



CITY COUNCIL AGENDA REPORT

MEETING DATE: AUGUST 7, 2012

ITEM NUMBER:

**SUBJECT: PUBLIC HEARING FOR THE VACATION OF A PORTION OF FULLERTON AVENUE
RIGHT-OF-WAY AT 164 FLOWER STREET**

DATE: JULY 26, 2012

FROM: PUBLIC SERVICES DEPARTMENT/ENGINEERING DIVISION

PRESENTATION BY: ERNESTO MUNOZ, PUBLIC SERVICES DIRECTOR

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

RECOMMENDATION

1. Adopt Resolution ordering the vacation of a portion of Fullerton Avenue Right-Of-Way (ROW) at 164 Flower Street (Attachment 1).
2. Authorize execution of the Quitclaim Deed by the Mayor and Interim City Clerk (Attachment 2).

BACKGROUND

The Engineering Division is processing a request from Mr. Daniel Thompson of Sam Costa Mesa LLC, for the vacation of a portion of Fullerton Avenue. This portion of Fullerton Avenue is adjacent to Mr. Thompson's properties at 164 Flower Street. The proposed vacation of right-of-way is in conjunction with the Sam Costa Mesa LLC proposed subdivision per Tentative Parcel Map No. 2011-144 (Attachment 3).

Per the current City's Master Plan of Highways, Fullerton Avenue is designated as a two-lane local street. The remainder of Fullerton Avenue has been constructed to fulfill the Master Plan of Highways' capacity requirement within an existing 45 to 50-foot full-width right-of-way. Currently the right-of-way width at this location is 60 feet. This results in 9.7 feet of excess right-of-way along the property located at 164 Flower Street (east side of Fullerton Avenue) and 0.3 feet along the property located at 145 East 19th Street (west side of Fullerton Avenue). The proposed vacation would comply with the current standard for local streets and be consistent with the existing improvements and the 50-foot full-width right-of-way with a half-width of 25 feet on the subject side.

On May 14, 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-12-15 finding that the proposed vacation of a portion of Fullerton Avenue excess right-of-way is consistent with the City's General Plan (Attachment 4).

ANALYSIS

Currently, there are no overhead power lines or underground utilities located within this portion of the public right-of-way and therefore, a reservation for a utility easement is not required. The excess right-of-way has been reviewed by the Engineering and Transportation Services Divisions who have determined that this portion of Fullerton Avenue is not necessary for Public

Street and highway purposes. Therefore, it is recommended the proposed vacation continue to be processed and forwarded to the City Council for approval. After the proposed vacation is approved and recorded, the subject vacated property will revert back to the owner of 164 Flower Street.

The Notice of Intention to Vacate Right-Of-Way was presented to the City Council at their regular meeting of July 3, 2012. Resolution 12-45 was subsequently adopted setting this public hearing (Attachment 5). The property has been posted and notices of this public hearing were published as required by the Resolution. Staff has prepared the attached Resolution ordering the vacation of excess right-of-way (Attachment 1). Staff also recommends that a Quitclaim Deed be executed relinquishing the City of any interest in said excess right-of-way (Attachment 2).

ALTERNATIVES CONSIDERED

The City could retain the excess right-of-way and continue to be responsible for its maintenance. The alternative to retain excess right-of-way will result in the City's continued involvement of unusable right-of-way. There are no future plans to widen Fullerton Avenue in this area.

FISCAL REVIEW

There is no fiscal impact associated with this item.

LEGAL REVIEW

The City Attorney's Office has approved the attached resolution as to form.

CONCLUSION

Staff recommends the City Council adopt the Resolution ordering the vacation of a portion of Fullerton Avenue excess right-of-way at 164 Flower Street. In addition, staff recommends the City Council authorize execution of the Quitclaim Deed by the Mayor and Interim City Clerk.



