



City Council Staff Report

DATE: March 16, 2016

PUBLIC HEARING

SUBJECT: CONSIDERATION OF THE VACATION OF A PORTION OF GIRASOL AVENUE RIGHT-OF-WAY IN SECTION 3, TOWNSHIP 4 SOUTH, RANGE 4 EAST, FILE R 15-10

FROM: David H. Ready, City Manager

BY: Public Works and Engineering Department

SUMMARY

The Streets & Highways Code of the State of California requires that the City hold a Public Hearing to discuss and review the vacation and abandonment of developed and actively used public rights-of-way or public service easements. After consideration of testimony received at the Public Hearing, the City Council can consider approval of the requested right-of-way vacation and abandonment of a portion of the public right-of-way dedicated for Girasol Avenue located at the intersection of Vista Grande.

RECOMMENDATION:

- 1) Open the public hearing and receive public testimony.
- 2) Close the public hearing, and 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 THE PUBLIC RIGHT-OF-WAY DEDICATED FOR GIRASOL AVENUE LOCATED AT THE INTERSECTION OF VISTA GRANDE IN SECTION 3, TOWNSHIP 4 SOUTH, RANGE 4 EAST, FILE R 15-10, AND APPROVING A DETERMINATION THAT THE ACTION IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)."

ITEM NO. 1A

BACKGROUND:

On September 11, 2014, Duane Smith and Stefane Barbeau applied for an Administrative Minor Modification (AMM) application seeking a reduction in building setbacks to accommodate a new carport fronting Girasol Avenue, as part of their home remodel at 2800 Vista Grande. The property is located west of North Palm Canyon Drive between Tram Way and Racquet Club Road, also known as to Lot 29 on the Amended Map of Chino Vista, as shown in Figure 1; a vicinity map with 500 feet radius buffer is shown in Figure 2.

