

AN ORDINANCE 2008-09-18-0795

CLOSING, VACATING, AND ABANDONING A SEGMENT OF OLD BULVERDE ROAD BETWEEN LOOP 1604 NE AND JONES MALTSBERGER ROAD ADJACENT TO NCB 17725, LOCATED IN COUNCIL DISTRICT 10, AS REQUESTED BY FCS FISCHER, LTD. & BULVERDE MARKETPLACE, L.P. FOR A FEE OF \$63,186.

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Subject to the reservation below, the City finds the following right of way is no longer essential to the safe and efficient flow of traffic in the area in which the right of way is located. As an exercise of its discretion, the City Council closes, vacates, and abandons it. The affected right of way is identified below.

That portion of Old Bulverde Road described generally as extending southward from the south right-of-way line of Loop 1604 to the north right-of-way line of Jones Maltsberger.

SECTION 2. A picture of the subject right of way is set forth at **Exhibit A**. The detailed description of the right-of-way subject to this ordinance is set forth on **Exhibit B**. Exhibit B consists of two plats and two sets of field notes, one plat and set of field notes being for the east half of the affected right of way and the other plat and field notes being for the west half. Both Exhibits A and B are incorporated into this ordinance for all purposes as if they were fully set forth.

SECTION 3. This ordinance does not release any public rights in the subject tract for drainage, water and wastewater lines, electric transmission lines, communication lines of all types, or any other rights except for the right of the public to travel on the subject tract.

SECTION 4. The City Manager or her designee, severally, are authorized and directed to execute and deliver all documents and to do all other things conducive to reflect this closure, abandonment, and vacation.

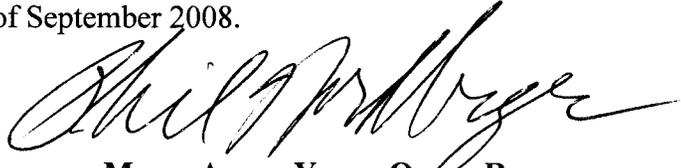
SECTION 5. The affected rights of way exist by easement. The underlying fee ownership of the affected rights of way by the adjacent lot owners is now unburdened by the rights closed, vacated, and abandoned. For purposes of future conveyance and to better reflect their ownership generally, owners of the adjacent property may wish to replat, but no such replat impairs the rights retained by City in the affected right of way.

SECTION 6. Funds generated by this ordinance will be deposited into Fund 76002000 Building Maintenance, Internal Order 224000000099 License Agreement In ROW, General Ledger 4202410 License Use of ROW.

SECTION 7. The financial allocations in this Ordinance are subject to approval by the Director of Finance for the City of San Antonio for the City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 8. This ordinance becomes effective 10 days after passage.

PASSED AND APPROVED this 18th day of September 2008.

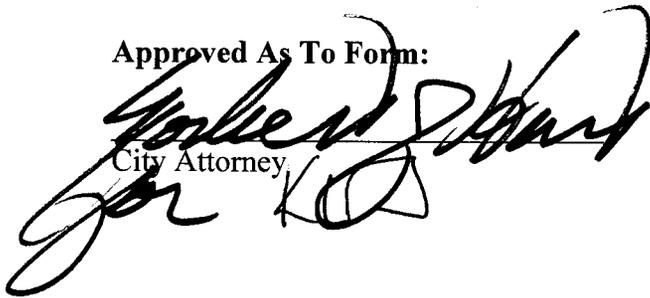

M A Y O R
PHIL HARDBERGER

Attest:



City Clerk

Approved As To Form:



City Attorney



Request for
**COUNCIL
ACTION**

City of San Antonio



Agenda Voting Results - 4

Name:	4
Date:	09/18/2008
Time:	09:19:40 AM
Vote Type:	Motion to Approve
Description:	Public hearing and consideration of an Ordinance closing, vacating, and abandoning a segment of Old Bulverde Road between Loop 1604 NE and Jones Maltsberger Road adjacent to NCB 17725, located in Council District 10, as requested by FCS Fischer, Ltd. & Bulverde Marketplace, L.P. for a fee of \$63,186.00. [Penny Postoak Ferguson, Assistant City Manager; Mike Frisbie, Director, Capital Improvements Management Services]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2		x				x
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9	x					
John G. Clamp	District 10		x			x	

