

334-C
5/14/2024

(R-2024-487)

RESOLUTION NUMBER R- 315542

DATE OF FINAL PASSAGE MAY 14 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO SUMMARILY VACATING A PORTION OF
WILCOX STREET, PUBLIC RIGHT-OF-WAY VACATION
NO. PMT-2575744 - PROJECT NO. PRJ-0692645.

WHEREAS, California Streets and Highways Code (Streets and Highways Code) section 8330, *et seq.* and San Diego Municipal Code section 125.0901, *et seq.* provide a procedure for the summary vacation of public rights-of-way by resolution of the Council of the City of San Diego (Council); and

WHEREAS, Nicholas N. DeSantis and Antoinette M. DeSantis, husband and wife, as joint tenants, filed an application to vacate a portion of Wilcox Street, being described as Right-of-Way Vacation No. PMT-2575744; and

WHEREAS, Right-of-Way Vacation No. PMT-2575744 is located on property owned by Nicholas N. DeSantis and Antoinette M. DeSantis, husband and wife, as joint tenants; and

WHEREAS, the public right-of-way, or portion of the public right-of-way, is excess public right-of-way and is not required for street or highway purposes; and

WHEREAS, the subject vacation does not contain active public utility facilities, or contains public utility facilities that would not be affected by the vacation; is excess public right-of-way and is not required for street or highway purposes; and has been impassable for vehicular travel for a period of five years and public funds have not been expended for maintenance of the public right-of-way during that period; 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 Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the

decision, and 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 with respect to Public Right-of-Way Vacation No. PMT-2575744, the Council finds that:

(a) There is no present or prospective public use for the public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.

The project proposes to vacate an existing right-of-way located along the easterly terminus of Wilcox Street. The southerly side of the existing right-of-way is within a Portion of Lot 180 of Pueblo Lands, as miscellaneous Map 36, in the City of San Diego. The existing right-of-way has never been used because it has not been necessary. All the adjacent properties have all utilities and access to Wilcox Street by way of the existing improved road (Wilcox Street). Existing water is provided by City main on Wilcox Street. The sewer service and public storm drain is currently located in separate public easements. The existing street cannot be extended because there are several homes east and approximately 10-15 feet below current cul-de-sac grade elevation. Therefore, there is no present or prospective public use for this portion of public right-of-way, or for any other public use of a like nature that can be anticipated.

(b) The public will benefit from the action through improved use of the land made available by the vacation.

There is no public benefit because Wilcox Street will never be extended eastward. All the adjacent residential parcels have adequate utility services. Wilcox Street ends in a cul-de-sac, where the City has an existing storm drain inlet for drainage that continues eastward in a public easement and flows eastward across a private property. Since all services are provided, there would not be any future utilization of the existing right-of-way or benefit to the City of San Diego or the public. The City of San Diego will benefit from the vacation by abandoning the remnant public right-of-way for private use subject to property taxes and relinquishing its liability.

(c) The vacation does not adversely affect any applicable land use plan.

The land which is the subject of the proposed right-of-way 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 City's General Plan and Peninsula Community Plan (Community Plan) and Local Coastal Program Land Use Plan. The Community Plan designates the land use for this area as to accommodate residential single dwelling units. The vacation does not change the designated land use under the Community Plan. The vacation will not change the zoning or land use for the project site. The project's proposal to vacate a portion of Wilcox Street would not adversely affect the Parking Recommendation on page 122 of the Community Plan 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 impact on-street parking on Wilcox Street. Therefore, the vacation does not adversely affect any applicable land use plan.