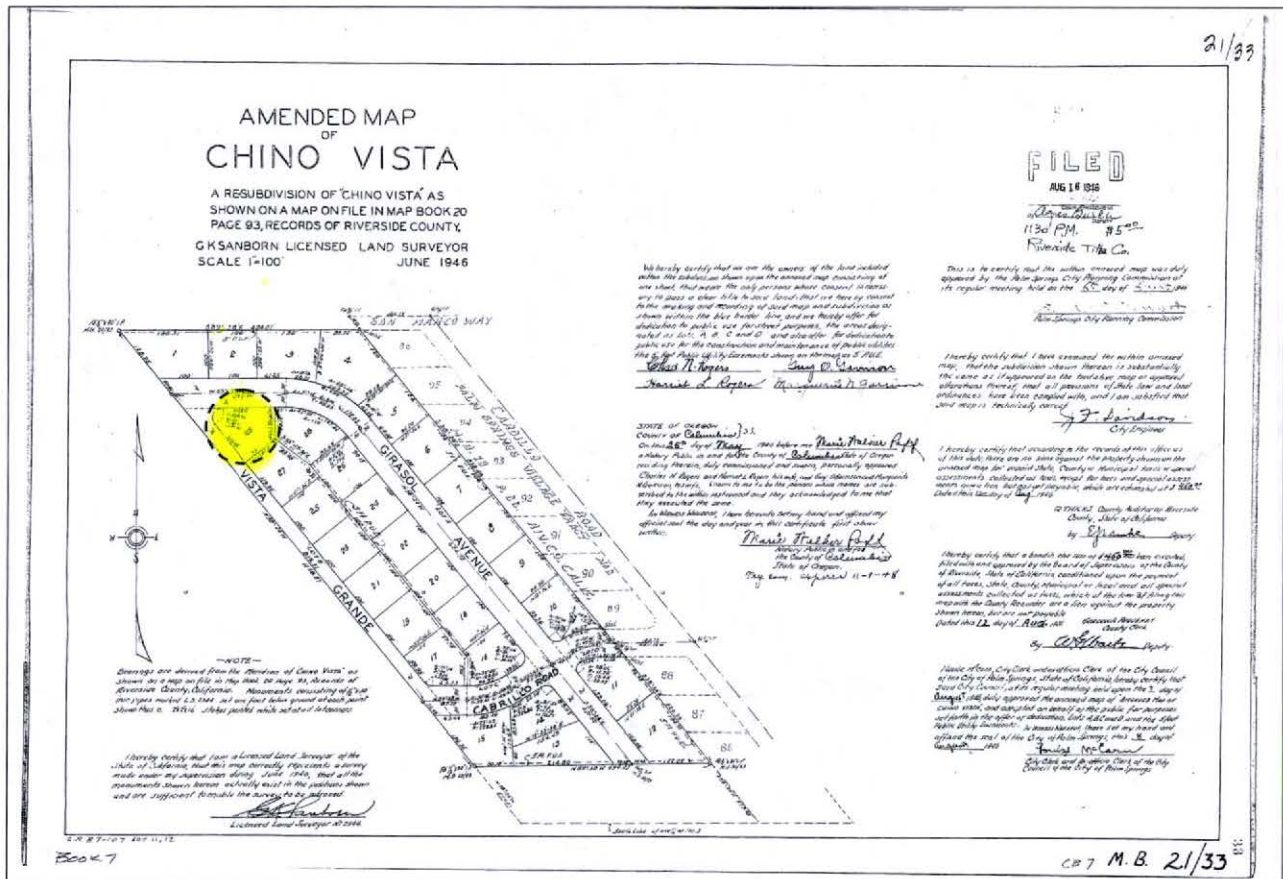


Figure 1



Figure 2

Girasol Avenue was dedicated to the City on the Amended Map of Chino Vista as a 60 feet wide public street, however, as a local street the required right-of-way width is only 50 feet. Therefore, there is a surplus of 5-feet of right-of-way along each side of Girasol Avenue that may be vacated.

The required setback for the property is 25 feet from the property line to the front of the building. On October 8, 2014, the AMM was approved by the Director of Planning Services, reducing the required front yard setback along Girasol Avenue from 25 feet to 20 feet, and the side yard setback from 10 feet to 8 feet. On September 9, 2015, Duane Smith and Stefane Barbeau, submitted a request to vacate and abandon the surplus 5 feet of public right-of-way for Girasol Avenue adjacent to their property (Lot 29 on the Amended Map of Chino Vista), reducing that portion of Girasol Avenue from a 30-foot half-width to a 25-foot half width which is consistent with the required right-of-way width for a local street. Vacating the surplus 5 feet of right-of-way along Girasol Avenue accommodates the new proposed carport on the property to be located 4 feet from the new 20 feet front yard setback from the new right-of-way/property line, the maximum encroachment allowed for a structure within a front yard setback. An exhibit showing the layout of the proposed carport is shown in Figure 3.

