

DATE ISSUED: January 7, 2005

REPORT NO. PC-05-006

ATTENTION: Planning Commission, Agenda of January 13, 2005

SUBJECT: DE FREITAS RESIDENCE AND STREET VACATION - PROJECT NO. 49172. PROCESS 5

OWNER/APPLICANT: Kevin deFreitas

SUMMARY

Issue: Should the Planning Commission recommend to the City Council approval of a Coastal Development Permit to allow for construction of a 4,304 square foot single family residence on a 0.21 acre site and Public Right-of-Way Vacation for the southerly 15-foot portion of the existing 60-foot right-of-way along the 25-foot frontage of John Street at 885 Albion Street?

Staff Recommendation:

1. RECOMMEND APPROVAL of Coastal Development Permit (CDP) No. 40627; and
2. RECOMMEND APPROVAL of Right-of-Way Vacation No. 40630.

Community Planning Group Recommendation: The Peninsula Community Planning Board considered the project at their meeting on November 18, 2004 and voted 9-0-1 to recommend approval of the project (Attachment 28).

Environmental Review: The project has been determined to be exempt from the California Environmental Quality Act (CEQA) in accordance with the State CEQA Guidelines 15332 regarding in-fill development.

Fiscal Impact: The cost of processing this application is paid for by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: The Inclusionary Housing Ordinance requires all new residential development of two units or more to provide affordable housing. This project proposes only one residential unit. Therefore, the proposed project would not impact housing supply or affordability.

BACKGROUND

The existing 7,312 square foot (0.17 acre) site is located at 885 Albion Street (APN 531-592-01) of the Wooded Area neighborhood in the Peninsula Community Plan (Attachments 1-3). The project site is the southeast corner lot at the intersection of Albion Street and John Street. Residential development surrounds the project site. The area has been residentially developed since its original subdivision in 1887.

The site is designated Single Family Residential in the Peninsula Community Plan and is zoned RS-1-7 (Residential – Single Unit). This zone development of single dwelling units on a variety of lot sizes which promote neighborhood quality, character, and livability. It is intended that this zone provide for flexibility in development regulations to allow reasonable use of property while minimizing adverse impacts to adjacent properties.

John Street is an unimproved paper street 125 feet long at the project site running in an approximate east-west direction terminating at the top of a vegetated bluff. A portion of John Street adjacent to the subject property at Gage Drive has previously been vacated through Resolution 153470 in 1959. Three existing single family residences use John Street for access: 885 Albion (the subject property), 905 Albion Street, and 3544 John Street.

The proposed vacation would allow elimination of the driveway and curb cuts in the front yard along Albion Street and would shift this use to the side along the vacated portion of John Street. The vacation of the portion of John Street would result in an additional 1875 square feet added to the project site for a total project site of 9,187 square feet (0.21) acre (Attachments 4 and 5).

DISCUSSION

Project Description:

The project consists of two discretionary actions: (1) a Coastal Development Permit (CDP) pursuant to §126.0707; and (2) a Right-of-Way Vacation pursuant to §125.0940 of the Municipal Code and Section 8300 *et seq.* of the California Streets and Highways Code, and in conformance with Council Policy 600-15.

Coastal Development Permit – The CDP (Attachment 26) would allow for demolition of the existing 1,550 square foot single-story residence (built in 1950) and construction of the proposed 4,729 square foot two-story single family residence and attached two-car garage. The proposed construction would observe a 15-foot front yard setback along Albion Street, and 10-foot street side setback along John Street, a 13-foot rear yard setback to the easterly property line, and a 4-foot side setback to the south property line. The proposed structure would be 3,774 square feet plus 442 square feet deck and 513 square feet of garage. The proposed structure has been designed to reduce bulk and scale by dividing the structure into two separate sections connected by a bridging element. The roof line has been designed with a valley so as to minimize the vertical scale. The height of the building would comply with the 30-foot coastal height limit. The structure would be built at grade. Retaining walls would be constructed along the street side

and rear of the property. The back yard would serve as an on-site detention basin to filter site runoff prior to discharge to the existing drain in John Street. Site drainage along Albion Street would continue to be routed north along Albion Street to prevent excess drainage from flowing down John Street. Attachments 8-25 show site plans for the proposed construction.