(d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

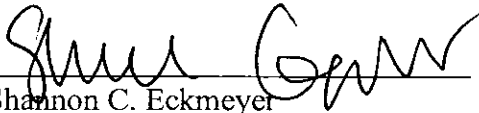
The public facility or purpose for which the right-of-way was originally acquired no longer exists. The adjacent properties are already connected to all utility services and no longer need the existing right-of-way to connect new facilities. The City no longer needs the proposed vacated land to extend any existing facilities because the City extended the storm drain facilities across the property to the north and east of 3525 Wilcox Street. The reason for which the existing right-of-way was originally created, therefore no longer exists. Therefore, the public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

BE IT FURTHER RESOLVED, that Right-of-Way Vacation No. PMT-2575744, in connection with Coastal Development Permit No. PMT-2575745 as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. DWG-0042524, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated subject to the following conditions which are made a part of this resolution:

1. Prior to the recordation of the vacation with Exhibits "A" and "B," the applicant shall assure, by permit and bond the replacement of existing driveway with a 12-foot driveway per current City Standards, adjacent to the site on Wilcox Street.
2. Prior to recordation of vacation with Exhibits "A" and "B," the applicant shall obtain Encroachment Maintenance and Removal Agreement from the City Engineer for any private improvements within Wilcox Street public right-of-way.

BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the Office of the County Recorder.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Shannon C. Eckmeyer
Deputy City Attorney

SCE:cm
April 18, 2024
Or.Dept: DSD
Doc. No. 3627666

Attachments: Exhibit A - Legal Description
Exhibit B - Drawing

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

EXHIBIT "A"


PUBLIC STREET EASEMENT VACATION
LEGAL DESCRIPTION

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, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE RECORDER OF SAID SAN DIEGO COUNTY AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 7, BLOCK 4, LOMA VIEW, ACCORDING TO THE MAP THEREOF NO. 1095 FILED IN THE OFFICE OF THE SAID COUNTY RECORDER; THENCE NORTH $12^{\circ}47'13''$ EAST, A DISTANCE OF 25.00 FEET TO THE CENTERLINE OF WILCOX STREET, AS WILCOX STREET IS DEDICATED PER SAID MAP NO. 1095, THENCE SOUTH $77^{\circ}16'35''$ EAST, ALONG THE EASTERLY PROLONGATION OF SAID CENTERLINE OF WILCOX STREET, 46.06 FEET TO THE TRUE POINT OF BEGINNING, ALSO BEING THE BEGINNING OF A NON-TANGENT 33.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY A RADIAL TO SAID POINT BEARS SOUTH $77^{\circ}16'35''$ EAST; THENCE SOUTHERLY, SOUTHWESTERLY, AND WESTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $72^{\circ}31'58''$ A DISTANCE OF 41.78 FEET TO A POINT BEARS SOUTH $4^{\circ}44'37''$ EAST FROM THE CENTER OF SAID CURVE; THENCE LEAVING SAID CURVE, SOUTH $12^{\circ}47'13''$ WEST 4.68 FEET TO THE BEGINNING OF A NON-TANGENT 40.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY A RADIAL TO SAID POINT BEARS SOUTH $38^{\circ}02'18''$ WEST; THENCE SOUTHEASTERLY, NORTHEASTERLY AND NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $115^{\circ}18'53''$ A DISTANCE OF 80.50 FEET TO A POINT BEARS SOUTH $77^{\circ}16'35''$ EAST FROM THE CENTER OF SAID CURVE; THENCE NORTH $77^{\circ}16'35''$ WEST 34.00 FEET ALONG THE EASTERLY PROLONGATION OF THE CENTERLINE OF WILCOX STREET, TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1,385.74 SQUARE FEET (0.0318 ACRES) MORE OR LESS

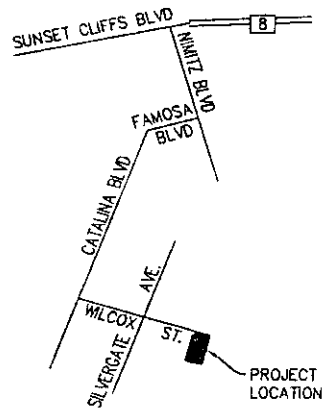
ATTACHED HERETO IS A DRAWING NO. 42524-B, LABELED EXHIBIT "B" AND BY THIS REFERENCE MADE A PART HEREOF.