ERNESTO MUNOZ
Public Services Director



FARIBA FAZELI
Interim City Engineer

Attachments: 1 – Resolution Ordering the Vacation of Excess Right-Of-Way
 2 – Quit Claim Deed
 3 – Tentative Parcel Map
 4 – Resolution PC-12-15
 5 – Resolution 12-45

Distribution: Chief Executive Officer
 Assistant CEO
 City Attorney
 City Clerk Division

RESOLUTION NO. 12-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ORDERING THE VACATION OF A PORTION OF FULLERTON AVENUE RIGHT-OF-WAY AT 164 FLOWER STREET

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

WHEREAS, the City Council of the City of Costa Mesa did, on the 3rd day of July, 2012, adopt Resolution No. 12-45, entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE VACATION OF A PORTION OF FULLERTON AVENUE RIGHT-OF-WAY LOCATED AT 164 FLOWER STREET; AND

WHEREAS, pursuant to said Resolution of Intention, the time and place for hearing all persons interested in or objecting to the proposed vacation was set for Tuesday, the 7th day of August, 2012, at 7:00 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa, California; and

WHEREAS, notices of said proposed vacation were duly and regularly posted as required by law, all pursuant to the provisions of Section 8300 et seq. of the Streets and Highways Code of the State of California; and

WHEREAS, on said date of hearing, the proposed vacation came on regularly to be heard; all persons appearing on the proposed vacation were heard; and said hearing was closed on the 7th day of August, 2012; and

WHEREAS, the Costa Mesa City Council finds and determines from all the evidence submitted that the hereinafter described right-of-way is unnecessary for present or prospective street purposes;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA
DOES ORDER AND RESOLVE AS FOLLOWS:

1. That the hereinafter described right-of-way is unnecessary for present or prospective street purposes:

All as more particularly described in legal description shown in Exhibit "A" and on map shown in Exhibit "B", attached hereto and by this reference made a part hereof.

PASSED AND ADOPTED this 7th day of August, 2012.

ATTEST:

BRENDA GREEN, Interim City Clerk

ERIC BEVER, Mayor

APPROVED AS TO FORM

Tom Duarte, Attorney

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

I, BRENDA GREEN, Interim City Clerk of the City of Costa Mesa, hereby certify that the above and foregoing Resolution No. 12-____ was duly and regularly passed and adopted by the said City Council at a regular meeting thereof held on the 7th day of August, 2012, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Costa Mesa this 8th day of August, 2012.

BRENDA GREEN, Interim City Clerk

EXHIBIT "A"
LEGAL DESCRIPTION FOR VACATION OF RIGHT OF WAY
APN 425-234-21

THE LAND REFERRED TO HEREIN IS SITUATED IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA.

BEING A PORTION OF A PUBLIC HIGHWAY PER DEED OF RIGHT OF WAY TO THE CITY OF COSTA MESA RECORDED NOVEMBER 23, 1927 IN BOOK 101, PAGE 172, OF OFFICIAL RECORDS. SAID LAND LYING WITHIN A PORTION OF LOTS 1 AND 2 OF BLOCK "C" OF TRACT NO. 377, RECORDED IN BOOK 16, PAGE 15 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EASTERLY 9.70 FEET OF THE 14.70 FEET, LYING ADJACENT TO AND SOUTHEASTERLY OF THE SOUTHEASTERLY RIGHT OF WAY LINE OF FULLERTON AVENUE, AS SHOWN ON SAID MAP OF TRACT NO. 377, SAID STRIP OF LAND BEING BOUNDED NORTHEASTERLY BY THE NORTHEASTERLY LINE OF SAID LOT 2 AND BOUNDED SOUTHWESTERLY BY THE WESTERLY LINE OF SAID LOT 1, SAID LINE ALSO BEING THE EASTERLY CURVED LINE AS DESCRIBED PER DEED OF RIGHT OF WAY TO THE CITY OF COSTA MESA, RECORDED DECEMBER 23, 1959 IN BOOK 5028, PAGE 479, OF OFFICIAL RECORDS.

