PLANNING COMMISSION AGENDA REPORT

MEETING DATE: JUNE 22, 2015 **ITEM NUMBER:** CC-3

SUBJECT: **GENERAL PLAN CONFORMITY RESOLUTION**
PROPOSED VACATION OF A FLOWAGE EASEMENT AT 970 W. 16TH STREET

FROM: **DEVELOPMENT SERVICES DEPARTMENT / PLANNING DIVISION**

DATE: **JUNE 12, 2015**

FOR FURTHER INFORMATION CONTACT: **STEPHANIE ROXAS, AICP, ASSOCIATE PLANNER**
(714) 754-5667, stephanie.roxas@costamesaca.gov

DESCRIPTION

The City of Costa Mesa Engineering Division proposes to vacate excess right-of-way within the property limits of 970 W. 16th Street. This excess right-of-way was originally dedicated to the City as a flowage easement in 1962 to allow overflow storm drain runoff from Newhall Street onto the subject property. The request is proposed in conjunction with a live/work and residential property currently under construction, referred to as the "Lighthouse."

Pursuant to Government Code Section 65402 (Restrictions on Acquisition and Disposal of Real Property), the Costa Mesa Planning Commission must find that actions related to acquiring, using, or disposing public property are in conformance with the City's 2000 General Plan. The Planning Commission must also find that the proposed action will serve the public interest and is a public benefit.

RECOMMENDATION

Adopt a resolution (Attachment 1) finding that the flowage easement vacation is in conformance with the City of Costa Mesa 2000 General Plan, will serve the public interest, and is a public benefit.

BACKGROUND

Site Location/Environs

The subject site has a base zone of MG (General Industrial) and a General Plan land use designation of Light Industrial. Additionally, the site is located within the Mesa West Bluffs Urban Plan. The site is bounded by Playport Mobile Home Park to the northeast, industrial uses to the east, the City of Newport Beach Utility Yard to the south, and a storage yard (within the City of Newport Beach) to the west.

On November 10, 2014, the Planning Commission approved Planning Application PA-14-06 and Vesting Tentative Tract Map VT-17747 for an 89-unit live/work and residential development at 1620-1644 Whittier Avenue within the Mesa West Bluffs Urban Plan area. The project involved construction of 89 three-story, single-family homes (49 residential units and 40 live/work units) on a 5.7-acre property with a deviation from building separation requirements.

ANALYSIS

Government Code Section 65402 (Restrictions on Acquisition and Disposal of Real Property) requires that right-of-way or other real property cannot be vacated or abandoned without a finding being made that such vacation or abandonment conforms to the 2000 General Plan. In actions related to acquiring, using, or disposing of other real property within the City of Costa Mesa, the Planning Commission must review the proposed action for conformity with the General Plan and find that the action is anticipated to serve the public interest and will be a public benefit.

At the request of the property owner, Taylor Morrison, and in conjunction with approved Tentative Tract Map No. 17747, the Engineering Division is proposing to vacate the flowage easement at 970 W. 16th Street. The proposed easement is located within the northeasterly portion of the property, adjacent to the westerly end of Newhall Street. The flowage easement is approximately 12,437 square feet in area.

As detailed in City Engineer's memorandum dated May 27, 2015 (Attachment 2), the excess right-of-way was originally dedicated to the City as a flowage easement in 1962. The intent of the easement was to allow overflow storm drain runoff from Newhall Street onto the subject property. With the construction of the mixed-use development at 970 W. 16th Street, a new catch basin and storm drain pipe will be installed to direct runoff to an existing drainage system within West 16th Street. The property owner will dedicate a drainage easement to the City in conjunction with the anticipated storm drain improvements. Consequently, the Engineering Division determined the existing flowage easement will no longer be needed. In addition, the Engineering Division states the City does not have any public improvements constructed on the easement or contain any utilities.

