

AN ORDINANCE 2009-01-29-0055

CLOSING, VACATING, AND ABANDONING AN ALLEY NEAR THE INTERSECTION OF PROBANDT AND CEVALLOS STREETS, EXTENDING ROUGHLY NORTHWARD FROM CEVALLOS TOWARD PEDEN BETWEEN NCBS 2567 AND 2568, LOCATED IN COUNCIL DISTRICT 5, AS REQUESTED BY CEVALLOS LOFTS, LLC.

* * * * *

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 the right of way. The affected right of way is identified below.

That portion of an alley near the intersection of Probandt and Cevallos Streets, extending roughly northward from Cevallos toward Peden between New City Blocks 2567 and 2658

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**. 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, gas 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 should replat, but no such replat impairs the rights retained by City in the affected right of way.

SECTION 6. The otherwise applicable fee for this closure of \$26,925 is waived because of the applicant's compliance with the City's incentive score card.

SECTION 7. This ordinance becomes effective 10 days after passage.

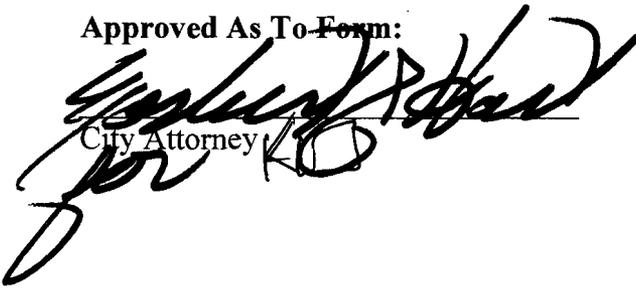
PASSED AND APPROVED this 29th day of January 2009.


M A Y O R

Attest:


City Clerk

Approved As To Form:


