



# **CITY COUNCIL AGENDA REPORT**

MEETING DATE: APRIL 17, 2012

ITEM NUMBER: **CC-10**

**SUBJECT: NOTICE OF INTENT FOR THE VACATION OF A PORTION OF ALLEY NO. 54A RIGHT-OF-WAY**

**DATE: APRIL 5, 2012**

**FROM: PUBLIC SERVICES DEPARTMENT, ENGINEERING DIVISION**

**PRESENTATION BY: RAJA SETHURAMAN, ACTING DIRECTOR OF PUBLIC SERVICES**

**FOR FURTHER INFORMATION CONTACT: FARIBA FAZELI, INTERIM CITY ENGINEER AT (714) 754-5335**

## **RECOMMENDATION**

1. Set a Public Hearing on May 15, 2012 for the vacation of a portion of public Alley No. 54A Right-Of-Way (ROW).
2. Adopt Resolution of intent to vacate a portion of public Alley No. 54A Right-Of-Way (ROW).

## **BACKGROUND**

The Engineering Division is processing a request from Mr. Peter Desforges of West Port Square LLC, for the vacation of a portion of Alley No. 54A. This portion of Alley No. 54A is adjacent to Mr. Desforges's properties, 353-369 East 17<sup>th</sup> Street, and Pinkley Park property, 360 Ogle Street (Attachment 1).

Alley No. 54A is located between Santa Ana Avenue and Tustin Avenue. The portion of Alley No. 54A being considered for vacation is approximately 375-feet long by 20-feet wide. The Alley No. 54A was created from individual ROW dedications at no cost to the City by the previous property owners at 353-369 East 17<sup>th</sup> Street and by dedication of a portion of Pinkley Park (City Resolution 77-43) by the City. The City dedicated portion of alley is currently unimproved. Record documents for the dedications are as follows:

		<u>Northerly Portion</u>	
<u>Instrument No. / Book and Page</u>			<u>Date Recorded</u>
1) Book 4360, Page 522 OR.			July 24, 1958
2) Book 10611, Page 170 OR.			March 26, 1973
3) Book 11384, Page 1096 OR.			April 23, 1975
4) Book 14234, Page 863 OR.			September 25, 1981

		<u>Southerly Portion</u>	
<u>Instrument No. / Book and Page</u>			<u>Date Recorded</u>
1) Book 12325, Page 375 OR. (City Reso. 77-43)			August 5, 1977

Mr. Desforges has expressed interest in acquiring the section of the alley right-of-way adjacent to his properties and adjacent to Pinkley Park to increase parking capacity in the area. In exchange,

Mr. Desforges has agreed to fund improvements to Pinkley Park equal in value to the vacated land area adjacent to Pinkley Park.

The southerly ten-foot portion of the alleyway is unimproved and the northerly ten-foot portion is paved with asphalt (Attachment 2). Mr. Desforges proposes to pave the unimproved portion to allow for additional parking behind his property and adjacent to the park. The improved portion of the alley is currently being used for parking. However, the parking is limited because the paved portion is only ten-feet wide. Improving the entire alley section would also benefit Pinkley Park patrons as it would allow for additional off-street parking. Vacating this alley segment will further benefit the City by removing the maintenance liability for a dead-end alley section with limited use by the public due to its partially improved condition. Mr. Desforges has agreed to construct improvements to Pinkley Park (Attachment 3), which includes a new decorative wrought iron fence, additional tree planting, and strategically placed pedestrian openings to the park to allow safe access from the parking area.

On March 12, 2012, a report was presented to the Planning Commission outlining the proposed vacation as required by Government Code Section 65402. Subsequently, the Planning Commission adopted Resolution No. PC-12-02 finding that the proposed vacation of a portion of excess Right-of-Way of public Alley No. 54A is consistent with the General Plan (Attachment 4).

### **ANALYSIS**

The proposed alley vacation segment is not required for any ingress and egress purposes to private property. There are existing underground and overhead utilities that run the length of the alley. It is intended that Alley No. 54A be vacated of street and highway purposes and a public utility easement be retained over the subject area for access and maintenance of the said utilities. The excess right-of-way has been reviewed by the Engineering and Transportation Services Divisions and determined that this portion of Alley No. 54A is unnecessary for public street and highway purposes. Therefore, it is recommended that the City Council approve the necessary steps for the proposed vacation.