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

PREPARED BY ME OR UNDER MY DIRECTION

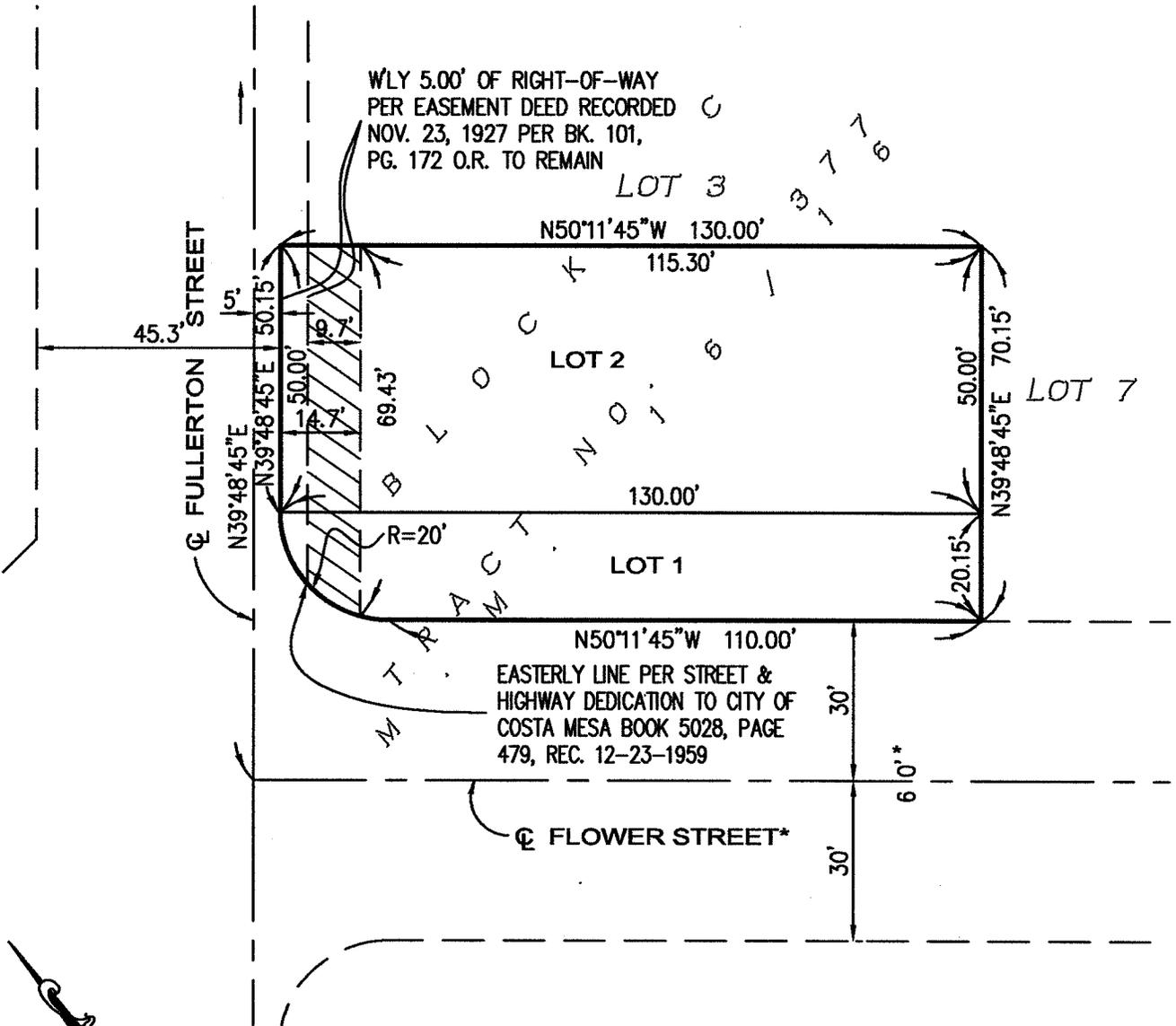

RANDAL L. STREETER, R.C.E. 25083



EXHIBIT "B"