City Attorney

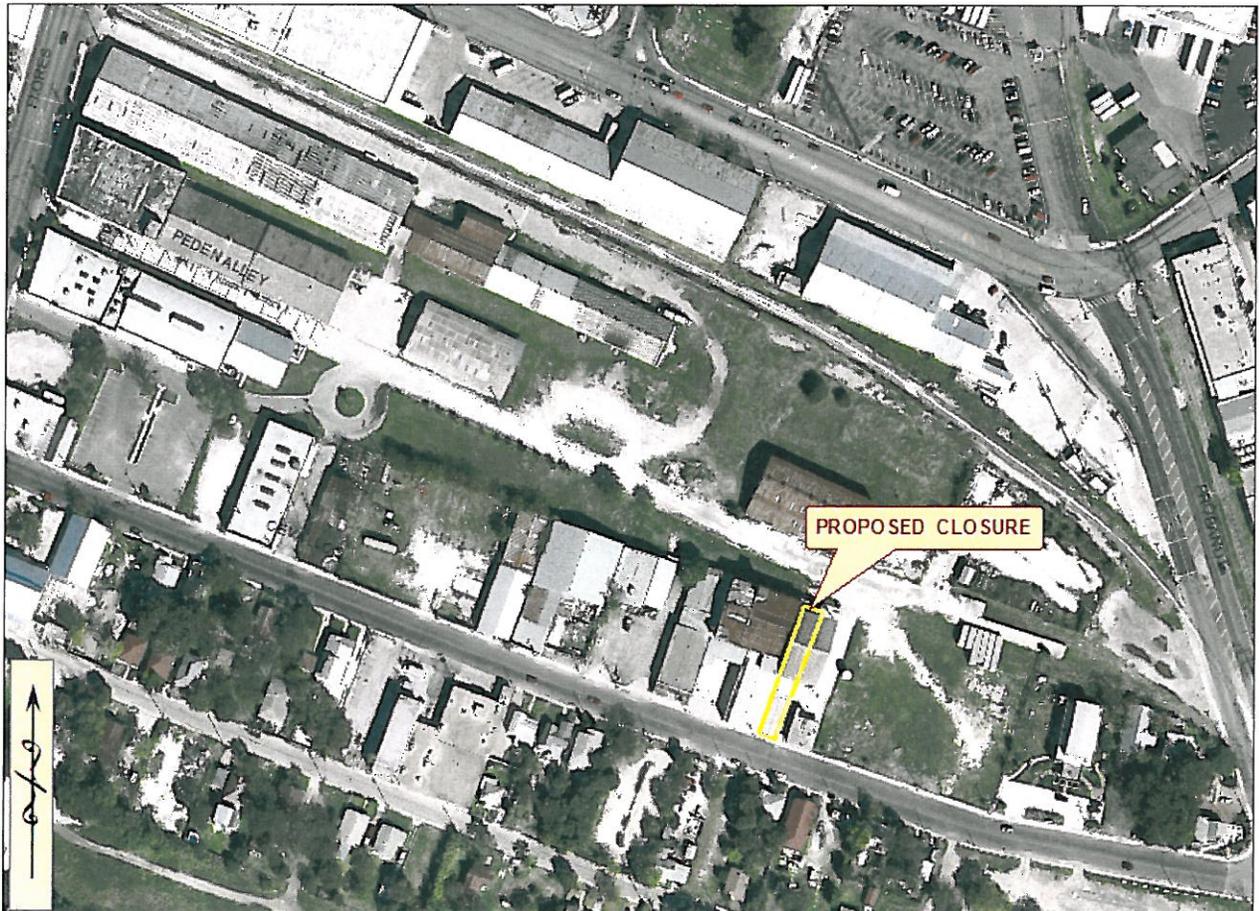


Exhibit "A"

Exhibit B



0.103 ACRE TRACT
(4,474 Sq. Ft.)
50720-02ex1.DWG

FN NO. 50720-02-1
MAY 28, 2008
JOB NO. 50720-02

FIELDNOTE DESCRIPTION ALLEY

OF A 0.103 ACRE TRACT SITUATED IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, BEING DEDICATED AS A 25' WIDE ALLEY AS SHOWN ON THE SUBDIVISION PLAT CALLED THAD SMITH, J. CASSIANO & H. CUNNINGHAM SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 60, PAGE 603 OF THE DEED RECORDS OF COUNTY, TEXAS; SAID 0.103 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, AT A SET $\frac{1}{4}$ INCH IRON ROD LOCATED IN THE NORTHERLY RIGHT-OF-WAY LINE OF E. CEVALLOS STREET (55.6' R.O.W.), BEING THE SOUTHWESTERLY CORNER OF LOT 1, BLOCK 4, NCB 2568 OF SAID THAD SMITH, J. CASSIANO & H. CUNNINGHAM SUBDIVISION AND THE SOUTHEASTERLY CORNER OF SAID 25' WIDE ALLEY, BEING A POINT IN THE IRREGULAR SOUTHERLY LINE OF THAT CERTAIN 11.58 ACRE TRACT CONVEYED TO CEVALLOS LOFTS, LLC C/O NRP INVESTMENTS CORPORATION BY DEED OF RECORD IN VOLUME 12875, PAGE 859 OF THE REAL PROPERTY RECORDS OF BEXAR COUNTY, TEXAS;

THENCE, N 71° 02' 09" W, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF E. CEVALLOS STREET, BEING THE SOUTHERLY LINE OF SAID 25' WIDE ALLEY, A DISTANCE OF 25.00 FEET TO A SET $\frac{1}{4}$ INCH IRON ROD, MARKING THE SOUTHEASTERLY CORNER OF LOT 13, BLOCK 3, NCB 2567 OF SAID THAD SMITH, J. CASSIANO & H. CUNNINGHAM SUBDIVISION, BEING A POINT IN THE IRREGULAR SOUTHERLY LINE OF SAID 11.58 ACRE TRACT;

THENCE, N 18° 57' 55" E, LEAVING THE NORTHERLY RIGHT-OF-WAY LINE OF E. CEVALLOS STREET, ALONG THE EASTERLY LINE OF SAID LOT 13 AND LOT 26, BLOCK 3, NCB 2567 OF SAID THAD SMITH, J. CASSIANO & H. CUNNINGHAM SUBDIVISION, AND ACROSS A VARIABLE WIDTH STRIP AS SHOWN ON SAID THAD SMITH, J. CASSIANO & H. CUNNINGHAM SUBDIVISION, BEING A PORTION OF THE IRREGULAR SOUTHERLY LINE OF SAID 11.58 ACRE TRACT, A DISTANCE OF 178.72 FEET TO A SET $\frac{1}{4}$ INCH IRON ROD LOCATED IN THE NORTHERLY LINE OF SAID VARIABLE WIDTH STRIP AS SHOWN ON SAID SUBDIVISION PLAT;