Planning staff has found the proposal in compliance with the City's 2000 General Plan for the following reasons:

- *The proposed vacation conforms to General Plan Goal LU-1D.* As described in the Land Use Element, it is the City's goal to ensure consideration of utility system capacities in land use planning and development processes. The Engineering Division reviewed the storm drain improvements, in conjunction with approved Tentative Tract Map No. 17747, to ensure the new mixed-use development will include a drainage system in compliance with current engineering and water quality standards. The Engineering Division determined that with the installation of the anticipated storm drain system and future dedication of a drainage easement to the City, the existing flowage easement will no longer be needed.

- *The proposed vacation conforms to General Plan Goal LU-2.* As described in the Land Use Element, it is the City's goal to create and maintain an aesthetically pleasing and functional environment and minimize impacts on existing physical resources. Given that the proposed action will not result in any adverse impacts to public utilities or the transportation network, the proposed vacation is in conformance with the General Plan. Furthermore, the Engineering Division determined there are no public improvements or utilities within the flowage easement, and therefore a reservation for utility easement is not required.

- *The proposed action is anticipated to serve the public interest and is anticipated to be a public benefit.* The Engineering Division determined that with the installation of the anticipated storm drain system at 970 W. 16th Street and the future dedication of a drainage easement to the City, the existing flowage easement will no longer be needed. The City may be subject to additional maintenance costs and liabilities associated with having an ownership interest in the subject easement. Consequently, vacating the unnecessary street and highway easement serves the public interest and is a public benefit.

ENVIRONMENTAL DETERMINATION

The proposed vacation of excess right-of-way is exempt from the provisions of the California Environmental Quality Act under Section 15312 (Class 12), Surplus Government Property Sales, because the portion of the flowage easement to be vacated is not located on a parcel of land in an area of statewide, regional, or area wide concern.

CONCLUSION

Staff recommends the Planning Commission adopt a resolution (Attachment 1) finding that the flowage easement vacation, within the property limits of 970 W. 16th Street, is in conformance with the City of Costa Mesa 2000 General Plan, will serve the public interest, and is a public benefit.

Should staff receive the Planning Commission's concurrence, the Engineering Division would continue to process the proposed vacation and forward the proposal to the City Council.

STEPHANIE ROXAS, AICP
Associate Planner

CLAIRE FLYNN, AICP
Assistant Development Services Director

Attachments:
1. Draft Planning Commission Resolution and Exhibits
2. City Engineer Memorandum dated May 27, 2015

Distribution:
Director of Economic & Development Services/Deputy CEO
Assistant Development Services Director
Senior Deputy City Attorney
Public Services Director
City Engineer
Transportation Services Manager
Fire Protection Analyst
Brad Edwards, Engineering Technician
File (2)

RESOLUTION NO. PC-15-___

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA FINDING THAT THE CITY OF COSTA MESA'S VACATION OF A FLOWAGE EASEMENT WITHIN THE PROPERTY LOCATED AT 970 W. 16TH STREET IS IN CONFORMANCE WITH THE CITY OF COSTA MESA 2000 GENERAL PLAN, WILL SERVE THE PUBLIC INTEREST, AND IS A PUBLIC BENEFIT

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

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

WHEREAS, the Government Code of the State of California, Section 65402, provides in part that a local agency shall not acquire or lease real property nor abandon or dispose of any real property, nor construct a public building or structure in any county or city, until the location, purpose, and extent of such activity has been reported upon as to conformity with the adopted General Plan applicable thereto; and,

WHEREAS, the southeasterly portion of the property at 970 W. 16th Street was originally dedicated to the City of Costa Mesa as a flowage easement by Easement Deed No. 6570 in Book 6102, Page 658 of records, and recorded on May 9, 1962 in the County of Orange Recorders Office; and

WHEREAS, the City of Costa Mesa proposes to vacate the flowage easement within the property limits of 970 W. 16th Street, as shown in Exhibit B; and,

WHEREAS, the flowage easement being vacated has been found by the Engineering Division to not be necessary for drainage purposes, and as such, the vacation serves the public interest and is a public benefit as it eliminates any maintenance costs and liabilities imposed on the City associated with the easement; and,

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the vacation is exempt from the provisions of the California Environmental Quality Act under section 15312 (Class 12), Surplus Government Property Sales, because the portion of the right-of-way to be vacated is not located on a parcel of land in an area of statewide, regional, or area wide concern; and,

WHEREAS, on June 22, 2015, the Costa Mesa Planning Commission reviewed the proposed vacated easement and findings;

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit A, the Planning Commission does hereby find the proposed vacation of a flowage easement within the property located at 970 W. 16th Street to be in conformance with the City of Costa Mesa 2000 General Plan, will serve the public interest, and is a public benefit.