After the proposed vacation is approved and recorded, the subject vacated property will revert back to the adjacent properties. Staff will subsequently prepare a Lot Line adjustment to transfer the Pinkley Park portion of the vacated alley to Mr. Desforges's properties.

### **ALTERNATIVES CONSIDERED**

The City could retain the alley and continue to be responsible for the maintenance and the safety issues as a substandard size alley. However, the alley serves no public purpose except as an easement for above- and below-ground utility facilities.

### **FISCAL REVIEW**

The City does not own the subject area in fee; therefore, there will be no fair market value compensation to the City in exchange for vacating this excess Right-Of-Way. Once the area is vacated it becomes taxable square footage, resulting in potential additional property taxes to the adjacent property owner to whom the land will revert. This could potentially result in additional revenue to the City.

### **LEGAL REVIEW**

The City Attorney's Office has approved the attached Resolution of Intent as to form.

**CONCLUSION**

Staff recommends that City Council set a public hearing for May 15, 2012, and adopt the attached Resolution of Intent to vacate a portion of public Alley No. 54A (Attachment 5).



**RAJA SETHURAMAN**, Acting Director  
Public Services Department

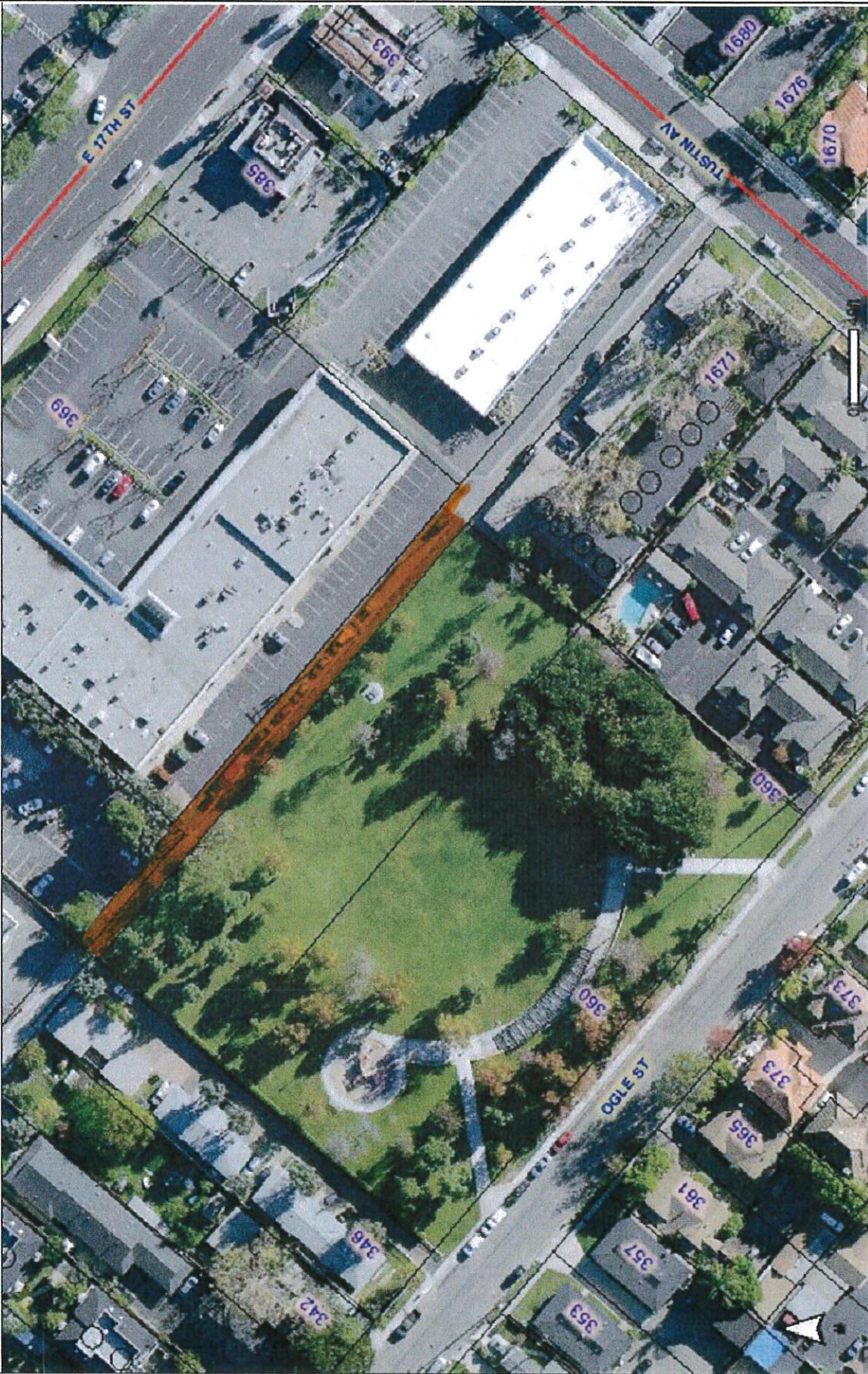


**FARIBA FAZELI**  
Interim City Engineer

- Attachment:
- 1 – Location Map
  - 2 – Existing Alley Limits
  - 3 – Improvement Plans
  - 4 – Planning Commission Resolution No. PC 12-02
  - 5 – Resolution of Intent to Vacate Alley No. 54A

- Distribution:
- Chief Executive Officer
  - Assistant CEO
  - City Attorney
  - Acting Deputy City Clerk

Pinkley Park, Alley 54A



Note: This map was prepared for assessment purpose only and does not represent a survey

== PROPOSED PORTION OF ALLEY NO. 54A TO BE VACATED



THIS MAP WAS PREPARED FOR ORANGE COUNTY ASSESSOR DEPT. PURSUANT TO THE ASSASSOR MAPS ACT, CHAPTER 218, F.S. THE ASSASSOR MAKES NO GUARANTEE AS TO ITS ACCURACY NOR ASSUMES ANY LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED. © COPYRIGHT ORANGE COUNTY ASSESSOR 2001



14 = PROPOSED PORTION OF ALLEY NO. 54A TO BE VACATED

MARCH 1980

21

425-19

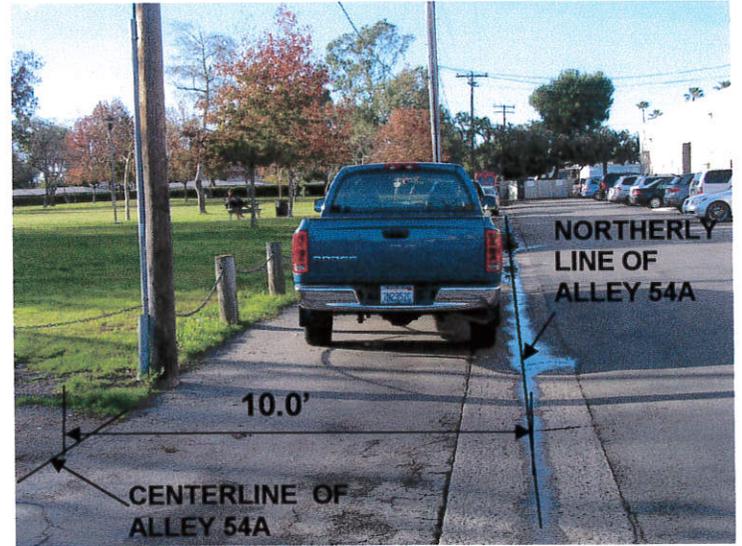
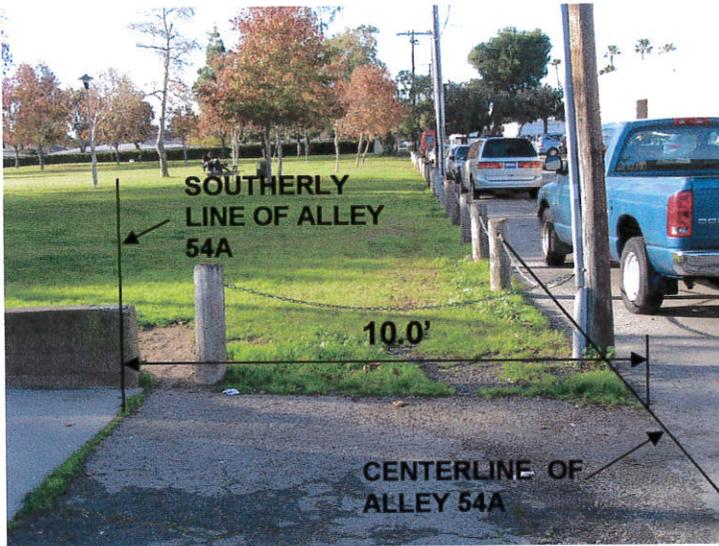
ATTACHMENT 1