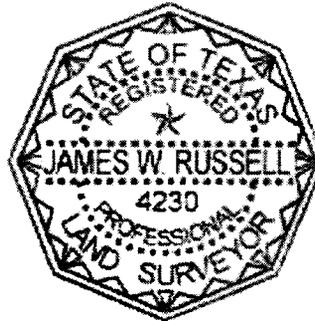
THENCE, S 72° 03' 09" E, ALONG A PORTION OF THE COMMON BOUNDARY LINE OF SAID VARIABLE WIDTH STRIP AS SHOWN ON SAID SUBDIVISION PLAT AND THE IRREGULAR SOUTHERLY LINE OF SAID 11.58 ACRE TRACT, A DISTANCE OF 25.00 FEET TO A SET $\frac{1}{4}$ INCH IRON ROD MARKING THE NORTHWESTERLY CORNER OF LOT 15, BLOCK 4, NCB 2568 OF SAID THAD SMITH, J. CASSIANO & H. CUNNINGHAM SUBDIVISION;

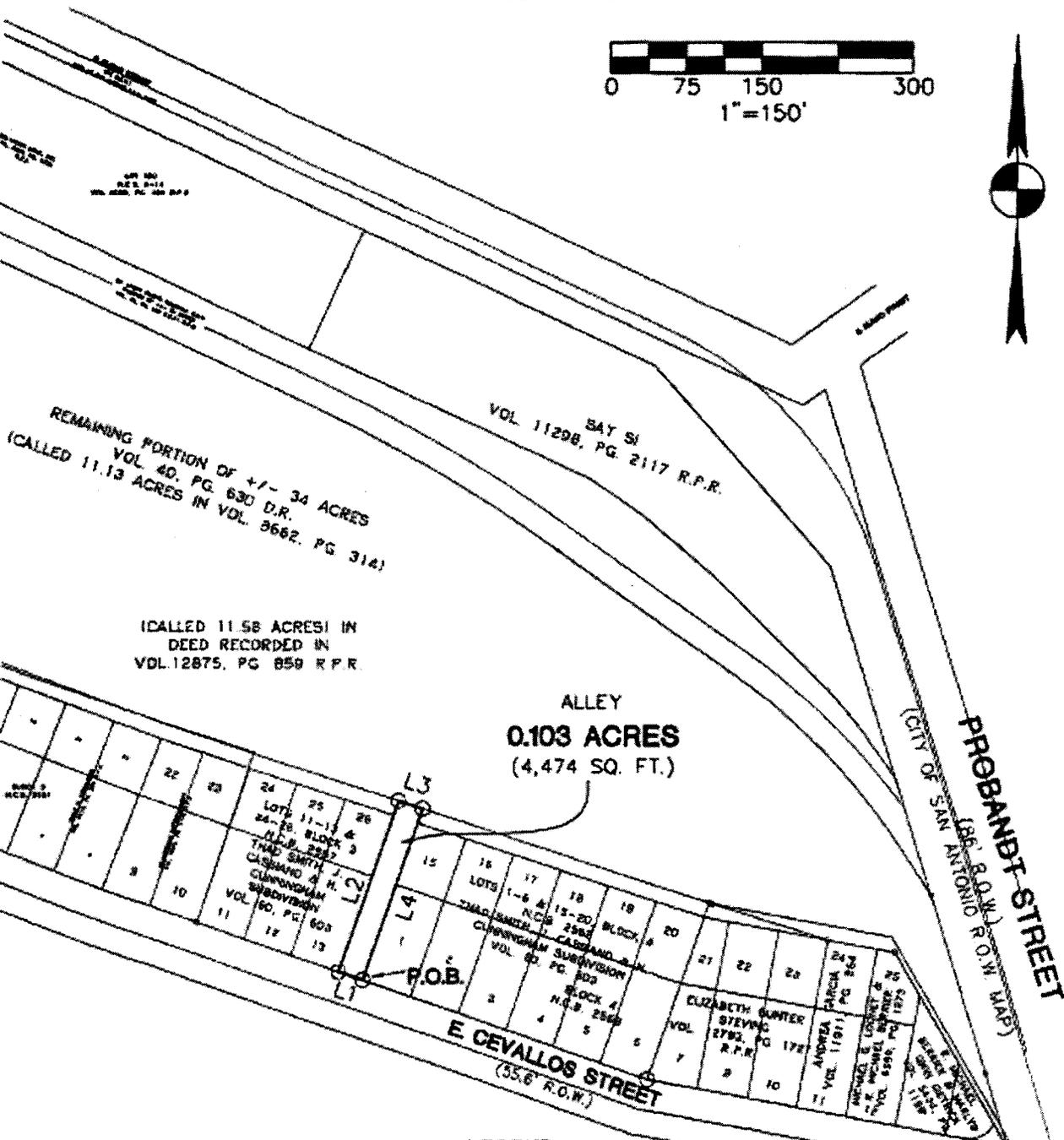
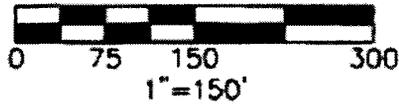
THENCE, S 16° 57' 55" W, ACROSS SAID VARIABLE WIDTH STRIP AS SHOWN ON SAID SUBDIVISION PLAT, AND ALONG THE WESTERLY LINE OF LOT 15, BLOCK 4, NCB 2568 AND SAID LOT 1, BLOCK 4, NCB 2568, BOTH OF SAID THAD SMITH, J. CASSIANO & H. CUNNINGHAM SUBDIVISION, BEING A PORTION OF THE IRREGULAR SOUTHERLY LINE OF SAID 11.56 ACRE TRACT, A DISTANCE OF 179.17 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 0.103 ACRES (4,474 SQ. FT.) OF LAND, MORE OR LESS.