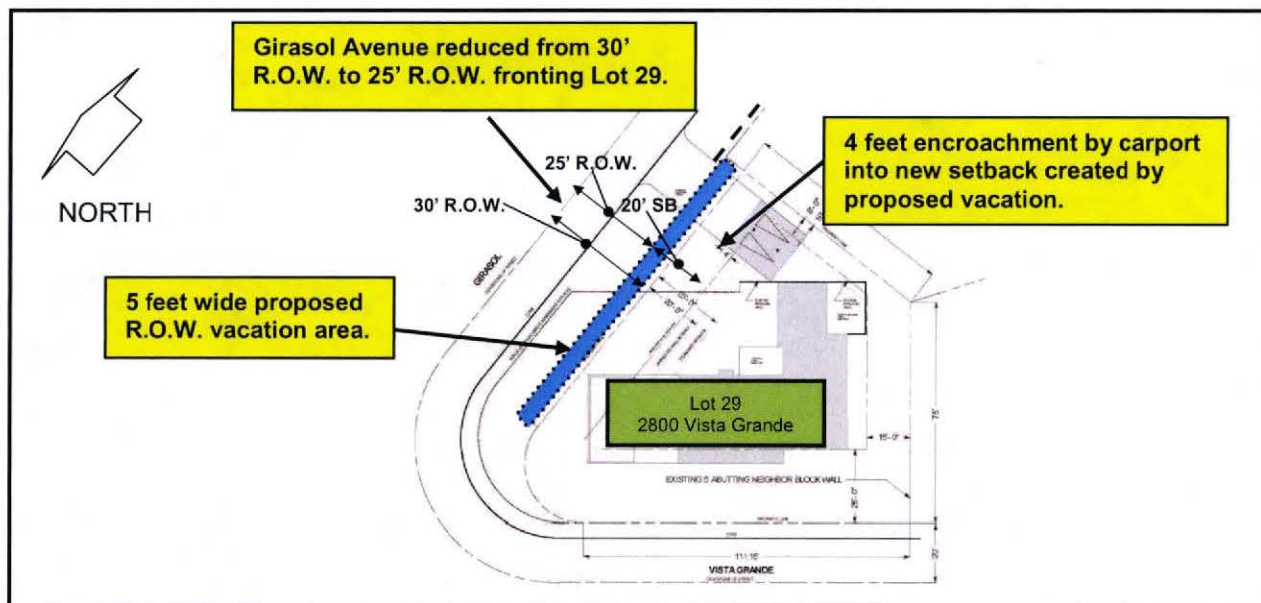


Figure 3

There is no existing curb, gutter, or sidewalk in this area. Any future proposed street improvements would consist of a 20 feet wide half street with a 5 feet wide sidewalk, which can be constructed within the reduced 25-foot half width. There are no public utilities within the surplus 5-feet of right-of-way to be vacated. Staff coordinated with all public utility agencies, and there were no objections to the vacation.

California Government Code Section 65402 requires that "...no street shall be vacated or abandoned...until the location, purpose and extent of such...street vacation or abandonment...have been submitted to and reported upon by the planning agency as to conformity with (the) adopted general plan or part thereof." Further, the California Streets and Highways Code Section 8313(a) requires that "If the proposed vacation of a street, highway, or public service easement is within an area for which a general plan is adopted by a local agency, the legislative body of the public entity shall consider the general plan prior to vacating the street, highway, or public service easement." Accordingly, on February 10, 2016, the City's Planning Commission reviewed and recommended approval of the proposed right-of-way vacation, finding that the road is identified as a local road on the City's 2007 General Plan, and that vacation and abandonment of the surplus 5-feet of right-of-way would not conflict with the General Plan.

Section 8320 of the California Streets and Highways Code, (the "Code"), allowed the City Clerk to administratively schedule a public hearing for the City Council's consideration of the requested right-of-way vacation. Section 8322 of the Code requires that notice of the public hearing be published for at least two successive weeks prior to the public hearing; public notice was published accordingly in the *Desert Sun*. Further, Section 8323 of the Code requires that at least two weeks prior to the public hearing,

notices of the requested right-of-way vacation be posted conspicuously along the line of the street proposed to be vacated (at least 3 notices, not more than 300 feet apart); the notices were posted along Girasol Avenue on March 1, 2016.

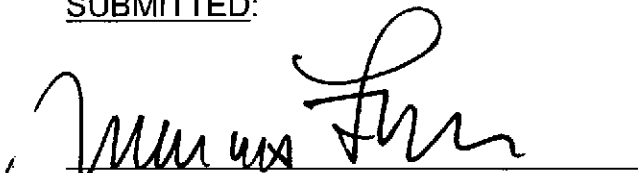
ENVIRONMENTAL IMPACT:

Section 21084 of the California Public Resources Code requires Guidelines for Implementation of the California Environmental Quality Act ("CEQA"). The Guidelines are required to include a list of classes of projects which have been determined not to have a significant effect on the environment and which are exempt from the provisions of CEQA. In response to that mandate, the Secretary for Resources identified classes of projects that do not have a significant effect on the environment, and are declared to be categorically exempt from the requirement for the preparation of environmental documents. In accordance with Section 15301 "Existing Facilities," Class 1 projects consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public structures, facilities, mechanical equipment or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Therefore, in accordance with Section 15301(c), staff has determined that approval of the requested right-of-way vacation is considered categorically exempt from CEQA.

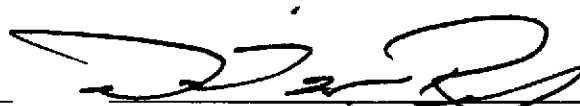
FISCAL IMPACT:

There is no direct fiscal impact associated with the requested right-of-way vacation.