# Proposed Alley Abandonment Area



**ALLEY No. 54A LOOKING EASTERLY**

# Proposed Alley Abandonment Area



**NORTHEAST END OF PINKLY/OGLE ST. PARK AND ALLEY No. 54A LOOKING WESTERLY**



**ALLEY No. 54A LOOKING WESTERLY**



RESOLUTION NO. PC-12-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA FINDING THAT THE CITY OF COSTA MESA'S VACATION OF A PORTION OF ALLEY NO. 54A TO THE UNDERLYING FEE TITLE OWNERS OF 353 AND 369 EAST 17<sup>TH</sup> STREET IS IN CONFORMANCE WITH THE CITY OF COSTA MESA 2000 GENERAL PLAN

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the City of Costa Mesa 2000 General Plan was adopted on January 22, 2002;

WHEREAS, the California Government Code 65402, requires the City of Costa Mesa shall not acquire, use, or dispose of any real property until the use of the property has been found in conformance with the City's General Plan;

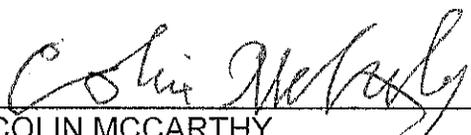
WHEREAS, the proposed right-of-way vacation has been reviewed by the Engineering and Transportation Services Divisions, and based on the existing land use and freeway configuration, it is no longer required for public street and highway purposes.

WHEREAS, the subject right-of-way adjacent to 353 AND 369 East 17<sup>th</sup> Street is shown in Exhibit A (City Engineer's memo dated February 14, 2012);

WHEREAS, the Costa Mesa Planning Commission has reviewed the proposed abandonment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby find the proposed vacation of excess right-of-way in conformance to the City of Costa Mesa 2000 General Plan.

**PASSED AND ADOPTED this 12<sup>th</sup> day of March 2012.**

  
\_\_\_\_\_  
COLIN MCCARTHY  
Chair, Costa Mesa Planning Commission





RESOLUTION NO. 12-\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE VACATION OF A PORTION OF ALLEY NO. 54A BETWEEN SANTA ANA AVENUE AND TUSTIN AVENUE

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council of the City of Costa Mesa does hereby declare its intention to vacate its interest in Alley No. 54A between Santa Ana Avenue and Tustin Avenue, but reserving there-from a public utility easement for all existing underground and overhead public utilities, being more particularly described in Exhibit A and B attached hereto.

SECTION 2. On Tuesday, the 15<sup>th</sup> day of May, 2012, at 7:00 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa, California, is hereby fixed as the time and place for hearing all persons interested in or objecting to the proposed vacation.

SECTION 3. These proceedings shall be conducted pursuant to the provisions of Section 8300 et seq. of the Streets and Highways Code of the State of California, and any other applicable laws.

SECTION 4. The City Manager of the City of Costa Mesa is hereby directed to cause notices of the said proposed vacation to be conspicuously posted along said strip of land for at least two (2) weeks before the date of said hearing. Said notices shall be posted not more than three hundred (300) feet apart, but in no event shall fewer than three (3) notices be posted.

SECTION 5. This Resolution shall be published twice in a newspaper of general circulation, printed and published in the City of Costa Mesa, Orange County, California.

PASSED, APPROVED, AND ADOPTED this 17<sup>th</sup> day of April, 2012.

\_\_\_\_\_  
Eric R. Bever, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Christine Cordon, City Clerk

\_\_\_\_\_  
Tom Duarte, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF COSTA MESA )

I, CHRISTINE CORDON, Acting Deputy City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that foregoing Resolution No. 12-\_\_\_ was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 17<sup>th</sup> day of April, 2012, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 18<sup>th</sup> day of April, 2012.

