

RESOLUTION NUMBER R- **315541**

DATE OF FINAL PASSAGE **MAY 14 2024**

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO AUTHORIZING THE COASTAL  
DEVELOPMENT PERMIT NO. PMT-2575745 - DESANTIS  
PUBLIC RIGHT-OF-WAY VACATION - PROJECT NO.  
PRJ-0692645.

WHEREAS, Nicholas N. DeSantis and Antoinette M. DeSantis, husband and wife, as joint tenants, Owner/Permittee, filed an application with the City of San Diego for a Coastal Development Permit to vacate an existing right-of-way known as the DeSantis Public Right-of-Way project, located near 3525 Wilcox Street, and legally described as, that portion of Wilcox Street as dedicated per Resolution No. 127723 recorded 07/29/1955 in Book 5735, Page 348 of Official Records, also being a portion of Pueblo Lot 180 of the Pueblo Lands of San Diego according to the Map thereof made by James Pascoe in the year 1870, more particularly described in administrator's deed recorded June 11, 2021, as document no. 2021-0432944, of official records of the San Diego County of San Diego recorder's office, in the Peninsula Community Plan area, in the RS-1-7 base zone, Coastal (non-appealable) overlay zone; and

WHEREAS, on December 15, 2023, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (California Public Resources Code section 21000, *et. seq.*) under CEQA Guideline section 15305 (Minor Alterations in Land Use Limitations); and

WHEREAS, under San Diego Charter section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council (Council) to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on May 14, 2024, testimony having been heard, evidence having been submitted, and the Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; 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. PMT-2575745:

**COASTAL DEVELOPMENT PERMIT [SDMC Section 126.0708]**

**(a) Findings for all Coastal Development Permits:**

- (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.**

The public right-of-way vacation is for 1,386 square feet (0.032-acre) located at the easterly terminus of Wilcox Street, beyond which there exists a single-dwelling unit development with no prospect to extend public access to the east, north or south. The project site is an unimproved portion of right-of-way and the immediately adjacent properties are zoned RS-1-7 and designated Residential: Single Unit (5-9 dwelling units/acre) within the City of San Diego's General Plan (General Plan) and Peninsula Community Plan (Community Plan), and Local Coastal Program Land Use Plan. The project site is surrounded by existing single-unit residential use.

The proposed site does not contain any existing physical accessway utilized by the general public to and along the ocean and other scenic coastal areas. The proposed site is not identified in the Community Plan as a proposed accessway to be utilized by the general public for providing access to the ocean or other scenic coastal area, nor is the proposed site identified as a public view resource. The proposed right-of-way vacation will not affect any views to the ocean, as it is facing the easterly private properties. The site is over 0.90 miles from the ocean, separated by private residences and public streets and does not include nor encroach upon any existing or proposed public views, nor physical or public access ways identified in the certified Local Coastal Program.

The Community Plan does not identify this segment of Wilcox Street for physical access to the beach and coastline, nor does it designate any public view resources along Wilcox Road relative to the project site. The portion of vacated right-of-way in front of the front yard of 3525 Wilcox Street will be conveyed in fee title to the property owners.

Therefore, 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 the 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.

**(2) The proposed coastal development will not adversely affect environmentally sensitive lands.**

The public right-of-way vacation is for 1,386 square feet (0.032-acre) located at the easterly terminus of Wilcox Street, beyond which there exists a single-dwelling unit development with no prospect to extend public access to the east, north or south. The project site is designated right-of-way and immediately adjacent properties are zoned RS-1-7 and designated Residential: Single Unit (5-9 dwelling units/acre) within the General Plan, Community Plan, and Local Coastal Program Land Use Plan. The project site is surrounded by existing single-family use.

The proposed activity is exempt from CEQA Guidelines section 15305 (Minor alterations and land use limitations) of the State of CEQA Guidelines.

The proposed coastal development is the vacation of an existing public right-of-way. The right-of-way being vacated is not located on or adjacent to any Environmentally Sensitive Lands, nor to any sensitive biological resource, and does not contain any steep hillsides on the site. Therefore, the proposed coastal development will not adversely affect environmentally sensitive lands.

**(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 project site is designated right-of-way and immediately adjacent properties are zoned RS-1-7 and designated Residential: Single Unit (5-9 dwelling units/acre) within the General Plan, Community Plan, and Local Coastal Program Land Use Plan. The proposed coastal development to vacate a portion of Wilcox Street and the replacement of an existing driveway with a 12-foot driveway per current city standards, with adequate sidewalk transitions and clearly identify driveway's slopes, and width that complies with table 142-05N of the San Diego Municipal Code. The adopted Community Plan does not identify this portion of the right-of-way as a primary arterial street, a major street, a collector street, nor coastal access facility. The underlying land use within the right-of-way will retain its current zoning and Community Plan designations in compliance with the Community Plan.