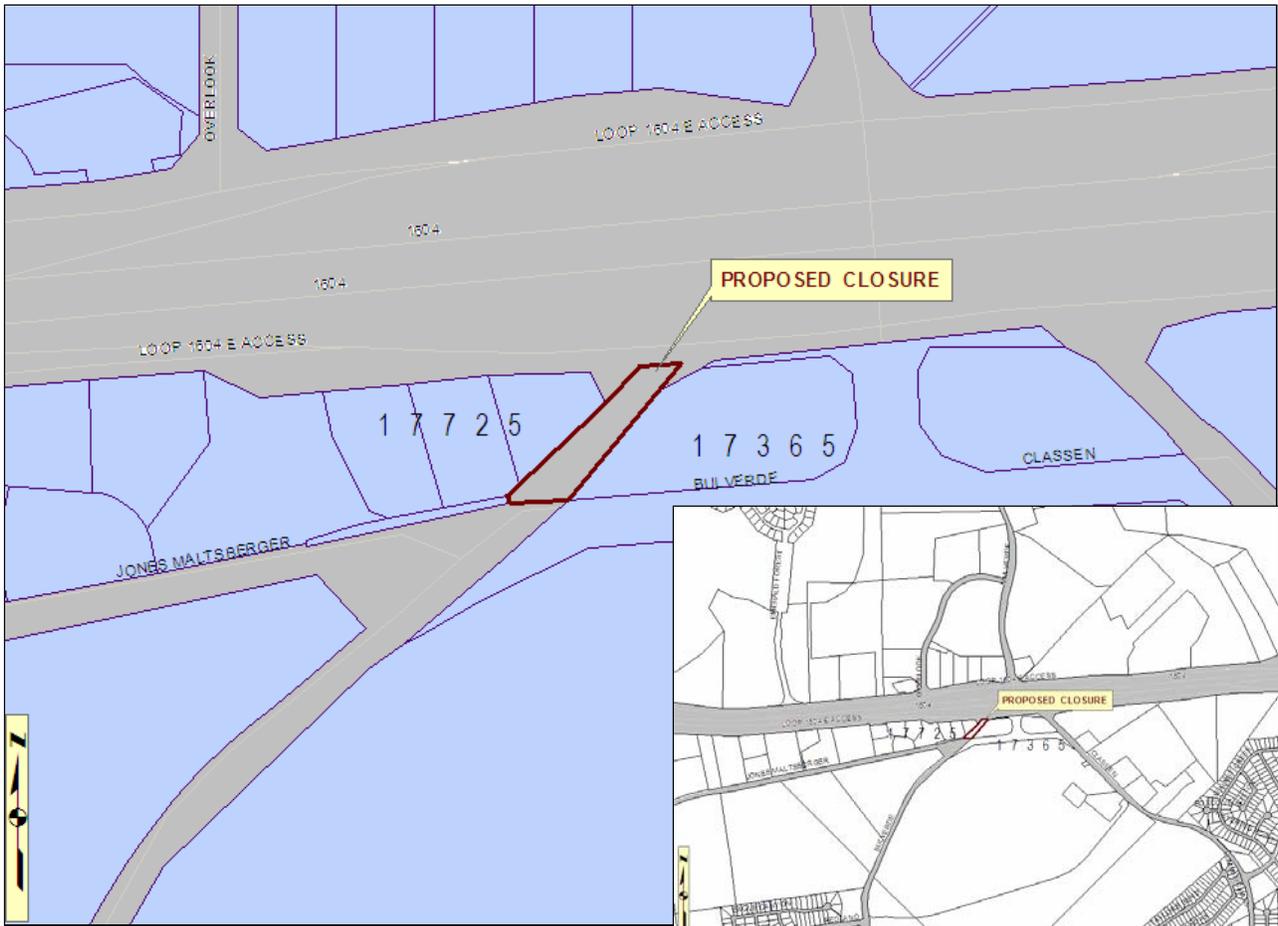
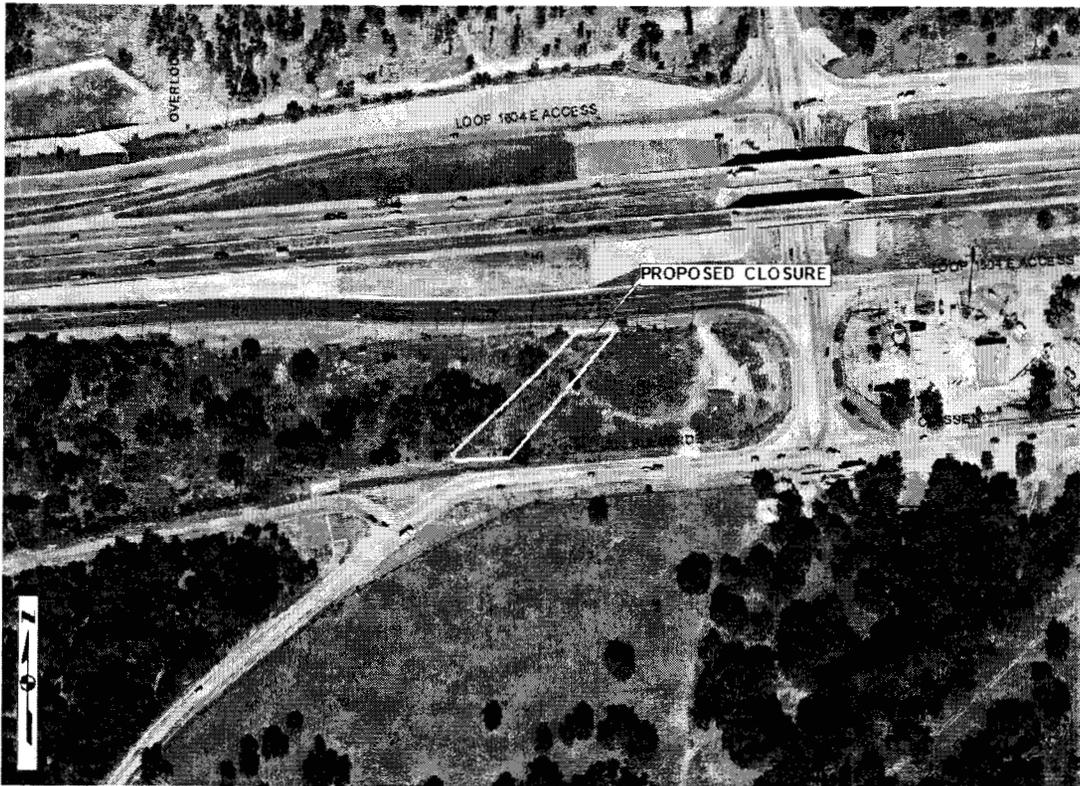
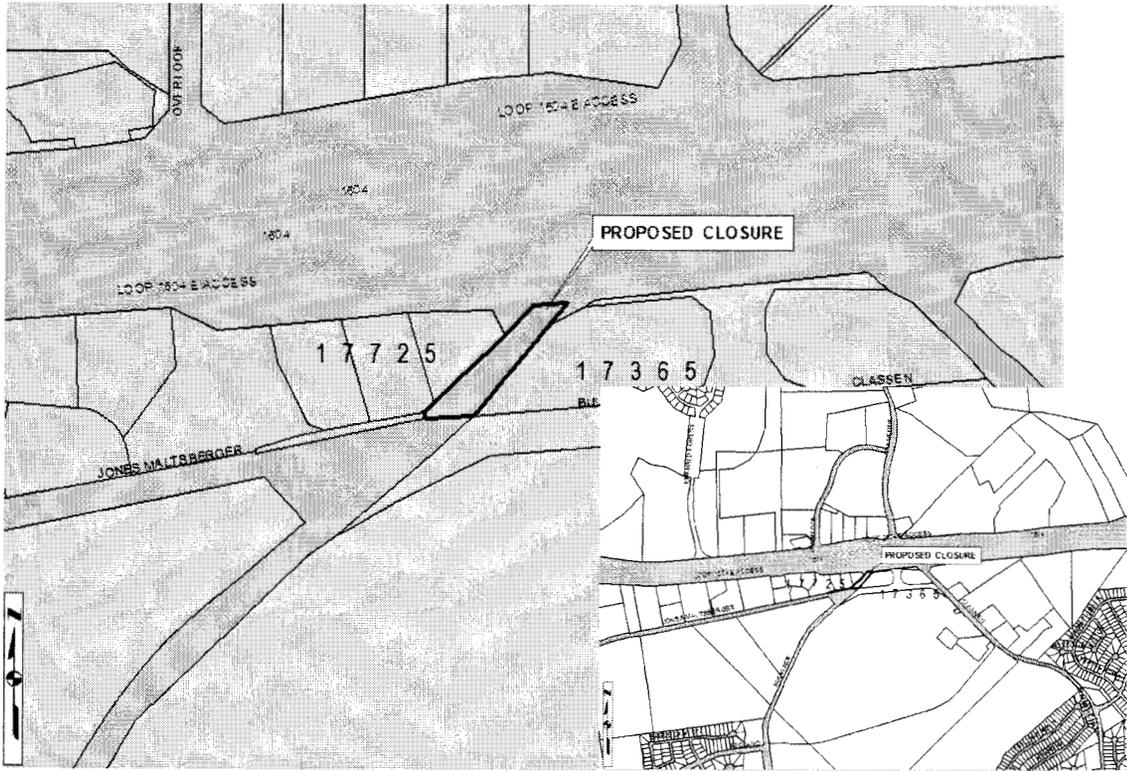