SUBMITTED:



Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D.
City Manager

Attachments: Resolution

ATTACHMENT 1

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 THE PUBLIC RIGHT-OF-WAY DEDICATED FOR GIRASOL AVENUE LOCATED AT THE INTERSECTION OF VISTA GRANDE IN SECTION 3, TOWNSHIP 4 SOUTH, RANGE 4 EAST, FILE R 15-10, AND APPROVING A DETERMINATION THAT THE ACTION IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

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 March 16, 2016, for City Council consideration of vacating and closing to public use a portion of the public right-of-way dedicated for Girasol Avenue at the intersection of Vista Grande; 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, in accordance with Section 8313 of the statute, and California Government Code Section 65402, the proposed vacation and abandonment of a portion of the public right-of-way dedicated for Girasol Avenue at the intersection of Vista Grande was submitted to and reported upon by the Planning Commission of the City of Palm Springs; and

WHEREAS, on February 10, 2016, the Planning Commission of the City of Palm Springs adopted Resolution No. 6552 determining that the proposed vacation and abandonment of a portion of the public right-of-way dedicated for Girasol Avenue at the intersection of Vista Grande was in conformance with the Palm Springs General Plan; and

WHEREAS, the City Council did hold a public hearing as required by the statute, and has considered all evidence submitted concerning the a portion of the public right-of-way dedicated for Girasol Avenue at the intersection of Vista Grande, being the vacated area 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; and

WHEREAS, Section 21084 of the California Public Resources Code requires Guidelines for Implementation of the California Environmental Quality Act ("CEQA"), and pursuant to the CEQA Guidelines, Section 15301 "Existing Facilities," Class 1 projects consist of the minor alteration of existing public structures or topographical features involving

negligible or no expansion of use beyond that existing at the time of the lead agency's determination; and

WHEREAS, in accordance with Section 15301(c) of the CEQA Guidelines, the City Council has determined that approval of the requested right-of-way vacation is considered categorically exempt from CEQA.

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 the public right-of-way dedicated for Girasol Avenue at the intersection of Vista Grande is unnecessary for present or prospective public use.

Section 2. The City Council does hereby vacate and abandon all the City's right, title and interest in a portion of the public right-of-way dedicated for Girasol Avenue at the intersection of Vista Grande, as described and shown on Exhibits "A" and "B", attached hereto and made a part hereof.

Section 3. 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. Upon recordation of this Resolution, the portion of the public right-of-way dedicated for Girasol Avenue at the intersection of Vista Grande, as described and shown on Exhibits "A" and "B", shall be deemed vacated and closed to future public use.

Section 4. The City Council hereby determines that the action undertaken by this Resolution vacating and abandoning all the City's right, title and interest in the portion of the public right-of-way dedicated for Girasol Avenue at the intersection of Vista Grande, as described and shown on Exhibits "A" and "B", is categorically exempt from CEQA pursuant to Section 15301(c) "Existing Facilities," as a Class 1 project consisting of the minor alteration of existing public structures or topographical features involving negligible or no expansion of use beyond that existing at the time of the City Council's determination.

ADOPTED this 16th day of March, 2016.

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 March 16, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

EXHIBIT "A"
RIGHT OF WAY VACATION
LEGAL DESCRIPTION
R 15-10

VACATED AREA

THAT CERTAIN PORTION OF LOT "A" OF AMENDED MAP OF CHINO VISTA, IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 21, PAGE 33, OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY OF RIVERSIDE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 29 OF SAID AMENDED MAP OF CHINO VISTA, SAID POINT BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF SAID LOT "A";

THENCE WESTERLY ALONG SAID SOUTHERLY RIGHT OF WAY LINE N 89°38'00 W, A DISTANCE OF 111.28 FEET TO THE NORTHWEST CORNER OF SAID LOT 29;

THENCE LEAVING SAID SOUTHERLY RIGHT OF WAY LINE, N 00°22'00" E, A DISTANCE OF 5.00 FEET;

THENCE EASTERLY AND PARALLEL WITH SAID SOUTHERLY RIGHT OF WAY LINE, S 89°38'00 E, A DISTANCE OF 111.20 FEET TO A POINT ON THE NORTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID LOT 29;

THENCE S 00°33'30" E, A DISTANCE OF 5.00 FEET TO A POINT ON SAID SOUTHERLY RIGHT OF WAY LINE AND THE POINT OF BEGINNING.

THE ABOVE DESCRIBED VACATED AREA CONTAINS 566 S.F. OR 0.01 AC., MORE OR LESS.

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

SUBJECT TO ALL COVENANTS, CONDITIONS, RESERVATIONS, RESTRICTIONS, RIGHTS, RIGHTS OF WAY, EASEMENTS, OR EXCEPTIONS OF RECORD, IF ANY.

