



## CITY COUNCIL STAFF REPORT

Date: September 16, 2009 PUBLIC HEARING

Subject: RIGHT-OF-WAY VACATION OF A PORTION OF RIGHT-OF-WAY FOR DESERT WAY AT THE SOUTHWEST CORNER OF RAMON ROAD, IN SECTION 19, TOWNSHIP 4 SOUTH, RANGE 5 EAST; FILE R 09-01

From: David H. Ready, City Manager

Initiated by: Public Works and Engineering Department

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### SUMMARY

The Streets and Highways Code of the State of California requires that the City hold a Public Hearing to discuss and review the vacation of public right-of-way. After consideration of testimony received at the Public Hearing, the City Council can consider denial or approval of the requested right-of-way vacation.

### RECOMMENDATION:

- 1) Open the public hearing and receive public testimony.
- 2) Adopt Resolution No. \_\_\_\_\_ "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, VACATING AND ABANDONING ALL OF ITS RIGHT, TITLE AND INTEREST IN A PORTION OF PUBLIC RIGHT-OF-WAY DEDICATED FOR DESERT WAY AT THE SOUTHWEST CORNER OF RAMON ROAD, IN SECTION 19, TOWNSHIP 4 SOUTH, RANGE 5 EAST; FILE R 09-01."

### STAFF ANALYSIS:

On January 20, 2009, staff received an application from Un Lee, a professional dental corporation (also known as "The Smile Zone"), to vacate a portion of public right-of-way dedicated for Desert Way located at the southwest corner of Ramon Road. The requested right-of-way vacation is an element of the new professional office building approved for construction, identified by Case No. 3.3301 (MAJ), 6.506 (VAR). On December 17, 2008, the Planning Commission approved this development application, which includes a requirement to vacate a portion of Desert Way adjacent to the property located at the southwest corner of Desert Way and Ramon Road.

The request is to vacate 5 feet of the 30 feet dedicated for the west half of Desert Way adjacent to the property. The additional 5 feet to be added to the property is necessary to comply setback requirements for the new professional office building.

Desert Way is a local street not shown or identified on the Circulation Element of the Palm Springs General Plan (updated 2007). Therefore, the requested right-of-way vacation has been determined to be consistent with the Palm Springs General Plan. The required right-of-way width of local streets is 50 feet (25 feet half-width), and the current right-of-way width of Desert Way is 60 feet (30 feet half-width); therefore, the requested vacation of 5 feet adjacent to the property is considered excess right-of-way that may be vacated.

Notices were sent to all public utilities regarding the requested right-of-way vacation. A request for an easement for Verizon utilities was received, therefore, reservation of a public utility easement is included as part of the recommended right-of-way vacation. The City Council's approval of this action conforms with the Planning Commission's approval of the new professional office building, which requires the right-of-way vacation as a condition of approval.

Staff forwarded the requested right-of-way vacation information to the City Clerk, and pursuant to Section 8320 of the Streets and Highways Code, the City Clerk administratively scheduled a public hearing for September 16, 2009, to hear all persons interested in or objecting to the easement vacation. Notices of the proposed right-of-way vacation have been posted within the vacation area, published in the local newspaper, and mailed to all public utility companies. Staff recommends that the City Council adopt the attached Resolution, which will vacate 5 feet of excess right-of-way dedicated for Desert Way at the southwest corner of Ramon Road, which is necessary to develop the approved professional office building and associated parking lot.

FISCAL IMPACT:

None.