Right-of-Way Vacation – 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 for a total of 1,875 square feet of vacated area (Attachments 4-7). The goal for the vacation is to provide access to the proposed two-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.

The City of San Diego Municipal Code allows at §125.0910 that a public right-of-way vacation may be initiated at the request of any person and may be summarily vacated if it does not contain public utility facilities, does not contain active public utility facilities, or contains public utility facilities that would not be affected by the vacation. As part of the project review, city staff has determined that the portion of John Street to be vacated would not adversely impact water or sewer utilities. The following utility companies have also determined that the proposed vacation would have no adverse impact on their utilities: SBC (formerly Pacific Bell) and Cox Cable. An easement would be required for San Diego Gas and Electric (SDG&E). Further, in accordance with 125.0910, the portion of the public right-of-way to be vacated is not required for street or highway purposes; and the public right-of-way has been impassable for vehicular travel since its creation. The existing unpaved condition is evidence that public funds have not been expended for maintenance of the public right-of-way. The initiation of the right-of-way vacation is therefore allowable.

The California Streets and Highways Code at Section 8312 find that “a city legislative body may vacate, pursuant to this part, all or part of a street . . . within the city.” The legislative body shall consider the general plan prior to vacating the street. The City of San Diego regulates right-of-way vacations through the Municipal Code at §125.0940 and through Council Policy 600-15. Findings for these requirements are substantiated in the Resolution (Attachment 27).

John Street at the project location is an unimproved paper street approximately 125 feet in length which gains access from the west off Albion Street and terminates 125 feet to the east at the top edge of a 40' drop above the adjacent residential development along Gage Drive. A portion of John Street at Gage Drive has previously been vacated through Resolution 153470; therefore, there is no existing right-of-way connecting John Street to Gage Drive and no through access for pedestrians or vehicular traffic. 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 and 24' curb-to-curb width remaining for reasonable access to 3544 John Street and 905 Albion Street. The partial right-of-way vacation would not precipitate a name change for the street, and would not adversely affect fire service. The reduced width of John Street would result in the need to prohibit street parking to provide adequate space for Fire Department access. Red curbs or "No parking - fire lane" signs would be required.

The applicant proposes to provide public improvements to pave John Street and to improve drainage north along Albion Street to prevent street overflow from entering John Street. Single-family residential structures exist below the John Street terminus on the next north-south road, Gage Drive, and these residences have experienced drainage problems in the past due to excess runoff originating from Albion Street above the project site (Attachments 20 – 21).

Community Plan Analysis:

The project has been determined to be in alignment with the goals of the Peninsula Community Plan and Local Coastal Program plan and is consistent with the City of San Diego Progress Guide and General Plan.

The project is within the Wooded Area neighborhood of the Peninsula Community. The Wooded Area is located south of Talbot Street between Catalina and Gage. This neighborhood is characterized by large lots with single family homes of various ages and styles. The roads tend to be more narrow and in some cases unimproved. Consistent with this character and surrounding existing development, the project would not require installation of a standard sidewalk.

The building design would integrate with similar designs in the project area. The two existing mature *Podocarpus* trees in the front yard would be retained. The Plan encourages sensitive placement of structures in steeply sloped residential areas (p. 23 of the Community Plan) and conserving the character of the existing single-family neighborhoods (p. 12). The proposed house would be constructed in the same location as the existing which is a level, graded pad. The design of the new house includes a roofline that is not pitched, but incorporates a valley to minimize the visual appearance of the house. The proposed two-story structure would be compatible with surrounding structures in terms of bulk, scale, and design forms. The entire Peninsula is subject to the 30-foot coastal height limit. The project would comply with this requirement.

The Plan identifies the maximum permitted density at 9 du/ac (Figure 7). The proposed replacement of the single-family structure would comply with this density designation.