SKETCH TO ACCOMPANY LEGAL DESCRIPTION FOR
VACATION OF RIGHT-OF-WAY

A.P.N. 425-234-21



WLY 5.00' OF RIGHT-OF-WAY
PER EASEMENT DEED RECORDED
NOV. 23, 1927 PER BK. 101,
PG. 172 O.R. TO REMAIN

EASTERLY LINE PER STREET &
HIGHWAY DEDICATION TO CITY OF
COSTA MESA BOOK 5028, PAGE
479, REC. 12-23-1959

 9.70 FEET OF EXISTING
RIGHT-OF-WAY RECORDED NOV.
23, 1927 PER BK. 101, PG.
172 O.R. TO BE VACATED.

* 60' RIGHT-OF-WAY GRANTED TO THE CITY
OF COSTA MESA AS SUCCESSOR OF
INTEREST FROM THE COUNTY OF ORANGE
RECORDED MAY 13, 1926 IN BOOK 649,
209 OF DEEDS.

SCALE: 1"=30'

JN: 11-1876

CITY OF COSTA MESA

A.P.N. 425-234-21
164 FLOWER STREET

DEED NO.:

DRAWN BY: HB

SCALE: AS SHOWN

DATE: 04/24/12

THIS IS NOT A SURVEY BUT IS COMPILED FROM EXISTING RECORDS

Recording Requested by CITY OF COSTA MESA
When Recorded Mail to:
CITY OF COSTA MESA
Attention - City Clerk
P.O. BOX 1200
COSTA MESA, CALIFORNIA 92628-1200

Mail Tax Statements to:
Owner (s) of Record

APN: 425-234-21

Deed No. : 3782

TCA: 15115

Location: 164 Flower Street

Exempt Recording Requested per
Government Code 6103

QUITCLAIM DEED

THE UNDERSIGNED DECLARE(S) DOCUMENTARY TRANSFER TAX IS NONE.
GOVERNMENTAL AGENCY EXEMPT CITY OF COSTA MESA

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

City of Costa Mesa, a Municipal Corporation

do/does hereby remise, release and forever quitclaim to **Sam-Costa Mesa LLC, an Oregon limited liability company**, the following described real property subject to reversion rights as recognized by State and local law, in the City of Costa Mesa, County of Orange, State of California:

SEE RESOLUTION NO. _____ ,ADOPTED _____
AS INSTRUMENT NO. _____ OF
OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY
RECORDER, ORANGE COUNTY, CALIFORNIA, ATTACHED
HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

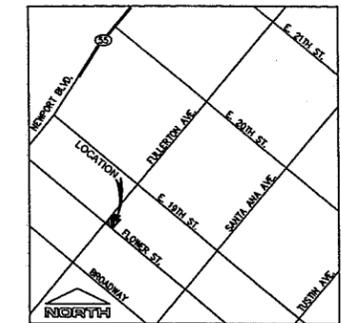
THIS DEED IS BEING RECORDED TO PERFECT THE TITLE OF
THE SUBJECT PROPERTIES.

City Clerk of the
City of Costa Mesa

Mayor of the City of Costa Mesa

TENTATIVE PARCEL MAP 2011-144

IN THE CITY OF COSTA MESA, COUNTY OF ORANGE
STATE OF CALIFORNIA



VICINITY MAP
NTS

OWNER/SUBDIVIDER

SAM-COSTA MESA, LLC
1401 QUAL STREET, #100
NEWPORT BEACH, CA 92660
CONTACT: RAY DORAME, VP OF OPERATIONS
PHONE: 949.252.1122

PLANS PREPARED BY:

**ADAMS • STREETER
CIVIL ENGINEERS, INC.**
15 Corporate Park, Irvine, CA 92606
Ph: 949-474-2350 Fax: 949-474-0261

EXISTING EASEMENTS
PER TITLE REPORT PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY, ORDER NO. 3947735, DATED JANUARY 13, 2012

SYMBOL ON PLAN	DESCRIPTION
(A)	AN EASEMENT FOR PUBLIC HIGHWAY AND INCIDENTAL PURPOSES IN FAVOR OF THE CITY OF COSTA MESA RECORDED NOVEMBER 23, 1927 IN BOOK 101, PAGE 172 OF OFFICIAL RECORDS.
(B)	AN EASEMENT FOR STREET, HIGHWAY AND INCIDENTAL PURPOSES IN FAVOR OF THE CITY OF COSTA MESA RECORDED DECEMBER 23, 1959 IN BOOK 5028, PAGE 479 OF OFFICIAL RECORDS.

