

RESOLUTION NUMBER R-300175

ADOPTED ON MARCH 1, 2005

WHEREAS, Kevin and Kara deFreitas, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit to demolish their existing residence and construct a 4,729 square foot single-family residence and vacate a portion of John Street, to be known as the deFreitas Residence project, located at 885 Albion Street on Assessor Parcel Number [APN] 521-592-01, and legally described as the northeasterly half of Lots 9 to 13, inclusive, in Block 14 of Roseville Hieghts (sic), in the City of San Diego, County of San Diego, State of California, according to Map No. 423, filed in the Office of the San Diego County Recorder, of San Diego County, December 1, 1887. The northeasterly line of said northeasterly half being parallel with the southwesterly line of John Street as shown on said Map No. 423 of said Roseville Heights, in the Peninsula Community Plan and Local Coastal Program Land Use Plan area, in the RS-1-7, Airport Approach Overlay, and Coastal Height Limit Overlay zones; and

WHEREAS, on January 13, 2005, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] No. 40627, and pursuant to Resolution No. 3633-PC voted to recommend City Council approval of the Permit; and

WHEREAS, the matter was set for public hearing on March 1, 2005, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. 40627:

**A. COASTAL DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE
[SDMC] SECTION 126.0708:**

1. The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a local coastal program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the local coastal program land use plan. All development would be within the 30-foot coastal height limit. The proposed project will not adversely affect any proposed physical public accessway identified in the Local Coastal Program Land Use Plan. The subject property is not located within or near any designated public view corridors. Accordingly, the proposed project will not impact any public views to or along the ocean or other scenic coastal areas as specified in the Local Coastal Program land use plan.

The project includes vacation of a portion of John Street. The street vacation would remove from public use the southerly 15-foot portion of the existing 60-foot right-of-way dedication along the entire 125-foot frontage of John Street at 885 Albion Street. The goal for the vacation is to provide access to the proposed 2-car garage to eliminate the existing curb cuts along Albion Street. To provide for a public benefit associated with this vacation, the owner/applicant would provide public improvements to pave the currently unimproved John Street and to correct street drainage issues.

John Street at the project location is an unimproved paper street. It is not a through street. At only 125 feet in total length, John Street gains access from the west off Albion Street and terminates 125 feet to the east at the top edge of a 40' drop into a canyon along Gage Drive. There is no through access for pedestrians or vehicular traffic due to the abutting steep drop. There is no capacity for the street to serve more than the three existing residences at 885 Albion (the subject property), 905 Albion, and 3544 John Street. The existing driveable width of John Street is only 21'-0" at its widest point and would not require relocation. The portion of John Street to remain would provide a 45'-0" sub-standard right-of-way remaining for adequate and reasonable access to 3544 John Street and 905 Albion Street. The partial right-of-way vacation would not create a flag lot for 3544 John Street, would not precipitate a name change for the street, and would not adversely affect fire service.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The site is located on the Albion Street at John Street within an urbanized residential neighborhood of the Peninsula Community Plan. Albion Street parallels a bluff edge overlooking a residentially-developed canyon area. The height of the bluff is 40 feet and is not considered a "steep hillside" per the Municipal Code definition at Section 113.0103 for Environmentally Sensitive Lands. The project does not propose any activity on this slope area and recognizes the need to maintain the existing vegetation for slope stability.

The project street vacation element includes public improvements to John Street. John Street is currently not continuously paved and is configured such that drainage flowing north downhill along Albion can enter into John Street and adversely affect the existing slope and the downhill properties on Gage Drive. The project proposes to change the grade at the entrance of John Street at Albion as to preclude normal stormwater runoff from Albion from entering John Street. This public improvement would be a benefit of the project to the downhill neighbors on Gage Drive and would further protect the existing slope from erosion.

The City of San Diego conducted a complete environmental review of this site and determined the project to be exempt from the California Environmental Quality Act [CEQA] in accordance with State CEQA Guidelines. The project does not contain Environmentally Sensitive Lands [ESL]; therefore the proposed project would not adversely affect these resources.

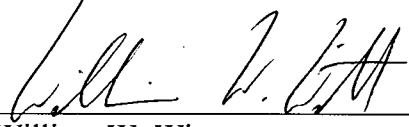
3. The proposed coastal development is in conformity with the certified local coastal program land use plan and complies with all regulations of the certified implementation program. The proposed project conforms with the certified Peninsula Community Plan and Local Coastal Program plan which designate the site for single-family residential use, and is consistent with the design guidelines, and development standards in effect for this site per the Coastal Overlay zone (Non-Appealable Area), and Coastal Height Overlay zone. The project would be in agreement with the existing character of the residential neighborhood and would not exceed the density guidelines of the Community Plan. The project would retain the character of the Wooded Area neighborhood of the Community Plan by not installing sidewalks.