David J. Barakian  
Director of Public Works/City Engineer



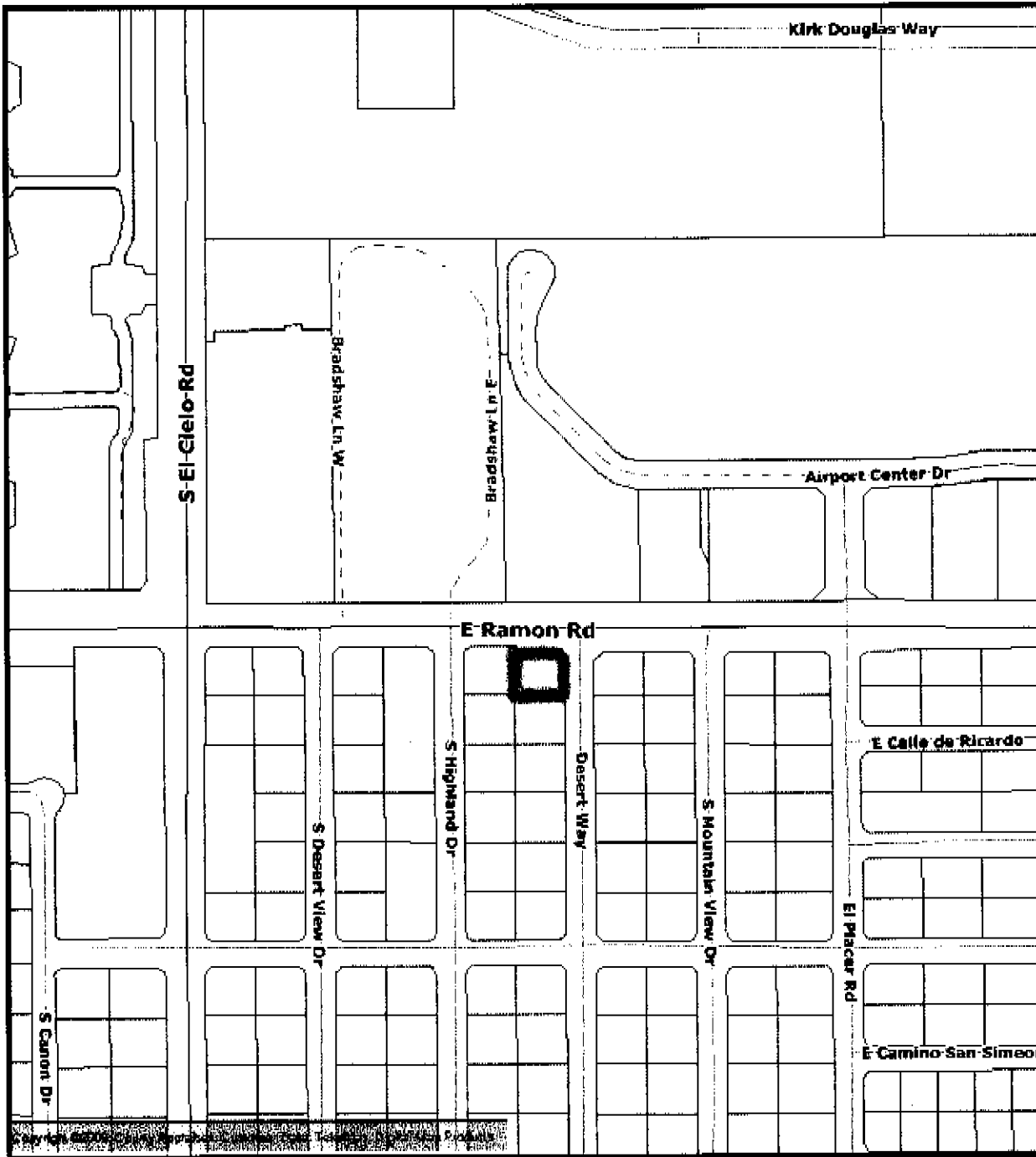
Thomas J. Wilson  
Assistant City Manager



David H. Ready, City Manager

ATTACHMENTS:

1. Vicinity Map
2. Resolution



### VICINITY MAP

515 Desert Way - The Smile Zone



326 ft

CityGIS

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, VACATING AND ABANDONING ALL OF ITS RIGHT, TITLE AND INTEREST IN A PORTION OF PUBLIC RIGHT-OF-WAY DEDICATED FOR DESERT WAY AT THE SOUTHWEST CORNER OF RAMON ROAD, IN SECTION 19, TOWNSHIP 4 SOUTH, RANGE 5 EAST; FILE R 09-01

