees as required by the Public Works Agency.

**8. Recordation of Agreement.**

**a. *Prior to submittal of Final Map.***

The applicant shall ensure that a Joint Maintenance Agreement is executed and recorded with the Alameda County Recorder concurrent with the recordation of the Parcel Map. Said agreement shall ensure the shared maintenance of all paving, signage, and open space. A copy of this document shall be submitted for review and approval by the Planning and Zoning prior to its execution and after it execution.

**9. Access Easement.**

**a. *Prior to submittal of Final Map.***

The applicant shall indicate on the Final Map an Access Easement reserved for all parcels to ensure continued shared access through any existing and proposed driveways, parking areas, and curb cuts.

**10. Recordation of Legal Descriptions.**

**a. *Within sixty (60) days of the effective date of this approval.***

The applicant shall record a written legal description of the new configuration of the parcels at the Alameda County Offices as part of the deed for the site; and shall provide evidence of recordation to the Planning and Zoning Division within 60 days of the effective date of this approval.

**11. Underground Utilities**

**a. *Prior to issuance of building permits.***

The applicant shall submit plans for review and approval of the Planning and Zoning Division, Building Services Division and the Public Works Agency, and other relevant agencies as appropriate, plans that show all new electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities placed underground by the developer from the applicant's structures to the point of service. The plans shall show all electric and telephone facilities installed in accordance with standard specifications of the serving utilities.

**12. Covenants, Conditions and Restrictions & Homeowner's Association.**

**a. *Within one year after issuance of the first certificate of occupancy.***

The Covenants, Conditions and Restrictions (CC&Rs) for the approved units shall be submitted to the Planning and Zoning Division for review. The CC&Rs shall provide for the establishment of a non-profit homeowners association to maintenance and operation of all on-site sidewalks, pathways, common open space and all common landscaping, driveways, and other facilities, in accordance with approved plans. Membership in the association shall be made a condition of ownership. The developer shall be a member of such association for its first five years of existence or until all units are sold.

**13. Meter Shielding.**

**a. *Prior to issuance of any building permits.***

The applicant shall submit for review and approval by the Planning and Zoning Division, plans showing the location of any and all utility meters, transformers, and the like located within a box set within the building, located on a non-street facing elevation, or screened from view from any public right of way.