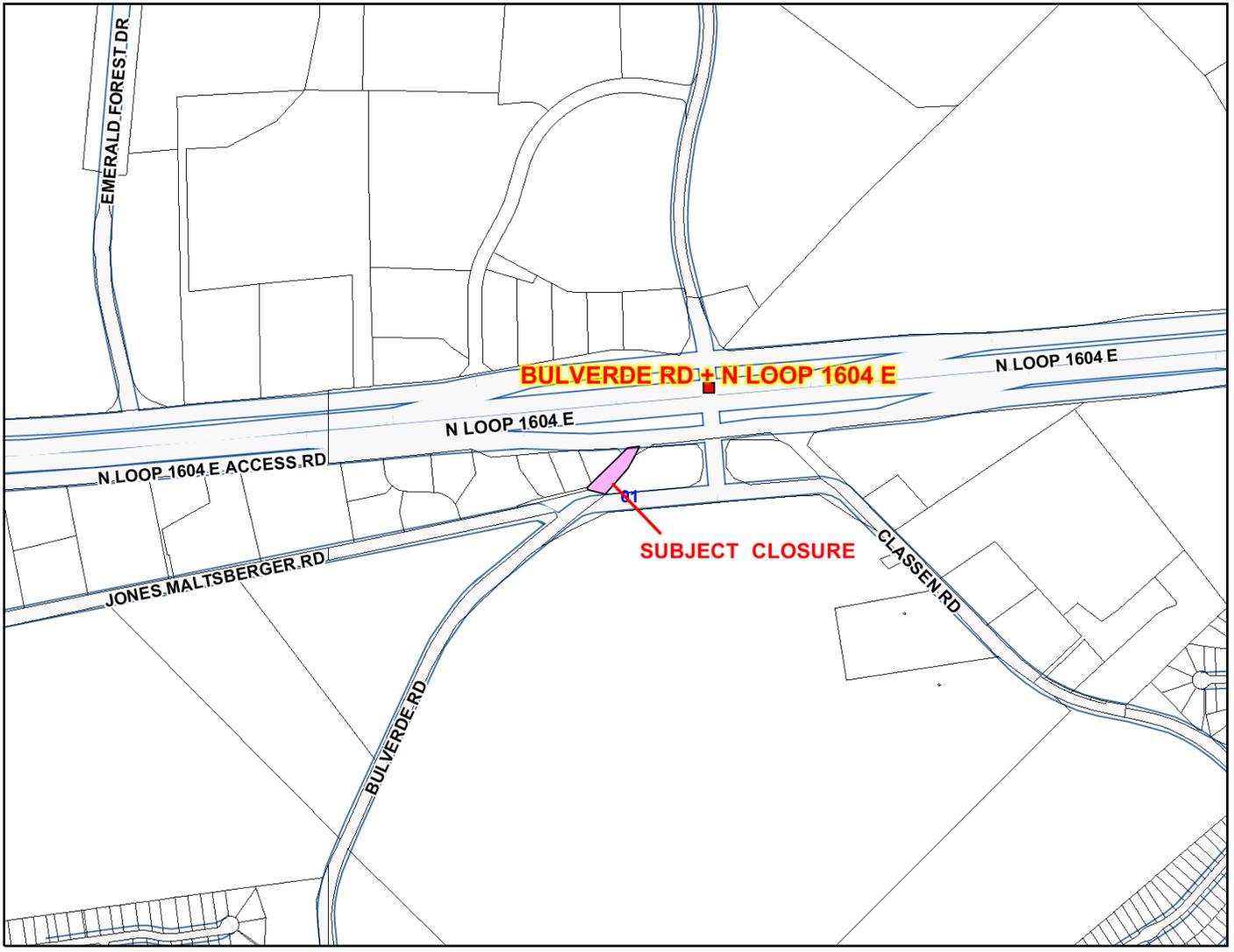
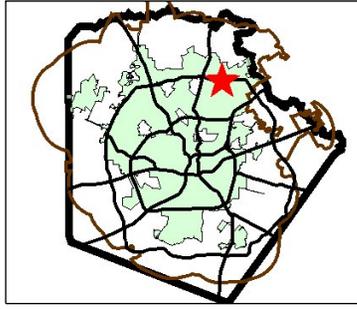