WHEREAS, the City Council of the City of Palm Springs, California, is authorized by Chapter 3, Part 3, Division 9 of the Streets and Highways Code of the State of California (the "statute"), to vacate and close to public use right-of-way dedicated for public streets, or parts thereof, within the limits of the City; and

WHEREAS, pursuant to Section 8320 of the statute, the City Clerk administratively set a public hearing for September 16, 2009, for City Council consideration of vacating and closing to public use a portion of the public right-of-way dedicated for Desert Way located at the southwest corner of Ramon Road; and

WHEREAS, the City Clerk did cause to be published a notice of the public hearing, and did cause to be posted notices of vacation along the line of the subject public right-of-way, as required by the statute; and

WHEREAS, the City Council did hold a public hearing as required by the statute, and has considered all evidence submitted concerning the portion of public right-of-way dedicated for Desert Way located at the southwest corner of Ramon Road, being the vacated areas described on Exhibit "A" and shown on Exhibit "B", attached hereto and made a part hereof, and the need therefore for present and prospective public use.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City Council does hereby find that a portion of public right-of-way dedicated for Desert Way located at the southwest corner of Ramon Road is unnecessary for present or prospective public use.

Section 2. Subject to Sections 3 and 4, the City Council does hereby vacate and abandon all the City's right, title and interest in a portion of public right-of-way dedicated for Desert Way located at the southwest corner of Ramon Road, as described and shown on Exhibits "A" and "B", attached hereto and made a part hereof.

Section 3. The City of Palm Springs reserves and excepts from the foregoing vacation a public utility easement to operate and maintain sewers, pipelines, cables, wires or any other facility of any governmental agency or utility corporation existing in, under, or over the vacated area, unless quitclaimed or released by the owner thereof.

Section 4. The City of Palm Springs reserves and excepts from the foregoing vacation an easement for public sidewalk and pedestrian access purposes extending over the vacated area.

Section 5. The City Clerk is hereby directed to cause a certified copy of this Resolution, attested by him under the seal of the City, to be recorded in the Office of the County Recorder of Riverside County.

ADOPTED this 16th day of September, 2009.

\_\_\_\_\_  
David H. Ready, City Manager

ATTEST:

\_\_\_\_\_  
James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF PALM SPRINGS )

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. \_\_\_\_\_ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on September 16, 2009, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
James Thompson, City Clerk  
City of Palm Springs, California

EXHIBIT "A"  
PROPOSED RIGHT-OF-WAY VACATION

LEGAL DESCRIPTION

BEING A PORTION OF LOT G OF THE DESERT TRACT, AS SHOWN IN MAP BOOK 20, PAGE 63 OF MAPS, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, IN THE CITY OF PALM SPRINGS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK "C" OF SAID DESERT TRACT, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF DESERT WAY AS SHOWN IN SAID DESERT TRACT, HAVING A HALF STREET WIDTH OF 30.00 FEET;

THENCE NORTH 00°06'00" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE 65.67 FEET;

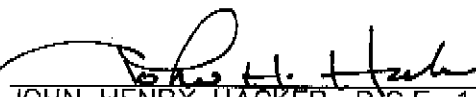
THENCE NORTH 90°00'00" EAST, LEAVING SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 5.00 FEET;

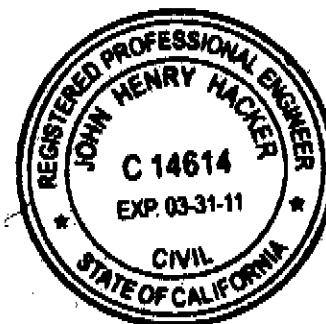
THENCE SOUTH 00°06'00" WEST, ALONG A LINE PARALLEL WITH AND DISTANT 5.00 FEET EAST OF SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 65.70 FEET;

THENCE NORTH 89°41'00" WEST, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.