AREA

NET AREA:	9,123 SF = 0.209 AC
STREET DEDICATION:	434 SF = 0.009 AC
GROSS AREA:	8,689 SF = 0.200 AC

GENERAL NOTES

- EXISTING ZONING: R2
- PROPOSED ZONING: R2
- PROPOSED LAND USE: SMALL-LOT CONFIGURATION
- AREA IS NOT SUBJECT TO OVERFLOW OR FLOOD HAZARD; ZONE "X", FIRM MAP 06059C0269J, DECEMBER 3, 2009

PARCEL SUMMARY

PARCEL	PARCEL AREA	DESCRIPTION
1	3,730 S.F. = 0.086 AC	2-STORY BUILDING & ATTACHED 2-CAR GARAGE
2	3,791 S.F. = 0.087 AC	2-STORY BUILDING & ATTACHED 2-CAR GARAGE
A	1,167 S.F. = 0.027 AC	COMMON LOT

LOT COVERAGES

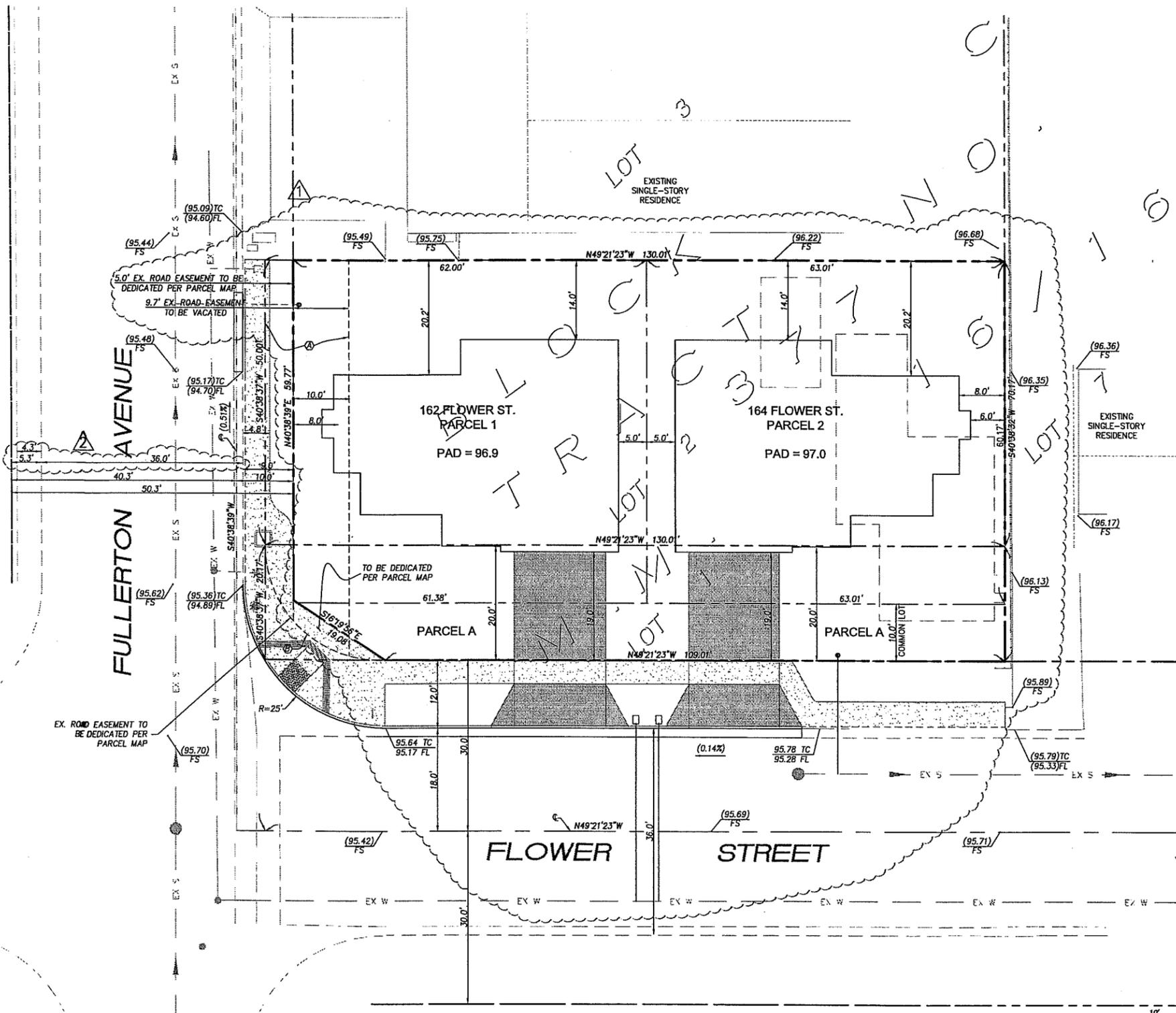
PARCEL	STRUCTURE	PORCH	DRIVEWAY	OPEN SPACE	TOTAL	
PARCEL 1	1,563 SQ. FT.	141 SQ. FT.	144 SQ. FT.	1,882 SQ. FT.	3,730 SQ. FT.	
	41.8%	3.8%	3.9%	50.4%	100%	
	PARCEL 2	1,563 SQ. FT.	141 SQ. FT.	144 SQ. FT.	1,943 SQ. FT.	3,611 SQ. FT.
		41.2%	3.7%	3.8%	51.3%	100%
		PARCEL A (COMMON LOT)	160 SQ. FT.	1,007 SQ. FT.	1,167 SQ. FT.	100%
13.7%			86.3%	100%		