PASSED AND ADOPTED this 22nd day of June 2015.

_____

Robert L. Dickson, Chair
Costa Mesa Planning Commission

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, Claire Flynn, Secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on June 22, 2015, by the following votes:

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

_____
Claire L. Flynn, Secretary
Costa Mesa Planning Commission

EXHIBIT A

FINDINGS (APPROVE)

A. The information presented substantially complies with the City of Costa Mesa 2000 General Plan Section 2.6 (Obj.) LU-1D in that:

Finding: The project complies with the City of Costa Mesa 2000 General Plan and meets the purpose and intent to insure consideration of utility system capacities in land use planning and development processes.

Facts in Support of Findings: The Engineering Division reviewed the storm drain improvements, in conjunction with approved Tentative Tract Map No. 17747, to ensure the new mixed-use development will include a drainage system in compliance with current engineering and water quality standards. Given that the proposed action will not result in any adverse impacts to public utilities or the transportation network, the proposed vacation is in conformance with the General Plan. Furthermore, the Engineering Division determined there are no utilities within the flowage easement, and therefore a reservation for utility easement is not required.

B. The information presented substantially complies with the City of Costa Mesa 2000 General Plan Section 2.6 LU-2 in that:

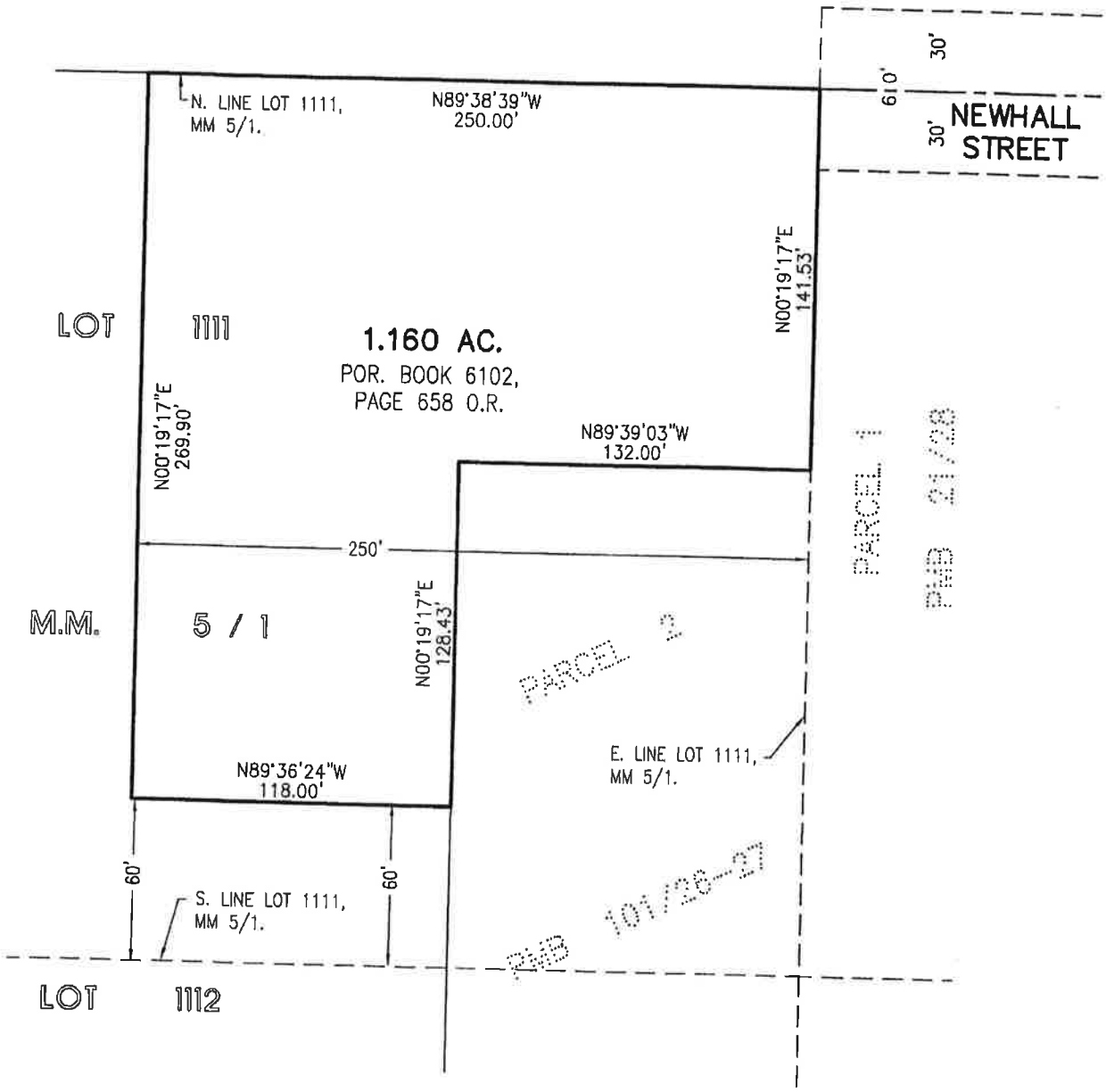
Finding: As described in the Land Use Element, it is the City's goal to create and maintain an aesthetically pleasing and functional environment and minimize impacts on existing physical resources.