VACATED AREA = 328 SQUARE FEET, MORE OR LESS

PREPARED BY OR UNDER THE DIRECTION OF:

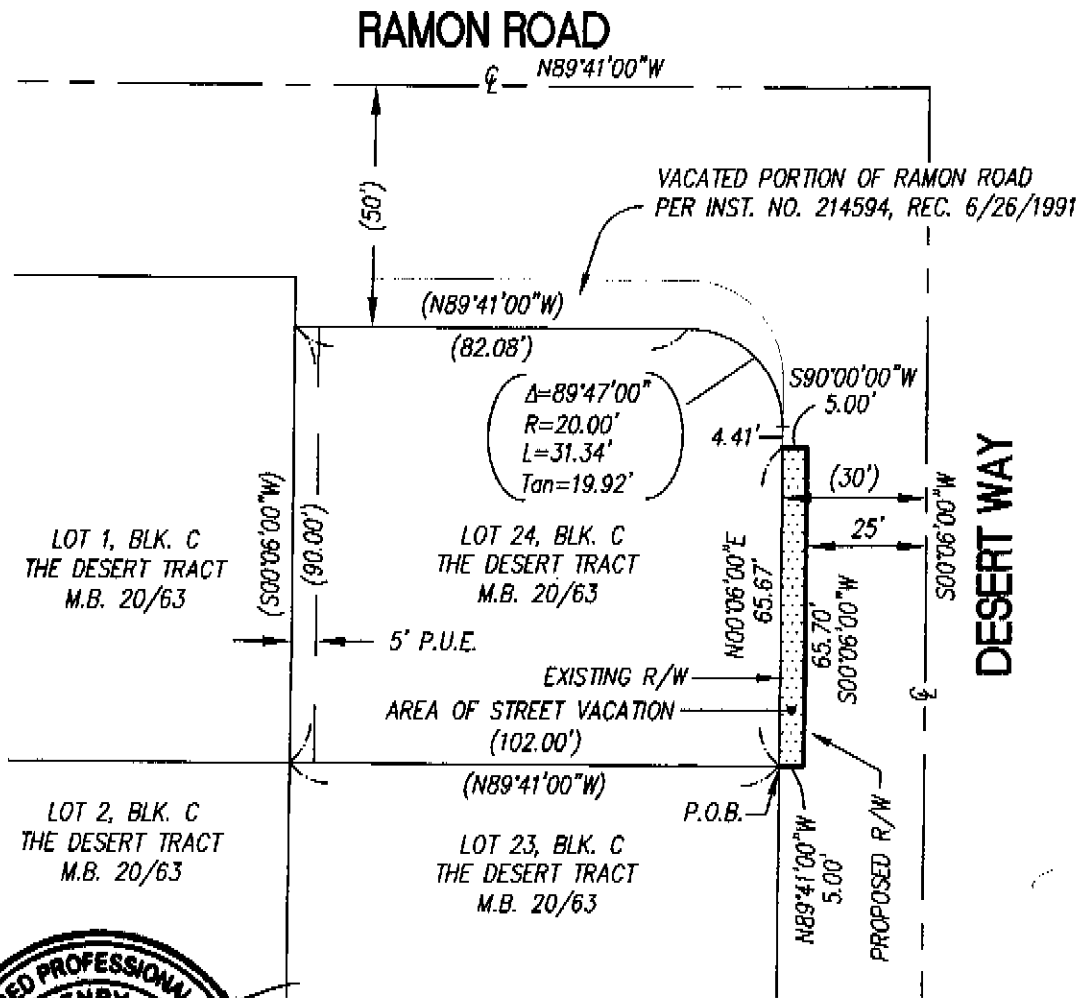
  
JOHN HENRY HACKER, R.C.E. 14614  
EXPIRES 3-31-11



6

FILE NO.:
R-09-001
SHEET NO.:
1 OF 2

EXHIBIT "B"



SCALE 1" = 40'



CITY OF PALM SPRINGS  
 PUBLIC WORKS AND  
 ENGINEERING DEPARTMENT

APPROVED:

7987  
 ASST. DIRECTOR OF PUBLIC WORKS/  
 ASST. CITY ENGINEER P.L.S.

VACATION OF RIGHT-OF-WAY  
 LEGAL DESCRIPTION:  
 SEE EXHIBIT "A"

DESIGN BY: WAP	SCALE: 1" = 40'	FILE NO.: R-09-001
CHECKED BY: JHH	DWG. NO.: 073719RW	SHEET NO.: 2 OF 2

**CITY OF PALM SPRINGS  
PUBLIC HEARING NOTIFICATION**



**CITY CLERK'S DEPARTMENT  
James Thompson, City Clerk**

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Meeting Date: September 16, 2009  
Subject: RIGHT-OF-WAY VACATION OF A PORTION OF RIGHT-OF-WAY  
FOR DESERT WAY AT THE SOUTHWEST CORNER OF RAMON  
ROAD

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**AFFIDAVIT OF PUBLICATION**

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing will be published in the Desert Sun on August 29, 2009 and September 5, 2009.


I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Kathie Hart, CMC  
Chief Deputy City Clerk

**AFFIDAVIT OF POSTING**

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was posted at City Hall, 3200 E. Tahquitz Canyon Drive, on the exterior legal notice posting board and in the Office of the City Clerk on August 13, 2009.

I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Kathie Hart, CMC  
Chief Deputy City Clerk

**NOTICE OF PUBLIC HEARING  
CITY COUNCIL  
CITY OF PALM SPRINGS**

**RIGHT-OF-WAY VACATION OF A PORTION OF RIGHT-  
OF-WAY FOR DESERT WAY AT THE SOUTHWEST  
CORNER OF RAMON ROAD**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Palm Springs, California, in accordance with Chapter 3, Part 3, Division 9, of the California Streets and Highways Code, will hold a Public Hearing to consider vacating a portion of public right-of-way for Desert Way located at the southwest corner of Ramon Road, attached hereto and made a part hereof; City File R 09-01; an application made through the City of Palm Springs.

A Public Hearing to consider vacation of the subject public right-of-way shall be held on September 16, 2009. The City Council meeting begins at 6:00 P.M. in the City Council Chamber of City Hall, located at 3200 E. Tahquitz Canyon Way, Palm Springs, California.

**COMMENT ON THIS APPLICATION:** Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the City Council of the City of Palm Springs by letter (for mail or hand delivery) to:

James Thompson, City Clerk  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

If any individual or group challenges the proposed right-of-way vacation action in court, issues raised may be limited to only those issues raised at the Public Hearing described in the notice or in written correspondence submitted at, or prior to the City Council Hearing.

An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to Marcus Fuller, Assistant Director of Public Works/Assistant City Engineer, Department of Public Works and Engineering, (760) 323-8253, ext. 8744.

Si necesita ayuda con esta carta, porfavor llame a la Ciudad de Palm Springs y puede hablar con Felipe Primera telefono (760) 323-8253, ext. 8742.

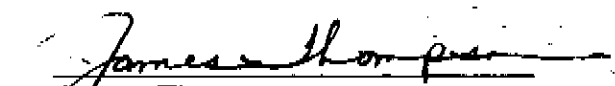
  
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City Clerk

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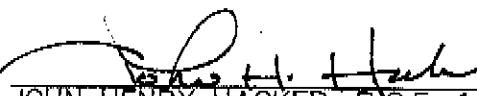
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JOHN HENRY HACKER, R.C.E. 14614  
EXPIRES 3-31-11