LEGEND

- CENTER LINE
- - - EXISTING P/L
- - - PROPOSED BOUNDARY
- - - PROPOSED P/L
- - - EXISTING EASEMENT
- - - EX S EXISTING SEWER LINE
- - - EX W EXISTING WATER LINE
- ⊕ EXISTING FIRE HYDRANT
- ⊕ EXISTING POWER POLES
- ⊕ EXISTING WATER METER
- ⊕ PROPOSED WATER METER
- ⊕ PROPOSED SEWER LATERAL
- - - EXISTING CURB & GUTTER
- - - PROPOSED CURB & GUTTER
- ▨ PROPOSED CONCRETE WALK

ABBREVIATION

- EX EXISTING
- FL FLOW LINE
- FG FINISH GRADE
- FS FINISH SURFACE
- P/L PROPERTY LINE
- S SEWER
- R/W RIGHT OF WAY
- TC TOP OF CURB
- W WATER



LEGAL DESCRIPTION

LOT 1 AND 2 IN BLOCK "C" OF TRACT NO. 377, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 16, PAGE 16 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING FROM LOT 1 THE INTEREST CONVEYED TO THE COUNTY OF ORANGE BY DEED RECORDED MAY 13, 1926 IN BOOK 649, PAGE 209 OF DEEDS.

ASSESSOR PARCEL NUMBER

APN: 425-234-21

BENCHMARK

O.C.S. BENCHMARK GPS #1533; FOUND BENCH MARK STAMPED WITH 3 3/4" ALUM. DISK IN 4 FT. BY 8 FT. CATCH BASIN.

ELEV. = 95.626

BASIS OF BEARINGS

THE BEARINGS SHOWN HEREON ARE BASED ON THE BEARING BETWEEN O.C.S. HORIZONTAL CONTROL STATION GPS NO. 6234 AND STATION GPS NO. 1533, BEING SOUTH 87°39'45" WEST PER RECORDS ON FILE IN THE OFFICE OF THE ORANGE COUNTY SURVEYOR.