Exhibit "A"

Exhibit A



SP 1364 - Old Bulverde Road Closure



Legend

- Parcels
- Lakes
- Military Bases
- San Antonio City Limits
- Incorporated Towns
- Bexar County
- Bexar Streets

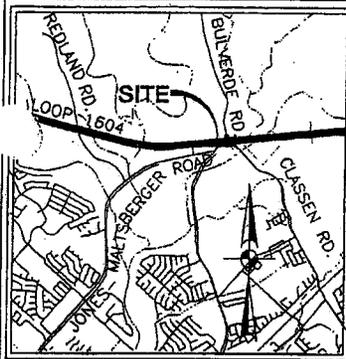
Scale: 1:10,000



Map center: 2152878, 13766045

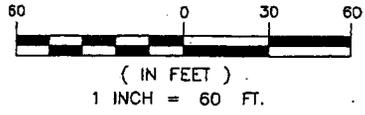
This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Exhibit B



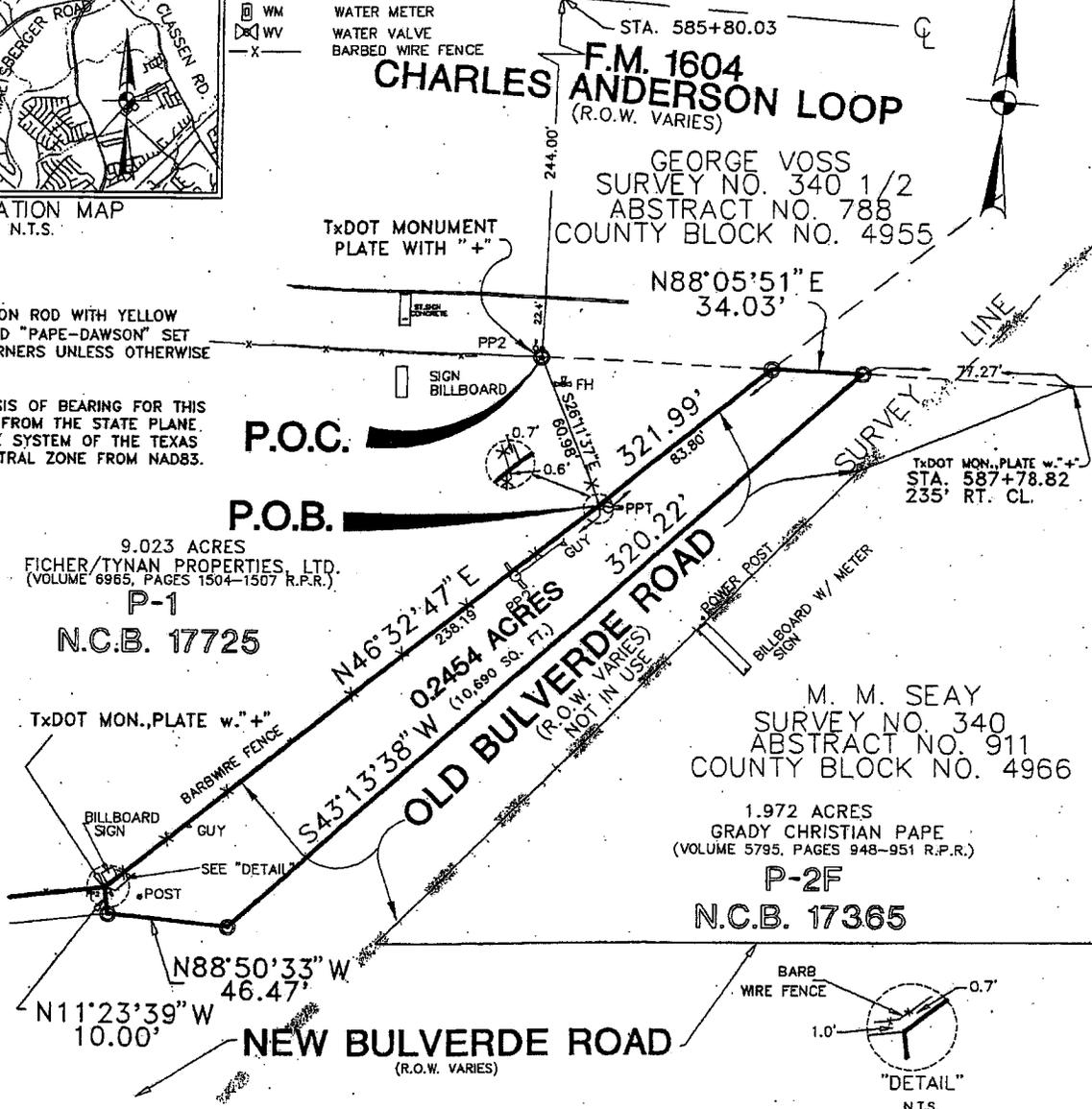
LEGEND

	SIGN
	FIRE HYDRANT
	ANCHOR GUY
	POWER POLE
	POWER POLE (X ARM)
	STREET SIGN
	WATER METER
	WATER VALVE
	BARBED WIRE FENCE



NOTES:

- 1) 1/2" IRON ROD WITH YELLOW CAP MARKED "PAPE-DAWSON" SET AT ALL CORNERS UNLESS OTHERWISE NOTED.
- 2) THE BASIS OF BEARING FOR THIS SURVEY IS FROM THE STATE PLANE COORDINATE SYSTEM OF THE TEXAS SOUTH CENTRAL ZONE FROM NAD83.



STATE OF TEXAS }
COUNTY OF BEXAR }

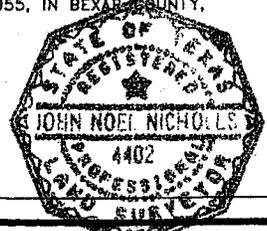
I HEREBY CERTIFY THAT THE ABOVE PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION AND THAT ALL BUILDINGS ARE WHOLLY LOCATED ON THIS PROPERTY, AND THAT THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS EXCEPT AS SHOWN.

THIS 31 DAY OF APRIL 20 00 A.D.

SURVEY OF:
0.2454 ACRE, OR 10,690 SQUARE FEET, TRACT OF LAND OUT OF THE OLD BULVERDE ROAD RIGHT-OF-WAY AND THE GEORGE VOSS SURVEY NO. 340 1/2, ABSTRACT NO. 788, COUNTY BLOCK NO. 4955, IN BEXAR COUNTY, TEXAS.

PAPE-DAWSON ENGINEERS
CIVIL & ENVIRONMENTAL ENGINEERS

SAN ANTONIO TEXAS 78216
TEL: 210-375-9000
FAX: 210-375-9010
555 EAST RAMSEY



JOB No.: 9234-00B

County: Bexar
Highway: Bulverde Road

Date: March 24, 2000

Field Notes for

0.2454 acre, or 10,690 square feet, tract of land out of the Old Bulverde Road right-of-way and the George Voss Survey No. 340 1/2, Abstract No. 788, County Block No. 4955, in Bexar County, Texas, which said 0.2454 acre of land is more particularly described as follows:

COMMENCING At a found TxDOT monument plate with "+", which point is 224.00 feet right of centerline station 585+80.03 of F. M. 1604, also known as Charles Anderson Loop, a variable width right-of-way, said monument also being at the northeast corner of a 9.023 acre tract of land out of all of Parcel P-1, New City Block (N.C.B.) 17725, Bexar County, Texas, same being that tract of land conveyed to Ficher/Tynan Properties, Ltd. by deed of record in Volume 6965, Pages 1504-1507 of the Official Public Records of Real Property of Bexar County, Texas;

- (1) THENCE SOUTH 26°11'37" East, bearings established from the coordinate system for the Texas South Central Zone from the North American Datum for 1983 (NAD83), the bearings given by deed and the right-of-way map have been rotated 0°15'09" counterclockwise to match said NAD83, a distance of 60.98 feet to the east corner of said 9.023 acre tract of land at the POINT OF BEGINNING on the west right-of-way line of Old Bulverde Road;
- (2) THENCE NORTH 46°32'47" East, a distance of 83.80 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson";
- (3) THENCE NORTH 88°05'51" East, across the old right-of-way of Old Bulverde Road, a distance of 34.03 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson" from which a found TxDOT monument plate with "+" bears NORTH 88°05'51" East, a distance of 77.27 feet, which point is 235.00 feet right of centerline station 587+78.82 of F. M. 1604;
- (4) THENCE SOUTH 43°13'38" West, a distance of 320.22 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson";
- (5) THENCE NORTH 88°50'33" West, a distance of 46.47 feet to a set 1/2" iron rod with yellow cap marked "Pape-Dawson" at the southeast corner of 0.0936 acre tract of land same being conveyed to the State of Texas by deed record in Volume 3815, Pages 1961-1969, of the Real Property Records of Bexar County, Texas;
- (6) THENCE NORTH 11°23'39" West, along the east line of said 0.0936 acre tract, a distance of 10.00 feet to a found TxDOT monument plat with "+" on said west right-of-way line of Old Bulverde Road;

(7) THENCE NORTH 46°32'47" East, a distance of 238.19 feet to the POINT OF BEGINNING and containing 0.2454 acres, in the City of San Antonio, Bexar County, Texas. Said tract being described in accordance with a survey prepared by Pape Dawson Engineers Inc..