\_\_\_\_\_  
CHRISTINE CORDON, ACTING DEPUTY  
CITY CLERK

(SEAL)

## EXHIBIT A

THAT PORTION OF CITY OF COSTA MESA 20.00 FOOT WIDE ALLEY NO. 54 TO BE VACATED. THAT PORTION AS DESCRIBED IN BOOK 4360 PAGE 522 RECORDED JULY 24, 1958, BOOK 11384 PAGE 1096 RECORDED APRIL 23, 1975, BOOK 10611 PAGE 170 RECORDED MARCH 26, 1973, AND RESOLUTION 77-43, BOOK 12325 PAGE 375 OF OFFICIAL RECORDS. RECORDED AUGUST 5, 1977 IN THE CITY OF COSTA MESA, OFFICIAL RECORDS OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 86 OF NEWPORT HEIGHTS, IN THE CITY OF COSTA MESA, AS SHOWN ON A MAP RECORDED IN BOOK 4, PAGE 83, MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY.  
 THENCE NORTH 40°00'28" EAST, A DISTANCE OF 10.00 FEET;  
 THENCE SOUTH 49°59'31" EAST, A DISTANCE OF 390.20 FEET;  
 THENCE SOUTH 40°00'30" WEST, A DISTANCE OF 10.00 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST 240 FEET OF SAID LOT 86;  
 THENCE NORTH 49°59'31" WEST, A DISTANCE OF 15.00 ALONG THE CENTERLINE OF SAID ALLEY NO. 54;  
 THENCE SOUTH 40°00'30" WEST, A DISTANCE OF 10.00 FEET;  
 THENCE NORTH 49°59'31" WEST, A DISTANCE OF 375.20 FEET TO THE NORTHWEST LINE OF LOT 76 OF NEWPORT HEIGHTS, IN THE CITY OF COSTA MESA, AS SHOWN ON A MAP RECORDED IN BOOK 4, PAGE 83, MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY.  
 THENCE NORTH 40°00'28" EAST, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE NORTHWESTERLY CORNER OF LOT 86 OF NEWPORT HEIGHTS.

RESERVING THEREFROM A PUBLIC UTILITY EASEMENT FOR ALL EXISTING UNDERGROUND AND OVERHEAD PUBLIC UTILITIES AS SHOWN ON THE ATTACHED EXHIBIT, FOR THE RIGHT OF INGRESS AND EGRESS FOR THE PURPOSE OF MAINTAINING, REPLACING AND UPGRADING SAID EXISTING PUBLIC UTILITIES.

THE ABOVE DESCRIBED VACATION CONTAINING AN AREA OF 7,464 SQUARE FEET.