PROJECT ADDRESS

164 FLOWER STREET, COSTA MESA, CALIFORNIA 92627

REVISIONS:

REVISION	DESCRIPTION	DATE
1	PARCEL 1 & 2'S BUILDINGS, IMPROVEMENTS, AND DIVIDING LOT LINE SHIFTED 3.0' TO THE SOUTH-EAST; REVISION TO VACATION OF EX. ROAD EASEMENT	4.25.12
2	REVISED STREET WIDTH DIMENSION ON FULLERTON AVENUE.	6.6.12

THIS MAP WAS PREPARED UNDER THE SUPERVISION OF:

N. Streeter
NICHOLAS A. STREETER
RCE 70862 EXP. 06/30/13

6/6/2012 DATE



PLAN PREPARATION DATE

MARCH 26, 2012

J.N. 11-1876

CITY OF COSTA MESA

TENTATIVE PARCEL
MAP NO. 2011-124

SHEET
1
OF
1

RESOLUTION NO. PC-12-15

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 RIGHT-OF-WAY ON FULLERTON STREET TO THE UNDERLYING FEE TITLE OWNER OF 164 FLOWER 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 164 Flower Street is shown in Exhibit A (City Engineer's memo dated April 25, 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 14^h day of May 2012.


COLIN MCCARTHY
Chair, Costa Mesa Planning Commission

RESOLUTION NO. 12-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE VACATION OF A PORTION OF FULLERTON AVENUE AT 164 FLOWER 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 a portion of its interest in Fullerton Avenue at 164 Flower Street, being more particularly described in Exhibit A and B attached hereto.

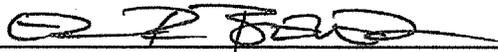
SECTION 2. On Tuesday, the 7th day of August, 2012, at 7:00 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa, California, is hereby fixed as the time and place for hearing all persons interested in or objecting to the proposed vacation.

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.

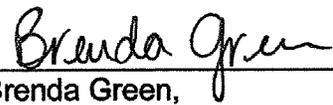
SECTION 4. The City Chief Executive Officer of the City of Costa Mesa is hereby directed to cause notices of the said proposed vacation to be conspicuously posted along said strip of land for at least two (2) weeks before the date of said hearing. Said notices shall be posted not more than three hundred (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 AND ADOPTED this 3rd day of July, 2012.


Eric R. Bever, Mayor

ATTEST:



Brenda Green,
Interim City Clerk

APPROVED AS TO FORM:



Thomas Duarte, City Attorney

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

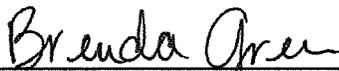
I, BRENDA GREEN, Interim City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 12-45 and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 3rd day of July, 2012, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS: BEVER, RIGHEIMER, LEECE, MENSINGER,
MONAHAN

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 5th day of July, 2012.



BRENDA GREEN
INTERIM CITY CLERK

(SEAL)

EXHIBIT "A"
LEGAL DESCRIPTION FOR VACATION OF RIGHT OF WAY
APN 425-234-21

THE LAND REFERRED TO HEREIN IS SITUATED IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA.

BEING A PORTION OF A PUBLIC HIGHWAY PER DEED OF RIGHT OF WAY TO THE CITY OF COSTA MESA RECORDED NOVEMBER 23, 1927 IN BOOK 101, PAGE 172, OF OFFICIAL RECORDS. SAID LAND LYING WITHIN A PORTION OF LOTS 1 AND 2 OF BLOCK "C" OF TRACT NO. 377, RECORDED IN BOOK 16, PAGE 15 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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