The Plan does not identify John Street as a view corridor (Figure 27). John Street terminates approximately 125 feet east of Albion Street with dense vegetation thereby affording no identified public viewing area. The proposed structure has been designed to reduce bulk and scale by dividing the structure into two separate sections connected by a bridging element. The roof line has been designed with a valley so as to minimize the vertical scale.

The Transportation Element of the Peninsula Community Plan does not identify John Street as a pedestrian path, or as a key component of access and circulation in the community. John Street currently dead ends along the frontage of the subject site and is not a through street. The end of John Street is not used as a view corridor or important community gathering place. The terminus of John Street is sometimes used for non-designated parking. The proposed vacation would not eliminate this informal, non-designated street parking area. The Plan recommends two parking spaces for each detached single-family dwelling. Two attached covered spaces would be provided.

Albion Street is identified as part of the proposed Class III bikeway system. However, the proposed vacation of John Street would not adversely affect this bikeway. A pedestrian path is identified in the Plan in Figure 18 from Dudley to Gage Drive approximately 4 blocks south of the project site. The proposed vacation of John Street would not adversely affect this linkage.

The Plan does identify the area immediately east of the project as containing slopes greater than 25%. However, this existing slope is not regulated under the Environmentally Sensitive Lands (ESL) regulation of the Municipal Code as the height of the slope is less than 50 feet. The project does not propose any activity on this slope area and recognizes the need to maintain the existing vegetation for slope stability.

A 40-foot high 1:1 (horizontal to vertical) manufactured slope is located east and adjacent to the site according to the geotechnical report prepared for the project. The majority of this slope is not on the subject property. No construction activity is proposed on the slope. The geotechnical analysis has concluded that the proposed project would not adversely affect the slope stability. The proposed landscaping plan has been reviewed to ensure no invasive vegetation would be planted.

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.

The Community Plan recommends that curb cuts and front driveways be minimized (p. 115). The project would eliminate the curb cuts and front driveways currently existing from Albion Street and relocate this use to the proposed vacated portion of John Street.

Environmental Analysis:

The project has been determined to be exempt from the California Environmental Quality Act (CEQA) in accordance with the State CEQA Guidelines 15332 regarding in-fill development.

Project-Related Issues:

Municipal Code Conformance - The project requires a Coastal Development Permit (CDP) [SDMC Section 126.0707(a)] and a Street Vacation to be consolidated and considered as a Process 5 decision (City Council) in accordance with SDMC 125.0940. The project decision is not appealable to the state California Coastal Commission. A public right-of-way may be vacated only if the decision maker makes the finding referenced under SDMC 125.0941. An application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the findings in SDMC 126.0708(a). The findings for the CDP and Right-of-Way Vacation are substantiated in the resolutions (Attachment 27).

The proposed project has been demonstrated to conform to the regulations and requirements of the RS-1-7 underlying zone, the Coastal Overlay Zone (Non-Appealable Area, Map No. C-730), the Coastal Height Limit Overlay Zone (Map C-380), the Airport Approach Overlay Zone, the Peninsula Community Plan and Local Coastal Program.

The proposed construction would observe a 15-foot front yard setback along Albion Street, and 10-foot street side setback along John Street, a 13-foot rear yard setback to the easterly property line, and a 4-foot side setback to the south property line. The project's Floor Area Ratio (FAR) has been determined to be 0.46 and would therefore comply with the requirement of 0.55. This project has demonstrated compliance with the Municipal Code Requirements for maximum height of the structure not to exceed 30 feet (SDMC, Sections 103.0304.1(4)(k) and 132.0505). The highest point on roof equipment, pipe, vent, antenna or other projection will not exceed 30 feet above grade.

The fences and walls have been demonstrated to conform to Chapter 14, Article 2, Division 3 of the SDMC including the portion of the wall fronting John Street to conform with SDMC 142.0340(c)(1). Per this SDMC section, walls within the front yard are limited to 3'. In accordance with SDMC 142.0340(a)(2), up to 30 percent of the length of a retaining wall may exceed the height limits by up to 6 inches. The retaining walls have been demonstrated to conform to this requirement.