(8)

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: March 24, 2000
Revised: April 1, 2000
JOB No.: 9234-00
DOC.ID.: n:\survey00\9300-00\9234-00\9234-00B.doc

STATE OF TEXAS
COUNTY OF BEXAR

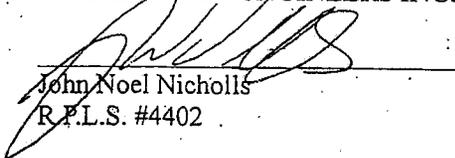
I hereby certify that this Description is true and correct according to an actual survey made on the ground under my supervision.

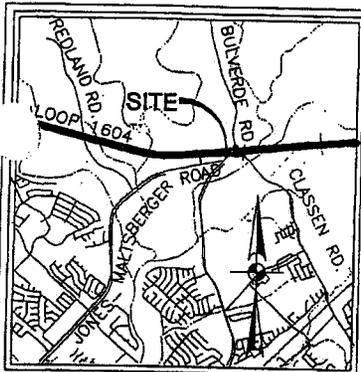
This 3rd day of April, 2000 A.D.

A Plat of even date was also prepared



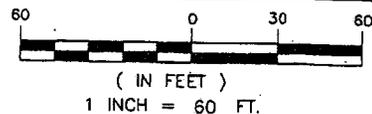
PAPE-DAWSON ENGINEERS INC.


John Noel Nicholls
R.P.L.S. #4402



LEGEND

- SIGN
- FH FIRE HYDRANT
- GUY ANCHOR GUY
- PP2 POWER POLE
- PP POWER POLE (X ARM)
- ST.SIGN STREET SIGN
- WM WATER METER
- WV WATER VALVE
- X BARBED WIRE FENCE



NOTES:

- 1) 1/2" IRON ROD WITH YELLOW CAP MARKED "PAPE-DAWSON" SET AT ALL CORNERS UNLESS OTHERWISE NOTED.
- 2) THE BASIS OF BEARING FOR THIS SURVEY IS FROM THE STATE PLANE COORDINATE SYSTEM OF THE TEXAS SOUTH CENTRAL ZONE FROM NAD83.

**F.M. 1604
CHARLES ANDERSON LOOP
(R.O.W. VARIES)**

GEORGE VOSS
SURVEY NO. 340 1/2
ABSTRACT NO. 788
COUNTY BLOCK NO. 4955

N88°05'51"E
33.67'

P.O.C.

SURVEY LINE
235.00'

TxDOT MON., PLATE w. " + "

9.023 ACRES
FICHER/TYNAN PROPERTIES, LTD.
(VOLUME 6965, PAGES 1504-1507 R.P.R.)

P-1
N.C.B. 17725

OLD BULVERDE ROAD
(R.O.W. VARIES) NOT IN USE
0.2454 ACRE
(10,690 SQ. FT.)
255.89'

POWER POST
306.13'
BILLBOARD W/ METER SIGN

P.O.B.

TxDOT MONUMENT, PLATE WITH " + "

M. M. SEAY
SURVEY NO. 340
ABSTRACT NO. 911
COUNTY BLOCK NO. 4966

1.972 ACRES
GRADY CHRISTIAN PAPE
(VOLUME 5795, PAGES 948-951 R.P.R.)

P-2F
N.C.B. 17365

NEW BULVERDE ROAD
(R.O.W. VARIES)

N88°50'33"W
57.51'

STATE OF TEXAS }
COUNTY OF BEXAR }

SURVEY OF
0.2454 ACRE, OR 10,690 SQUARE FEET, TRACT OF LAND BEING OUT OF THE OLD BULVERDE ROAD RIGHT-OF-WAY OUT OF THE GEORGE VOSS SURVEY NO. 340 1/2, ABSTRACT NO. 788, COUNTY BLOCK NO. 4955 IN BEXAR COUNTY, TEXAS.

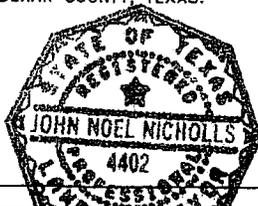
I HEREBY CERTIFY THAT THE ABOVE PLAT WAS PREPARED FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION AND THAT ALL BUILDINGS ARE WHOLLY LOCATED ON THIS PROPERTY, AND THAT THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS EXCEPT AS SHOWN.

THIS 3rd DAY OF APRIL 20 00 A.D.