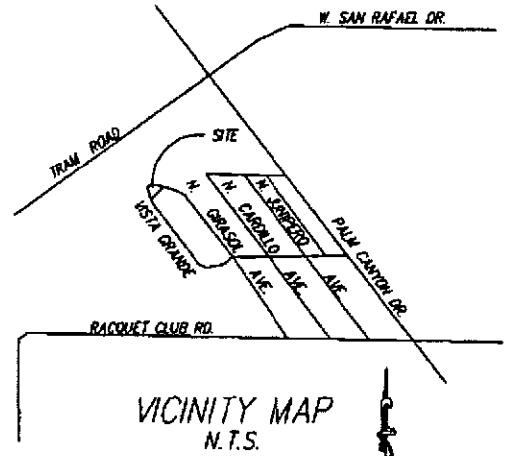


Wayne A. McGee
1/25/16

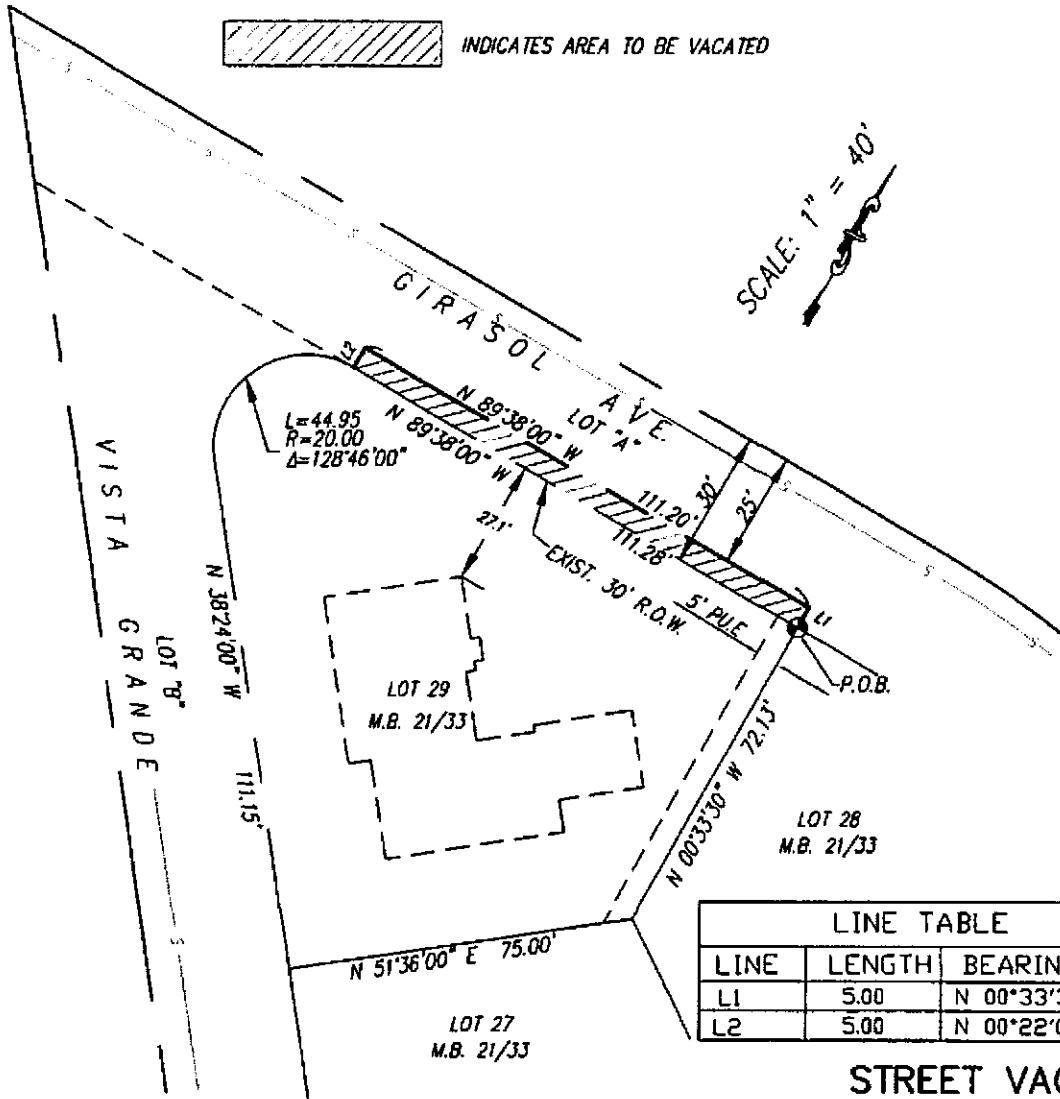
NOTE:
THIS PLAT WAS PREPARED FROM RECORD DATA AND DOES NOT REPRESENT A SURVEY OF THE PROPERTY SHOWN HEREON. THIS MAP HAS BEEN APPROVED UPON THE EXPRESSED CONDITION THAT BUILDING PERMITS SHALL NOT BE ISSUED FOR ANY DEVELOPMENT WITHIN THIS ADJUSTMENT PLAT UNTIL NECESSARY DEDICATIONS, IF ANY, HAVE OCCURRED.