SEE EXHIBIT 'B' ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



*C. J. Queyrel*

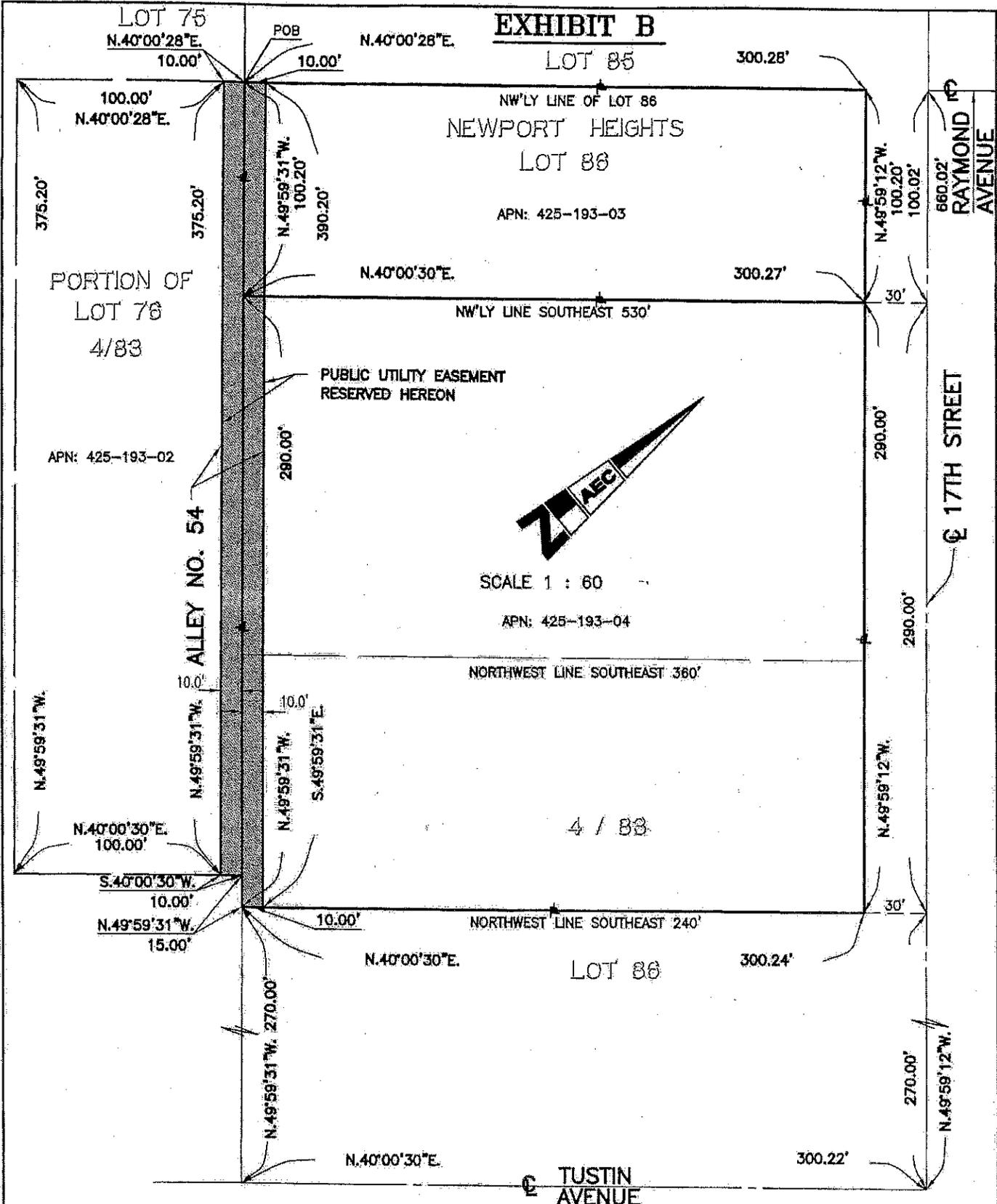
**ANACAL ENGINEERING CO.**  
 CIVIL ENGINEERING & LAND SURVEYING  
 1900 E. LA PALMA AVE. ~ SUITE 202 ~  
 ANAHEIM, CALIFORNIA 92805  
 PHONE : (714) 774-1763 FAX: (714) 774-4690  
 E-MAIL ADDRESS: [anacal@anacalengineering.com](mailto:anacal@anacalengineering.com)



BY: C. J. Q.  
 DATE: 03-23-12  
 SCALE: NO SCALE  
 JOB NO. 12005-ABAN

LOCATION **WESTPORT SQUARE SHOPPING CENTER**  
**369 E. 17TH STREET COSTA MESA, CA**  
 OWNER: WHOL INVESTMENT  
 14 CORPORATE PLAZA #10  
 NEWPORT BEACH, CA  
 SHEET NO. **1 OF 2**

# EXHIBIT B



**ANACAL ENGINEERING CO.**  
 CIVIL ENGINEERING & LAND SURVEYING  
 1900 E. LA PALMA AVE. ~ SUITE 202  
 ANAHEIM, CALIFORNIA 92805  
 PHONE : (714)774-1763 FAX: (714)774-4690  
 E-MAIL ADDRESS: [anacal@gnacalengineering.com](mailto:anacal@gnacalengineering.com)



BY: C. J. Q.  
 DATE: 03-23-12  
 SCALE: 1 : 60  
 JOB NO. 12005--ABAN

LOCATION WESTPORT SQUARE SHOPPING CENTER  
 369 E. 17TH STREET COSTA MESA, CA  
 OWNER: WHOL INVESTMENT  
 14 CORPORATE PLAZA #10  
 NEWPORT BEACH, CA  
 SHEET NO. 2 OF 2