RUDY P. PACHECO, L.S. NO. 5717 2/3/2024 DATE

PTS NO. 692645
DWG. NO. 42524-B

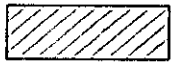


EXHIBIT "B"



VICINITY MAP
NOT TO SCALE

LEGEND



PORTION OF WILCOX STREET, VACATED
AREA = 1,386 SQ. FT.
(DEDICATED PER RESOLUTION No.127723 RECORDED
07/29/1955 IN BOOK 5735, PAGE 348 O.R.)

- () INDICATES RECORD DATA CALCULATED PER ROS 23644
- { } INDICATES RECORD DATA CALCULATED PER CITY OF SAN DIEGO
RESOLUTION No. 127723 RECORDED JULY 29, 1955 IN BOOK 5765,
PAGE 348 OF OFFICIAL RECORDS.
- INDICATES RIGHT OF WAY
- INDICATES EASEMENT LINES / RADIAL LINES
- INDICATES ROAD CENTERLINE
- INDICATES LOT LINES
- P.O.B. POINT OF BEGINNING
- T.P.O.B. TRUE POINT OF BEGINNING

BASIS OF BEARINGS

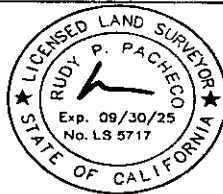
THE BASIS OF BEARINGS FOR THIS DRAWING IS
THE WESTERLY LINE OF PUEBLO LOT 180 AS
SHOWN ON RECORD OF SURVEY MAP NO. 23644,
I.E. N 12°47'13" E

REFERENCES

MAP No. 1095, 2997 AND 3105
RECORD OF SURVEY No. 19079 & 23644
APN 532-231-08

RUDY P. PACHECO

ACCULINE SURVEY INC.
1919 GRAND AVE #1G
SAN DIEGO, CA 92109
(858) 483-6665



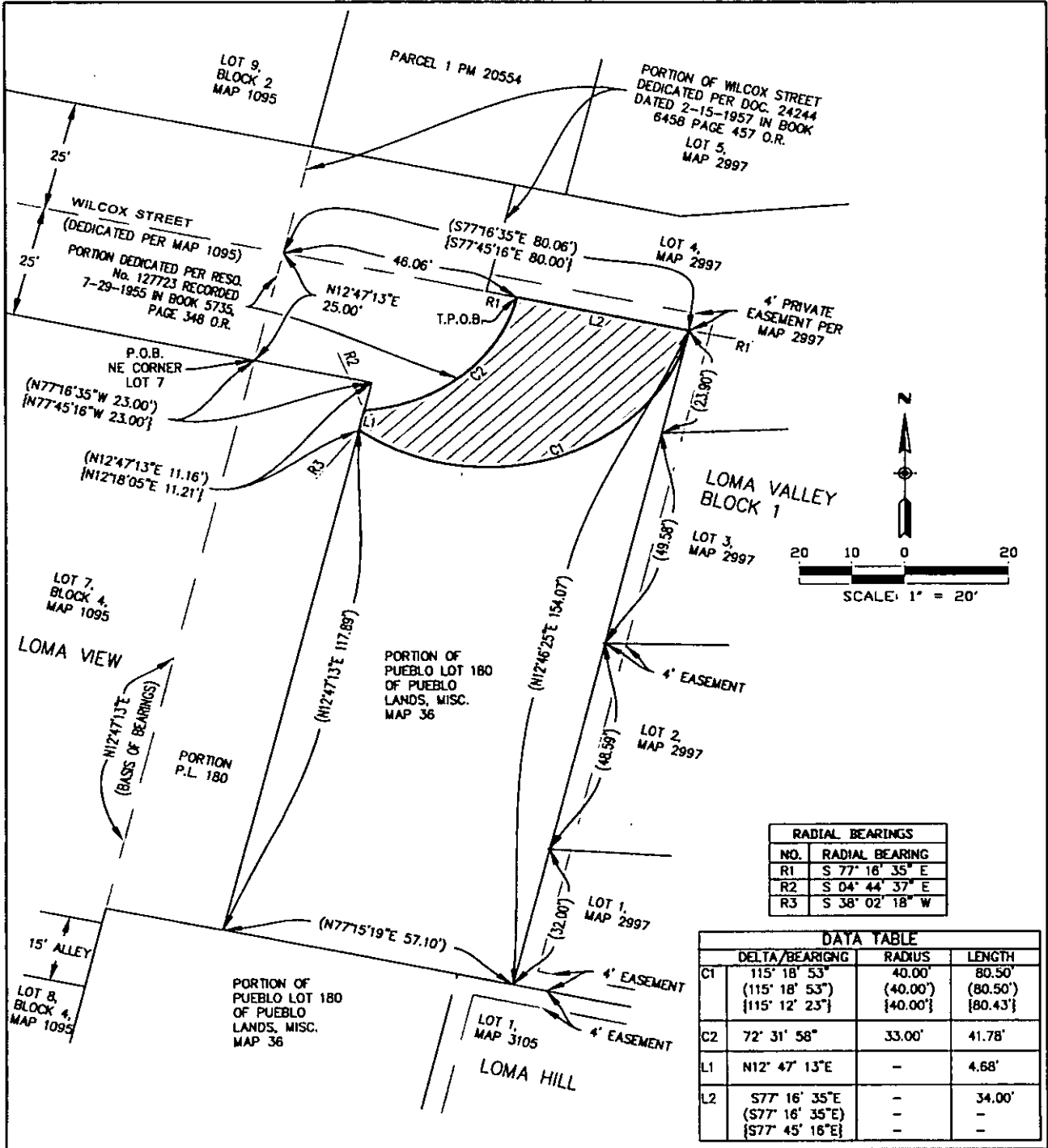
RESOLUTION No. _____
ADOPTED _____
DOCUMENT No. _____
RECORDED _____