EXHIBIT "B"

NOTE:
THERE MAY BE EASEMENTS OF RECORD DELINEATED AND REFERENCED ON THE UNDERLYING MAP, OR THERE MAY BE EASEMENTS WITHIN THE AREA BEING ADJUSTED THAT ARE NOT SHOWN ON THIS DOCUMENT THAT COULD ENCUMBER SAID PARCEL HEREIN.



 INDICATES AREA TO BE VACATED



SCALE: 1" = 40'

LINE TABLE		
LINE	LENGTH	BEARING
L1	5.00	N 00°33'30" W
L2	5.00	N 00°22'00" E

STREET VACATION PLAT



CITY OF PALM SPRINGS
PUBLIC WORKS & ENGINEERING
DEPARTMENT

Marius For 7987 3/2/16
CITY ENGINEER P.L.S. DATE

LEGAL DESCRIPTION:

SEE EXHIBIT "A"

DESIGN BY:	SCALE: 1" = 40'	FILE NO.: 4092
CHECKED BY:	R 15-10	SHEET NO.: 1 OF 1

**CITY OF PALM SPRINGS
PUBLIC NOTIFICATION**




Date: March 16, 2016
Subject: R 15-10

AFFIDAVIT OF PUBLICATION

I, Kathie Hart, MMC, 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 published in the Desert Sun on March 2 and March 9, 2016.

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




Kathie Hart, MMC
Chief Deputy City Clerk

AFFIDAVIT OF POSTING

I, Kathie Hart, MMC, 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 February 18, 2016.

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



Kathie Hart, MMC
Chief Deputy City Clerk

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

NOTICE IS HEREBY GIVEN that the City Council of the City of Palm Springs, California, will hold a Public Hearing at its meeting on March 16, 2015. The City Council meeting begins at 6:00 p.m., in the Council Chamber at City Hall, 3200 E. Tahquitz Canyon Way, Palm Springs.

The purpose of the hearing is to consider vacating a portion of public right-of-way dedicated for Girasol Avenue at Vista Grande, in accordance with Division 9, Part 3, Chapter 3, Section 8320, of the California Streets and Highways Code, more particularly described and shown on Exhibits "A" and "B", attached hereto and made a part hereof, all in Section 3, Township 4 South, Range 4 East; City File R 15-10; an application made through the City of Palm Springs.

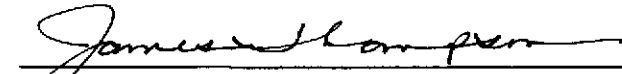
COMMENTS: At the hearing, any person may present oral or written testimony. The City Council will consider all objections or protests, if any, to the applications. Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the City Council by letter (for mail or hand delivery) to:

City of Palm Springs
James Thompson, City Clerk
3200 E. Tahquitz Canyon Way
P.O. Box 2743
Palm Springs, CA 92263

Any challenge of the proposed in court may be limited to raising only those issues raised at the Public Hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior to, the Public Hearing. (Government Code Section 65009(b)(2)).

An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to Felipe Primera, Senior Engineering Assistant, (760) 323-8253, ext. 8742.

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.