The proposed vacation will not adversely affect the Parking Recommendation on page 122 of the Community Plan for parking stating, "vacation requests which reduce available on-street parking should not be allowed, unless comparable replacement parking is provided in the immediate vicinity," as the vacation would not reduce available on-street residential parking on Wilcox Street. The project proposes the replacement of an existing driveway, but no other development, nor deviations, or variances from regulations or policy documents. It is consistent with the land use designation, conforms with the Local Coastal Program land use plan, and complies with all regulations of the certified Implementation Program. The proposed project is in conformity with the Coastal Overlay Zone, the certified Local Coastal Program, and all regulations of the certified Implementation Program.

- (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 public right-of-way vacation is for 1,386 square feet (0.032-acre) located at the easterly terminus of Wilcox Street, beyond which there exists a single-dwelling unit development with no prospect to extend public access to the east, north or south. The project site is an unimproved portion of right-of-way and immediately adjacent properties are zoned RS-1-7 and designated Residential: Single Unit (5-9 dwelling units/acre) within the General Plan, Community Plan, and Local Coastal Program Land Use Plan. The project site is surrounded by existing single-unit residential use.

The 0.032-acre site is located within an existing developed urban residential area and is not located between the nearest public roadway and the sea or the shoreline of any body of water located within the Coastal Overlay Zone. The site is not within any area identified for public access and does not require to demonstrate conformity with the public recreation policies of Chapter 3 of the California Coastal Act.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Coastal Development Permit No. 2575745 is granted to Nicholas N. DeSantis and Antoinette M. DeSantis, husband and wife, as joint tenants, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

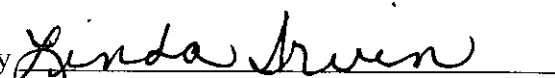
By   
Shannon C. Eckmeyer  
Deputy City Attorney

SCE:cm  
April 18, 2024  
Or.Dept: DSD  
Doc. No. 3627665

Attachment: Exhibit A – Coastal Development Permit

I certify that this Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 14 2024.

DIANA J.S. FUENTES  
City Clerk

By   
Deputy City Clerk  
For Gilbert Sanchez

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

**WHEN RECORDED MAIL TO**  
CITY CLERK  
MAIL STATION 2A

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INTERNAL ORDER NUMBER: 24009003 SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. PMT-2575745  
**DESANTIS PUBLIC RIGHT-OF-WAY VACATION PROJECT NO. PRJ-0692645**  
CITY COUNCIL

This Coastal Development Permit No. PMT-2575745 is granted by the City Council of the City of San Diego to Nicholas N. DeSantis and Antoinette M. DeSantis, husband and wife, as Joint tenants, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0708. The 0.032-acre site is located near 3525 Wilcox Street in the RS-1-7 base zone, Coastal (non-appealable) overlay zone of the Peninsula Community Plan and Local Coastal Program Land Use Plan. The project site is legally described as: That portion of Wilcox Street as dedicated per Resolution No. 127723 recorded 07/29/1955 in Book 5735, Page 348 of Official Records, also being a portion of Pueblo Lot 180 of the Pueblo Lands of San Diego according to the Map thereof made by James Pascoe in the year 1870, more particularly described in administrator's deed recorded June 11, 2021, as document no. 2021-0432944, of official records of the San Diego County of San Diego recorder's office.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to vacate an existing right-of-way located along the easterly terminus of Wilcox Street described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 14, 2024, on file in the Development Services Department.

The project shall include:

- a. The vacation of approximately 1,386 square feet of public right-of-way near 3525 Wilcox Street, as approved by Right-of-Way Vacation No. PMT-2575744 and described on Exhibit "A" and as shown on Exhibit "B."
- b. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

## **STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by May 14, 2027.
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 Owner/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. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The 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 Owner/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 Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited 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 were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If 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.

10. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

11. This permit herein is subject to the recordation of the Public Right-of-Way Vacation No. PMT-2575744.

**INFORMATION ONLY:**

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this 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.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on May 14, 2024 and R\_2024-486.



AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

\_\_\_\_\_  
CATHERINE ROM  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

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

**JOINT TENANTS**  
Owner/Permittee

By \_\_\_\_\_  
Antoinette M DeSantis  
OWNER

**JOINT TENANTS**  
Owner/Permittee

By \_\_\_\_\_  
Nicholas N DeSantis  
OWNER

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

Passed by the Council of The City of San Diego on MAY 14 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 14 2024.

**(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)**

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Linda Irwin, Deputy  
For Gilbert Sanchez

Office of the City Clerk, San Diego, California  
Resolution Number R- 315541