All engineering issues have been addressed and resolved. 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. 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. Under existing conditions, the project site exhibits the following drainage: 0.62 cubic feet per second (cfs) to John Street) and 0.10 cfs to Albion Street. Under the proposed development, drainage to John Street would be reduced slightly to 0.61 cfs and increased slightly 0.13 cfs to Albion Street. All San Diego Fire and Life Safety Services requirements have been met.

The project site is geologically suitable for the proposed development. No fault buffers exist on the project site. The soils investigation report indicates favorable substrate. Fill soil exists on the site to a depth of 0.5 to 3 feet followed by the Lindavista geologic formation. The slope to the east of the project site is a cut slope graded during development of the adjacent residential property. Test pits dug into this slope indicate that the slope is stable. Recommended setback from the top of the slope is 10 feet.

Council Policy 600-15 – on May 18, 1993, City Council established Policy 600-15 on street vacations. Council finds it acceptable to vacate in whole or part a public right-of-way when there is no present or prospective use and when such action would serve the public interest. The portion of John Street to be vacated would not preclude continued public use and would not adversely affect continued access by the remaining residences. The required findings associated with Council Policy 600-15 are substantiated in the Resolution as incorporated in the analysis of the Municipal Code.

California Streets and Highways Code – The State of California Streets and Highways Code at 8330 *et seq.* allows a city to vacate all or part of a street within its jurisdiction. The City must consider the impact of the vacation on the general plan and must meet certain noticing requirements. The goals of the City of San Diego Progress Guide and General Plan are incorporated through implementation of the Peninsula Community Plan and Local Coastal Program Plan. The project has fulfilled the noticing requirements as stated at 8320(b)(1); 8320 (b)(2); and at 8323 which requires notices to be posted along the line of the street proposed to be vacated.

Airport Approach Overlay Zone (AAOZ) - The project site is within the Airport Approach Overlay Zone (AAOZ), but is neither within the Airport Influence Area (AIA) nor the Airport Environs Overlay Zone (AEOZ) for Lindbergh Field operations. In accordance with the Municipal Code at Chapter 13, Article 2, Division 2, "Airport Approach Overlay Zone" Table 132-02A, the project is exempt from the AAOZ regulations because the new structures would not exceed 30 feet.

Conclusion:

Staff finds that the project as proposed would be in accordance with the provisions of the Council Policy, the City's Municipal Code; the State Streets and Highways Code; the California Environmental Quality Act; the City's Progress Guide and General Plan; and the Peninsula Community Plan and Local Coastal Program Plan. Staff therefore recommends approval of the Coastal Development Permit Number 40627 and approval of Right-of-Way Vacation Number 40630.

ALTERNATIVES

1. Recommend approval of Coastal Development Permit (CDP) No. 40627 and Right-of-Way Vacation No. 40630 with modifications.
2. Recommend denial of Coastal Development Permit (CDP) No. 40627 and Right-of-Way Vacation No. 40630 if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

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Development Services Department**

**Cory Wilkinson
Development Project Manager
Development Services Department**

Attachments:

1. Location Map
2. Aerial Photograph
3. Community Plan Land Use Map
4. Right of Way Vacation
5. Site Exhibit: Property Lines, Street Vacation, and Topography
6. John Street Looking East
7. Proposed Property Line After Vacation
8. Existing Residence
9. Proposed Residence
10. Project Data Sheet
11. Project Site Plan
12. First Floor
13. Second Floor
14. Roof Plan
15. Sections
16. Sections
17. Elevations – North and West
18. Elevations – South and East
19. Elevations – South and North (Courtyard)
20. Proposed Drainage
21. Existing Drainage
22. Grading Plan
23. Landscape Plan
24. Brush Management Plan
25. Irrigation Plan
26. Draft Permit with Conditions
27. Draft Resolution with Findings
28. Community Planning Group Recommendation
29. SBC Approval Letter
30. SDG&E Approval Letter
31. Cox Approval Letter
32. Transportation Approval Letter
33. Ownership Disclosure Statement
34. Letter of Support from L. J. Sanguinetti
35. Project Chronology