James Thompson, City Clerk

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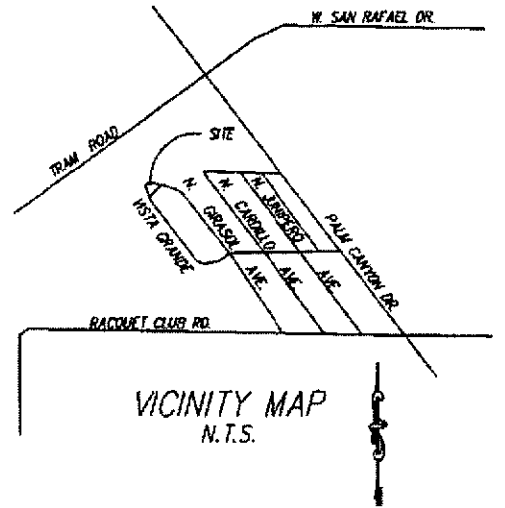


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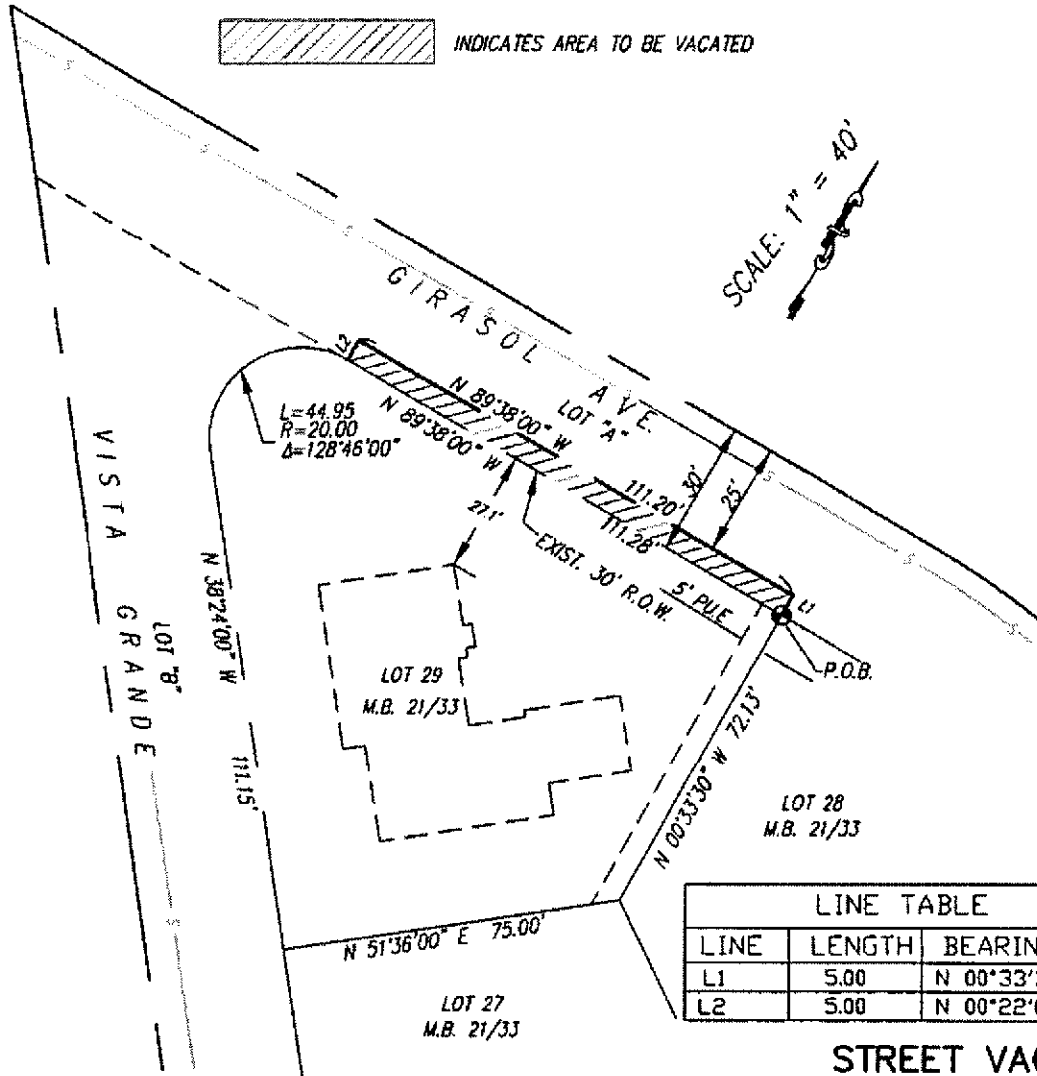
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STREET VACATION PLAT



CITY OF PALM SPRINGS
 PUBLIC WORKS & ENGINEERING
 DEPARTMENT

7987
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