4. For every coastal development permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay zone the coastal development is in conformity with the Public Access and Public Recreation Policies of Chapter 3 of the California Coastal Act. The proposed project is not within the area between the first public road and the sea or shoreline of any body of water within the Coastal Overlay zone. Adequate off-street parking spaces will be provided on-site. No deviations or variances from the development regulations are required to implement the proposed project. The proposed coastal development will therefore conform to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Coastal Development Permit No. 40627 is granted to Kevin and Kara deFreitas,

Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
William W. Witt
Deputy City Attorney

WWW:pev
03/25/05
Or.Dept:Clerk
R-2005-968
MMS #1423
PERMIT - Permit Resolution 11-01-04

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-3339

COASTAL DEVELOPMENT PERMIT NO. 40627
deFREITAS RESIDENCE AND RIGHT-OF-WAY VACATION
PROJECT NO. 49172
CITY COUNCIL

This coastal development permit is granted by the Council of the City of San Diego to Kevin and Kara deFreitas, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0707(a). The 7,312 square foot (0.17-acre) site is located at 885 Albion Street on Assessors Parcel Number [APN] 521-592-01 in the RS-1-7 zone, Airport Approach Overlay zone, and Coastal Height Limit Overlay zone of the Peninsula Community Plan and Local Coastal Program Land Use Plan. The project site is legally described as the northeasterly half of lots 9 to 13, inclusive, in Block 14 of Roseville Hieghts (sic), in the City of San Diego, County of San Diego, State of California, according to Map No. 423, filed in the Office of the San Diego County Recorder; of San Diego County, December 1, 1887. The northeasterly line of said northeasterly half being parallel with the southwesterly line of John Street, as shown on said Map No. 423 of said Roseville Heights.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a 4,304 square foot single-family residence and vacate a portion of John Street as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"], dated March 1, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. Demolition of the existing 1,550 square foot single-story residence built in 1950;
- b. Construction of a 3,774 square foot 2-story single-family residence, 442 square foot deck, and attached 513 square foot 2-car garage;
- c. Landscaping (planting, irrigation and landscape related improvements);

- d. Vacation of the southerly 15-foot portion of the existing 30-foot right-of-way dedication along the entire 125-foot frontage of John Street at 885 Albion Street for a total of 1,875 square feet of street vacation;
- e. Public improvement to John Street including paving and drainage improvements; and
- f. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or

policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

ENGINEERING REQUIREMENTS:

10. Prior to the issuance of any construction permit, the Applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

11. Prior to the issuance of any construction permit the Applicant shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

12. Prior to building occupancy, the applicant shall conform to SDMC section 62.0203, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

13. Prior to the issuance of a building permit the applicant shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to

requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

14. The drainage system proposed for this development and outside of the public right-of-way shall be private and subject to approval by the City Engineer.

15. As a condition of approval of this permit, applicant shall pave portions of John Street adjacent to the project that are unpaved per City standards and satisfactory to the City Engineer.

16. Red curbs or "No parking - fire lane" signs are required for the portion of John Street with curb-to-curb widths of less than 28 feet.

TRANSPORTATION REQUIREMENTS:

17. Prior to the issuance of the first building permit, applicant shall assure by permit and bond, replacement of the damaged curb on Albion Street and the damaged curb return at Albion Street/John Street intersection along project frontage, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

18. No non-native invasive species shall be planted near or next to canyons or areas of sensitive vegetation.

19. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be the responsibility of the Permittee/Owner, to assure that it shall be repaired and/or replaced in kind and equivalent size per the approved plans within fifteen days.

20. Prior to issuance of any final inspection, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit, if applicable, for the installation, establishment, and on-going maintenance of all street trees.

21. All required landscape shall be maintained in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

22. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards.

PLANNING/DESIGN REQUIREMENTS:

23. No fewer than two off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking

spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

24. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

25. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

26. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

27. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

UTILITY REQUIREMENTS:

28. A reservation shall be placed in the closing resolution over the Northwesterly 40.00 feet of John Street for San Diego Gas and Electric [SDG&E] facilities.

29. Prior to the issuance of any building permits the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s), as needed, outside of any driveway or drive aisle, in the right-of-way adjacent to the project site, in a manner satisfactory to the Director of the Water Department and the City Engineer.

30. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including water services, shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer.

31. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto.

INFORMATION ONLY:

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Council of the City of San Diego on March 1, 2005 by Resolution No. R-300175.

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

Kevin deFreitas
Owner/Permittee

By _____

Kara deFreitas
Owner/Permittee

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

PERMIT/OTHER – Permit Shell 11-01-04