Facts in Support of Findings: The Engineering Division determined that with the installation of the anticipated storm drain system at 970 W. 16th Street and the future dedication of a drainage easement to the City, the existing flowage easement will no longer be needed. The City may be subject to additional maintenance costs and liabilities associated with having an ownership interest in the subject easement. Consequently, vacating the unnecessary street and highway easement serves the public interest and is a public benefit.

C. The flowage easement vacation is exempt from the provisions of the California Environmental Quality Act under section 15312 (Class 12), Surplus Government Property Sales, because the portion of the utility easement to be vacated is not located on a parcel of land in an area of statewide, regional, or area wide concern.

EXHIBIT B

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
PORTION OF FLOWAGE EASEMENT VACATION



CITY OF COSTA MESA

PROJECT	TITLE		
C&V CONSULTING, INC. CIVIL ENGINEERING LAND PLANNING AND SURVEYING 27156 BURBANK FOOTHILL RANCH, CALIFORNIA 92610 PHONE (949) 916-3800 FAX (949) 916-3805	REFERENCE	DATE 5/2/15	SHEET NO.
	J.N. TWHX-030	SCALE 1"=60'	1 OF 1

CITY OF COSTA MESA

ATTACHMENT 2

Department of Public Services / Engineering

INTER OFFICE MEMORANDUM

TO: Claire Flynn, Assistant Development Services Director

FROM: Fariba Fazeli, City Engineer F.F.

DATE: May 27, 2015

SUBJECT: **Proposed Vacation of Flowage Easement at 970 West 16th Street**

At the request of Taylor Morrison (property owner), the Engineering Division is processing the vacation of a City flowage easement within the property at 970 West 16th Street (see Attachments). This request is in conjunction with the approved Tentative Tract Map No. 17747. The flowage easement is within the northeasterly portion of the property and adjacent to the westerly end of Newhall Street. The easement was originally dedicated to the City by Easement Deed No. 6570 in Book 6102, Page 658 of records and recorded on May 9, 1962 in the County of Orange Recorders Office.

The original intent for the flowage easement was to allow overflow storm drain runoff from Newhall Street onto the subject property. With the proposed development for Tentative Tract 17747, a new catch basin and 24" RCP storm drain pipe will be installed to direct runoff to an existing drainage system within West 16th Street. Included with the new drainage system will be a drainage easement dedicated to the City. Therefore the existing flowage easement will no longer be needed.