RUDY P. PACHECO P.L.S. 5717 DATE 2/3/24

PUBLIC STREET VACATION – PORTION OF WILCOX STREET
IN A PORTION OF PUEBLO LOT 180 OF PUEBLO LANDS PER MAP MADE BY JAMES PASCOE

DESCRIPTION	BY	APPROVED DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS 692645
ORIGINAL	JRG			SHEET 1 OF 2 SHEET	I.O. 24009003
				<u>2/22/24</u> 2/22/2024	1842-6255
				FOR CITY LAND SURVEYOR DATE	CCS 83 COORDINATES
					202-1695
					NAD 27 COORDINATES
					42524-1-B
STATUS					

EXHIBIT "B"



RADIAL BEARINGS	
NO.	RADIAL BEARING
R1	S 77° 16' 35" E
R2	S 04° 44' 37" E
R3	S 38° 02' 18" W

DATA TABLE			
	DELTA/BEARING	RADIUS	LENGTH
C1	115° 18' 53"	40.00'	80.50'
	(115° 18' 53")	(40.00')	(80.50')
	{115° 12' 23"}	{40.00'}	{80.43'}
C2	72° 31' 58"	33.00'	41.78'
L1	N12° 47' 13"E	-	4.68'
L2	S77° 16' 35"E	-	34.00'
	(S77° 16' 35"E)	-	-
	{S77° 45' 16"E}	-	-

PUBLIC STREET VACATION – PORTION OF WILCOX STREET
 IN A PORTION OF PUEBLO LOT 180 OF PUEBLO LANDS PER MAP MADE BY JAMES PASCOE

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS 692645
ORIGINAL	JRG				SHEET 2 OF 2 SHEET	I.O. 24009003
					<i>J.P.R.</i> 2/22/2024	1842-6255
					FOR CITY LAND SURVEYOR	CCS 83 COORDINATES
					DATE	202-1695
						NAD 27 COORDINATES
						42524-2-B
STATUS						

Passed by the Council of The City of San Diego on MAY 1 4 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 1 4 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- **315542**