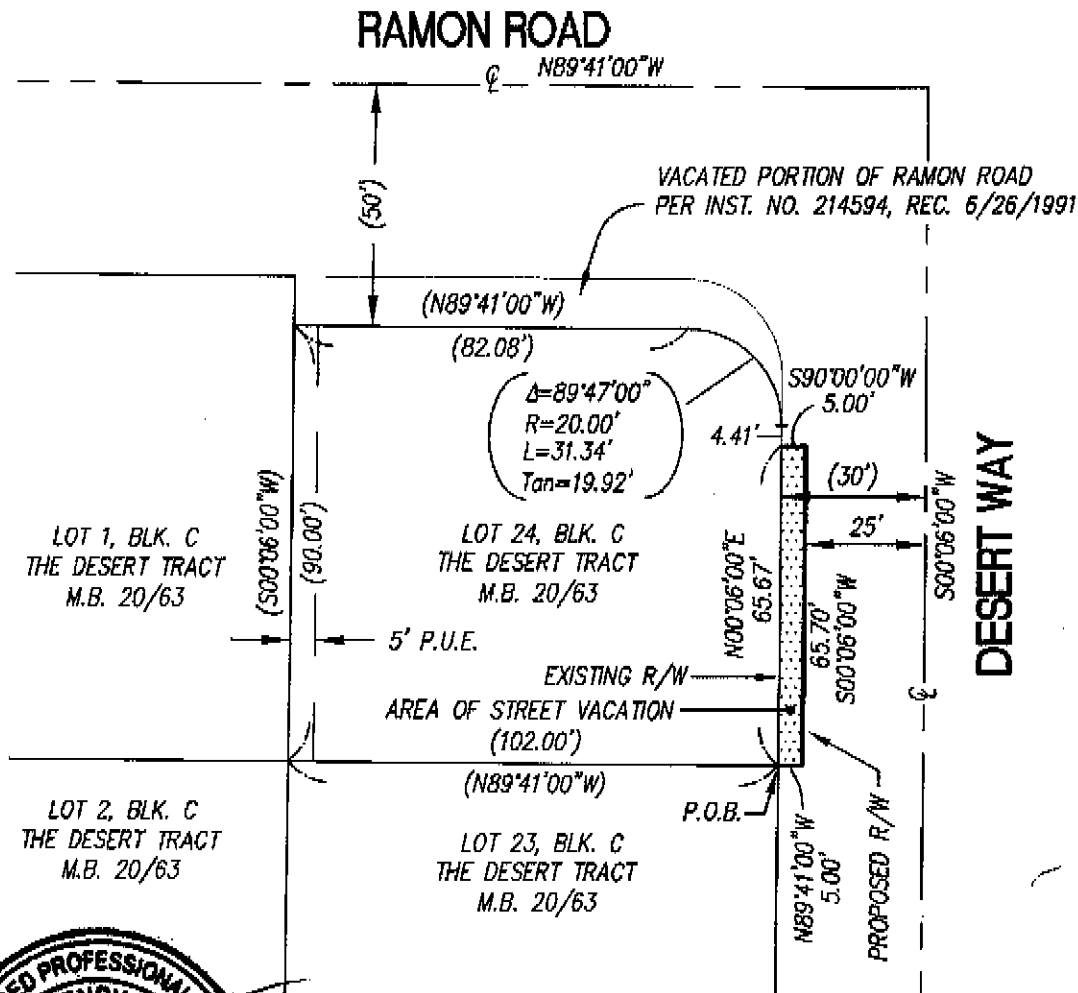


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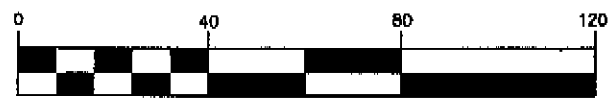
FILE NO.:  
R-09-001


SHEET NO.:  
1 OF 2

EXHIBIT "B"



SCALE 1" = 40'



 CITY OF PALM SPRINGS PUBLIC WORKS AND ENGINEERING DEPARTMENT	APPROVED:		7987
	ASST. DIRECTOR OF PUBLIC WORKS/ ASST. CITY ENGINEER		P.L.S.
VACATION OF RIGHT-OF-WAY	DESIGN BY:	SCALE:	FILE NO.:
LEGAL DESCRIPTION:  SEE EXHIBIT "A"	WAP	1" = 40'	R-09-001
	CHECKED BY:	DWG. NO.:	SHEET NO.:
	JHH	073719RW	2 OF 2