PAPE-DAWSON ENGINEERS
CIVIL & ENVIRONMENTAL

SAN ANTONIO TEXAS 78216

TEL: 210-375-8000
FAX: 210-375-9010



555 EAST RAMSEY

JOB No.: 9234-00C

County: Bexar
Highway: Bulverde Road

Date: March 24, 2000

Field Notes for

0.2454 acre, or 10,690 square feet, tract of land being out of the Old Bulverde Road right-of-way out of the George Voss Survey No. 340 ½, Abstract No. 788, County Block No. 4955 in Bexar County, Texas, which said 0.2454 acre of land is more particularly described as follows:

COMMENCING At a found TxDOT Monument plate with "+", which point is 235.00 feet right of centerline station 587+78.82 of F. M. 1604, also known as Charles Anderson Loop, a variable width right-of-way, said monument also being at the northwest corner of a 1.972 acre tract of land out of Parcel P-2F, N.C.B. 17365, Bexar County, Texas same tract of land conveyed to Grady Christian Pape by deed record in Volume 5795, Pages 948-951, of the Real Property Records of Bexar County, Texas:

- (1) THENCE SOUTH 62°18'21" West, bearings established from the coordinate system for the Texas South Central Zone from the North American Datum for 1983 (NAD83), the bearings given by deed and the right-of-way map have been rotated 0°15'09" counterclockwise to match said NAD83, a distance of 84.77 feet to the west corner of said 1.972 acre tract of land at the POINT OF BEGINNING;
- (2) THENCE SOUTH 39°40'51" West, along the east right of way line of Old Bulverde Road and the west line of said 1.972 acre tract of land, a distance of 256.82 feet to a set ½" iron rod with yellow cap marked "Pape-Dawson";
- (3) THENCE NORTH 88°50'33" West, a distance of 57.51 feet to a set ½" iron rod with yellow cap marked "Pape-Dawson";
- (4) THENCE NORTH 43°13'38" East, a distance of 320.22 feet to a set ½" iron rod with yellow cap marked "Pape-Dawson" from which a found TxDOT Monument plate with "+" bears SOUTH 88°05'51" West, a distance of 121.83 feet, which point is 224.00 feet right of centerline station 585+80.03 of F. M. 1604;
- (5) THENCE NORTH 88°05'51" East, a distance of 33.67 feet to a set ½" iron rod with yellow cap marked "Pape-Dawson";
- (6) THENCE SOUTH 39°40'51" West, a distance of 49.31 feet to the POINT OF BEGINNING and containing 0.2454 acres in the City of San Antonio, Bexar County, Texas. Said tract being described in accordance with a survey prepared by Pape Dawson Engineers Inc.

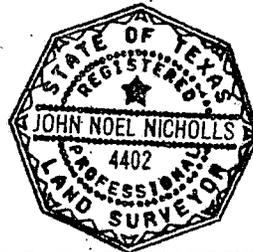
PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: March 24, 2000
REVISED: April 1, 2000
JOB No.: 9234-00
DOC.ID.: n:\survey00\9300-00\9234-00\9234-00C.doc

STATE OF TEXAS)
COUNTY OF BEXAR)

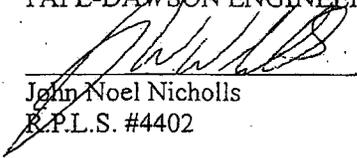
I hereby certify that this Description is true and correct according to an actual survey made on the ground under my supervision.

This 3rd day of April, 2000 A.D.

A Plat of even date was also prepared



PAPE-DAWSON ENGINEERS INC.



John Noel Nicholls
R.P.L.S. #4402



CITY OF SAN ANTONIO

CAPITAL IMPROVEMENTS MANAGEMENT SERVICES

P. O. BOX 839966

SAN ANTONIO TEXAS 78283-3966

July 17, 2008

FCS Fischer, Ltd. &
Bulverde Marketplace, L.P.
c/o Pape-Dawson Engineers, Inc.
Attn: Shauna Weaver, P.E.
855 E. Ramsey
San Antonio, TX 78216

Re: S. P. No. 1364—Request to close, vacate and abandon a portion of Old Bulverde Road Public Right of Way located between Loop 1604 NE and Jones Maltsberger Road adjacent to NCB 17725

Dear Ms. Weaver:

With reference to the captioned project, please be advised that the City of San Antonio has now completed the canvassing process and will recommend approval of your request subject to the following conditions:

CITY PUBLIC SERVICE BOARD

Petitioner must agree to reserve a perpetual easement for all existing electric and/or gas facilities and agree to allow perpetual access to any such utilities for inspection, operational and maintenance purposes or may seek the relocation of the facilities with the express permission and coordination with City Public Service Board and at the sole expense of the petitioner.

SAN ANTONIO WATER SYSTEM

Petitioner must agree to reserve a perpetual easement for all existing water and/or sewer facilities and agree to allow perpetual access to any such utilities for inspection, operational and maintenance purposes or may seek the relocation of the facilities with the express permission and coordination with San Antonio Water System and at the sole expense of the petitioner.

TEXAS DEPARTMENT OF TRANSPORTATION

No direct access to Loop 1604 will be allowed prior to and contingent upon approval of development plan for the overall site including circulation and access.