Currently, there are no utilities or public improvements within the flowage easement and therefore, a reservation for any type of utility easement is not required. The Engineering Division has determined that due to the proposed storm drain improvements with this project this easement is not needed.

It is therefore recommended that the proposed vacation 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 970 West 16th Street, Taylor Morrison.

It is requested that the Planning Division provide a determination of consistency with the General Plan and present the vacation of this flowage drainage easement to the Planning Commission meeting of June 8, 2015. Please submit a confirmation that this request has been received and scheduled.

Information or assistance required for this project may be obtained from Brad Edwards, Engineering Technician, at extension 5066.

Attachments: Proposed Vacation of Flowage Easement Aerial and Legal Description

c: Brad Edwards Engineering Technician III

970 West 16TH Street

EXHIBIT A

LEGAL DESCRIPTION
PORTION OF FLOWAGE EASEMENT VACATION

BEING THE EASTERLY 250 FEET OF LOT 1111 IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, PER THE NEWPORT MESA TRACT, FILED IN BOOK 5 PAGE 1 OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

EXCEPTING THEREFROM THE SOUTHERLY 60.00 FEET OF SAID LOT 1111.

ALSO EXCEPTING THEREFROM THAT PORTION LYING WITHIN PARCEL 2 PER MAP FILED IN BOOK 101, PAGES 26 & 27, OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

CONTAINING 12,437 SQUARE FEET, MORE OR LESS.

MORE PARTICULARLY SHOWN ON EXHIBIT "B", ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

SUBJECT TO COVENANTS, CONDITIONS, RESERVATIONS, RIGHT-OF-WAY AND EASEMENTS OF RECORD, IF ANY.

PREPARED BY OR UNDER THE DIRECTION OF:

EDWARD L. REYNOLDS LS 7725
LICENSE EXPIRES 12/31/15

DATE 5/2/15

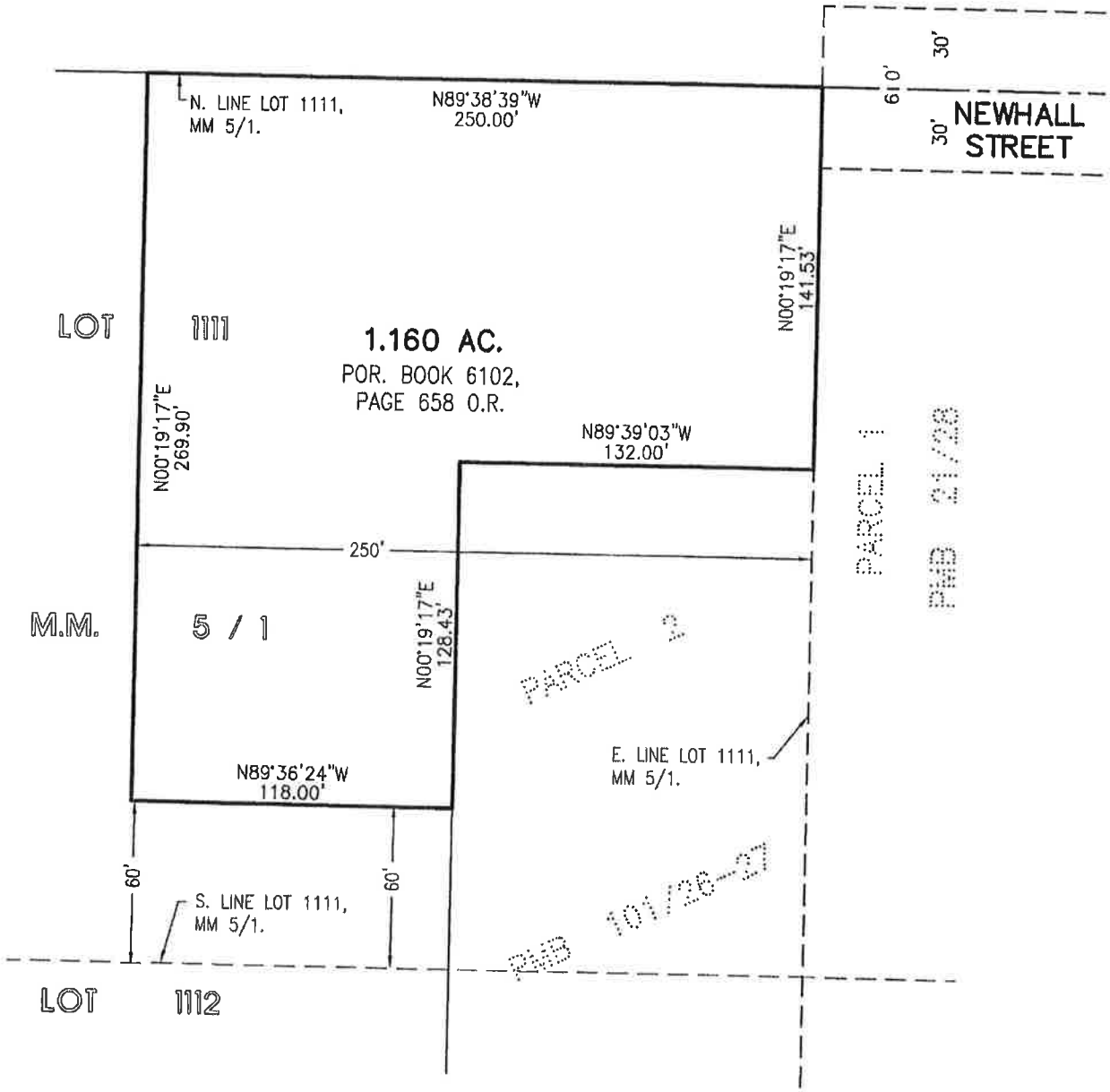
PROFESSIONAL LAND SURVEYOR
EDWARD L. REYNOLDS
No. 7725
STATE OF CALIFORNIA

CITY OF COSTA MESA

PROJECT	TITLE		
C&V CONSULTING, INC. CIVIL ENGINEERING LAND PLANNING AND SURVEYING	REFERENCE	DATE 5/2/15	SHEET NO.
27156 BURBANK FOOTHILL RANCH, CALIFORNIA 92610 PHONE (949) 916-3800 FAX (949) 916-3805	J.N. TWHX-030	SCALE NONE	1 OF 1

EXHIBIT B

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
PORTION OF FLOWAGE EASEMENT VACATION



CITY OF COSTA MESA

PROJECT	TITLE		
C&V CONSULTING, INC. CIVIL ENGINEERING LAND PLANNING AND SURVEYING 27156 BURBANK FOOTHILL RANCH, CALIFORNIA 92610 PHONE (949) 916-3800 FAX (949) 916-3805	REFERENCE	DATE 5/2/15	SHEET NO.
	J.N. TWHX-030	SCALE 1"=60'	1 OF 1

Parcel name: FLOWAGE

North: 2178567.4550 East : 6047777.1476
Line Course: N 89-38-39 W Length: 250.00
North: 2178569.0076 East : 6047527.1525
Line Course: S 00-19-17 W Length: 269.90
North: 2178299.1118 East : 6047525.6385
Line Course: S 89-36-24 E Length: 118.00
North: 2178298.3018 East : 6047643.6357
Line Course: N 00-19-17 E Length: 128.43
North: 2178426.7298 East : 6047644.3561
Line Course: S 89-39-03 E Length: 132.00
North: 2178425.9253 East : 6047776.3537
Line Course: N 00-19-17 E Length: 141.53
North: 2178567.4531 East : 6047777.1476

Perimeter: 1039.87 Area: 50,537 SQ. FT. 1.160 AC.

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0019 Course: S 02-15-36 W
Error North: -0.00187 East : -0.00007
Precision 1: 547,294.74

MAY 9 1962 | 6570 | M

Return to:
City Clerk
P.O. Box 317
Costa Mesa, Calif.