PREPARED BY ME OR UNDER MY DIRECTION

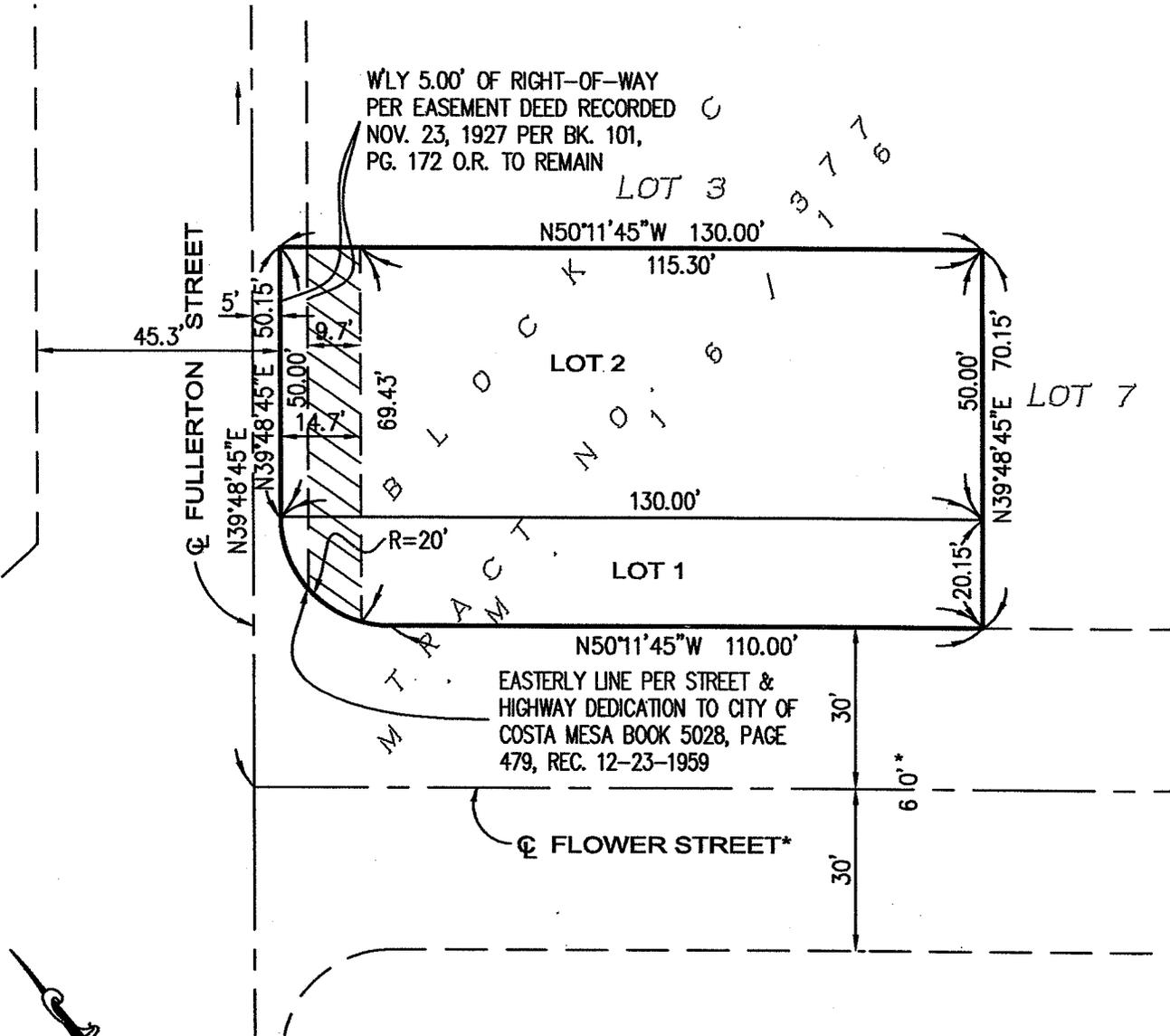

RANDAL L. STREETER, R.C.E. 25083



EXHIBIT "B"

SKETCH TO ACCOMPANY LEGAL DESCRIPTION FOR
VACATION OF RIGHT-OF-WAY

A.P.N. 425-234-21



WLY 5.00' OF RIGHT-OF-WAY
PER EASEMENT DEED RECORDED
NOV. 23, 1927 PER BK. 101,
PG. 172 O.R. TO REMAIN

EASTERLY LINE PER STREET &
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RECORDED MAY 13, 1926 IN BOOK 649,
209 OF DEEDS.

SCALE: 1"=30'

JN: 11-1876

CITY OF COSTA MESA

A.P.N. 425-234-21
164 FLOWER STREET

DEED NO.:

DRAWN BY: HB

SCALE: AS SHOWN

DATE: 04/24/12

THIS IS NOT A SURVEY BUT IS COMPILED FROM EXISTING RECORDS