DEPARTMENT OF CAPITAL IMPROVEMENTS MANAGEMENT SERVICES

- The closure, vacation and abandonment of this Public Right of Way will be authorized by a City Ordinance.
- Petitioner asserts that all evidence of ownership of property abutting the Public Right of Way proposed to be closed, vacated and abandoned by the City of San Antonio is true and correct.
- The petitioner acknowledges that this property will be accepted in its "as is" condition.
- Petitioner agrees to reserve a perpetual easement for all existing overhead, surface or subsurface utilities within the Public Right of Way proposed to be closed, including but not limited to: electrical, water, sewer, telephone, cable, fiber optic conduit, etc. Petitioner agrees to allow perpetual access to any such utilities or may seek the relocation of a specific utility with the express permission and coordination of the respective owner of the utility and at the sole expense of the petitioner.

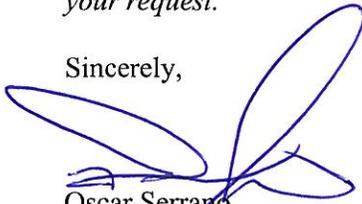
- *Petitioner agrees to remit a closure fee of \$63,186.00, which includes the assessed value of \$63,151.00 for the Public Right of Way and \$35.00 for recording documents. This closure fee will be due and payable to the City of San Antonio, and is to be submitted with this executed Letter of Agreement. If for some reason the closure is not approved by City Council, the closure fee will be refunded to the petitioner.*

Also, Discretionary Contracts Disclosure forms are required and are enclosed for your convenience. Please have these filled out completely and signed by the petitioners.

This Letter of Agreement is being offered by City of San Antonio only to the petitioners named above and will expire thirty (30) days after date of issuance unless a specific extension is requested by the petitioner and granted by the City.

If your clients concur with the above mentioned conditions, please have your clients countersign this letter in the spaces provided below and return to the undersigned. *Upon receipt of this executed Letter of Agreement, the Discretionary Contracts Disclosure forms and the closure fee we will continue processing your request.*

Sincerely,



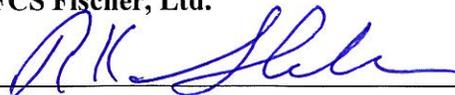
Oscar Serrano
Real Estate Manager

CERTIFIED MAIL 7002 2030 0005 8524 4846

AGREED AS TO TERMS AND CONDITIONS:

PETITIONERS:

FCS Fischer, Ltd.


By _____
Rick Sheldon
Print Name

Managing Partner
Title _____
7-29-08
Date

Bulverde Marketplace, L.P.


By _____
Mark D. Gronados
Print Name

Partner
Title _____
7/30/08
Date



CITY OF SAN ANTONIO
Request for Council Action

Agenda Item # 4
Council Meeting Date: 9/18/2008
RFCA Tracking No: R-3799

DEPARTMENT: Capital Improvements
Management Services

DEPARTMENT HEAD: Mike Frisbie

COUNCIL DISTRICT(S) IMPACTED:
Council District 10

SUBJECT:
Request to close, vacate and abandon a portion of Old Bulverde Road Public ROW

SUMMARY:
Public hearing and consideration of an ordinance authorizing closure, vacation, and abandonment of Old Bulverde Road located between Loop 1604 NE and Jones Maltsberger Road adjacent to NCB 17725, District 10, as requested by FCS Fischer, Ltd. & Bulverde Marketplace, L.P. for a fee of \$63,186.00.

BACKGROUND INFORMATION:
Petitioners are requesting the closure, vacation and abandonment of a portion of Old Bulverde Road Public Right of Way located between Loop 1604 NE and Jones Maltsberger Road adjacent to NCB 17725 as shown on attached Exhibit "A." The subject area is undeveloped and all abutting property owners are agreeable to the closure. If approved, petitioners would like to develop these properties.

ISSUE:
This ordinance will authorize closure, vacation and abandonment of Old Bulverde Road Public Right of Way. This action is consistent with City Code and Ordinances relative to closing Public Rights of Way.

ALTERNATIVES:

The closure, vacation and abandonment of this right of way will allow the petitioners to develop their respective properties.

By closing, vacating and abandoning the subject right of way, the City will realize a financial gain of \$63,186.00, and the property involved will be added onto the tax rolls.

Disapproval of this request will prohibit continued growth and development of the area.

FISCAL IMPACT:
The City will collect \$63,186.00 for this closure and will be deposited into the Facility Services Improvement and Contingency Fund.

RECOMMENDATION:

The City of San Antonio's Planning Commission approved this request at its regular meeting of September 10, 2008.

Staff recommends approval authorizing the closure, vacation, and abandonment of Old Bulverde Road Public Right of Way located in Council District 10.

The petitioners, FCS Fischer, Ltd. & Bulverde Marketplace, L.P., have coordinated and fulfilled all requirements throughout this process and have agreed to further comply with all conditions imposed by City Departments and associated entities.

The Executed Discretionary Contracts Disclosure Statements are attached.

ATTACHMENT(S):

File Description	File Name
Exhibit A	_Exhibit.doc
Agreement Letter	_Agr Ltr.pdf
Discretionary.Fischer	_Disclosure.Fischer.pdf
Discretionary.Bulverde	_Disclosure.Market.pdf
Site Map	_Site Map.pdf
Voting Results	
Ordinance/Supplemental Documents	200809180795.pdf

DEPARTMENT HEAD AUTHORIZATIONS:

George Rodriguez	Assistant Director	Capital Improvements Management Services
Debbie Sittre	Assistant Director	Capital Improvements Management Services

APPROVED FOR COUNCIL CONSIDERATION:

Penny Postoak Ferguson Assistant City Manager