6570

6102 658

GRANT OF FLOWAGE EASEMENT

For valuable consideration, receipt of which is hereby acknowledged, SERVONIC INSTRUMENTS, INC. does hereby grant and convey to the City of Costa Mesa, a Municipal Corporation, permanent easement rights in and over the land hereinafter described for the following use and purpose only to wit: the permanent right to overflow and flood said hereinafter described land with flood and storm drain waters naturally flowing from Newhall Street. The City, by acceptance, hereof agrees not to engineer or construct streets or drains so as to increase the natural drainage from Newhall Street over the easement hereby granted.

The land affected by the above described easement rights is that certain real property situated in the City of Costa Mesa, County of Orange, State of California, described as follows: Financial Event # 8 + 29

A portion of Lot 1111, Newport Mesa Tract, as recorded in Book 5, page 1, Miscellaneous Maps, Records of Orange County, California, described as the Easterly 250 feet thereof excepting the Southerly 60 feet thereof.

In WITNESS WHEREOF, the undersigned, Grantors, have fixed their signatures this 7th day of May, 1962.

SERVONIC INSTRUMENTS, INC.
By Edward W. Miltenburg
Vice President
By N. W. Lowery
Secretary

RECORDED AT REQUEST OF
CITY OF COSTA MESA
IN OFFICIAL RECORDS OF
ORANGE COUNTY, CALIF.
1:35 AM MAY 9 1962
RUBY McFARLAND, County Recorder

FREE

STATE OF CALIFORNIA)
) SS
COUNTY OF ORANGE)

On May 7, 1962, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Edward W. Miltenburg known to me to be the Vice President, and N. W. Lowery, known to me to be the Secretary of the Corporation that executed the within Instrument, on behalf of the Corporation therein named, and acknowledged to me that such Corporation executed the within instrument pursuant to its by-laws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

Eleanor M. Evans
Notary Public in and for said County and State.
ELEANOR M. EVANS
My Commission Expires Mar. 23, 1963

Seal.

15

MAY 9 1962 6570 M

Return to:
City Clerk
P.O. Box 317
Costa Mesa, Calif.

6570

BOOK 6102 PAGE 658

GRANT OF FLOWAGE EASEMENT

For valuable consideration, receipt of which is hereby acknowledged, SERVONIC INSTRUMENTS, INC. does hereby grant and convey to the City of Costa Mesa, a Municipal Corporation, permanent easement rights in and over the land hereinafter described for the following use and purpose only to wit: the permanent right to overflow and flood said hereinafter described land with flood and storm drain waters naturally flowing from Newhall Street. The City, by acceptance, hereof agrees not to engineer or construct streets or drains so as to increase the natural drainage from Newhall Street over the easement hereby granted.

The land affected by the above described easement rights is that certain real property situated in the City of Costa Mesa, County of Orange, State of California, described as follows:

A portion of Lot 1111, Newport Mesa Tract, as recorded in Book 5, page 1, Miscellaneous Maps, Records of Orange County, California, described as the Easterly 250 feet thereof excepting the Southerly 60 feet thereof.

In WITNESS WHEREOF, the undersigned, Grantors, have fixed their signatures this 7th day of May, 1962.

RECORDED AT REQUEST OF
CITY OF COSTA MESA
IN OFFICIAL RECORDS OF
ORANGE COUNTY, CALIF.
9:15 AM MAY 9 1962

FREE

SERVONIC INSTRUMENTS, INC.
By [signature]
President
By [signature]
Secretary

BOOK 6102 PAGE 659

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by Deed of Right of Way dated May 7, 1962 from SERVONIC INSTRUMENTS, INC. to the CITY OF COSTA MESA, a municipal corporation of the Sixth Class, is hereby accepted by order of the City Council of the City of Costa Mesa on the 7th day of May, 19 62 and the grantee consents to recordation thereof by its duly authorized officer.

[signature]
City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa

By _____
Chief Deputy

DATED: May 8, 1962

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