I, JAMES W. RUSSELL, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED FROM A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION.

James W. Russell 5/22/08

JAMES W. RUSSELL
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NO. 4230
BURY & PARTNERS, INC.
ENGINEERS AND SURVEYORS
922 ISOM ROAD, SUITE #100
SAN ANTONIO, TEXAS 78216





REMAINING PORTION OF +/- 34 ACRES
VOL. 40, PG. 630 D.R.
(CALLED 11.13 ACRES IN VOL. 9662, PG. 314)

ICALLED 11.58 ACRES IN
DEED RECORDED IN
VOL. 12875, PG. 859 R.P.R.

ALLEY
0.103 ACRES
(4,474 SQ. FT.)

LINE TABLE

| LINE | BEARING | LENGTH |
|------|-------------|---------|
| L1 | N71°02'09"W | 25.00' |
| L2 | N18°57'55"E | 178.72' |
| L3 | S72°03'09"E | 25.00' |
| L4 | S18°57'55"W | 179.17' |

LEGEND

- 1/2" IRON ROD FOUND (UNLESS NOTED)
- 1/2" IRON ROD SET
- P.O.B. POINT OF BEGINNING

Bury+Partners
ENGINEERING SOLUTIONS
922 Incom Road, Suite 100
San Antonio, TX 78238
Tel: (210)825-9050 Fax: (210)825-0129
Bury+Partners-PA, Inc. ©Copyright 2008

SKETCH TO ACCOMPANY DESCRIPTION OF
OF A 0.103 ACRE TRACT SITUATED IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, BEING DEDICATED AS A 25' WIDE ALLEY AS SHOWN ON THE SUBDIVISION PLAT CALLED THAD SMITH, J. CASSIANO & H. CUNNINGHAM SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 803, PAGE 603 OF THE DEED RECORDS OF COUNTY, TEXAS.

N.R.P. INVESTMENTS CORPORATION



CITY OF SAN ANTONIO

CAPITAL IMPROVEMENTS MANAGEMENT SERVICES

P. O. BOX 839966
SAN ANTONIO TEXAS 78283-3966

October 16, 2008

Cevallos Lofts, LLC
c/o Shelton & Valadez
Attn: Bobby Perez
600 Navarro, Suite 500
San Antonio, TX 78205

Re: S. P. No. 1368—Request to close, vacate and abandon an improved 25 foot-wide alley
Public Right of Way adjacent to NCB 2567

Dear Mr. Perez:

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:

SAN ANTONIO WATER SYSTEMS

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.

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 are true and correct.
- The petitioner acknowledges that these properties 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.
- The fee established for this closure is \$26,925.00, which is waived in accordance with the 100% reduction provided under the City's Incentive Scorecard Program.

Also, a fully completed and signed Discretionary Contracts Disclosure form is required and is enclosed for your convenience.

This Letter of Agreement is being offered by City of San Antonio only to the petitioner 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 client concurs with the above mentioned conditions, please countersign this letter in the spaces provided below and return to the undersigned. *Upon receipt of this executed Letter of Agreement and the Discretionary Contracts Disclosure form we will continue processing your request.*

Sincerely,



George Rodriguez
Assistant Director
Real Estate Section

/ma

CERTIFIED MAIL 7002 2030 0005 8524 4914

AGREED AS TO TERMS AND CONDITIONS:

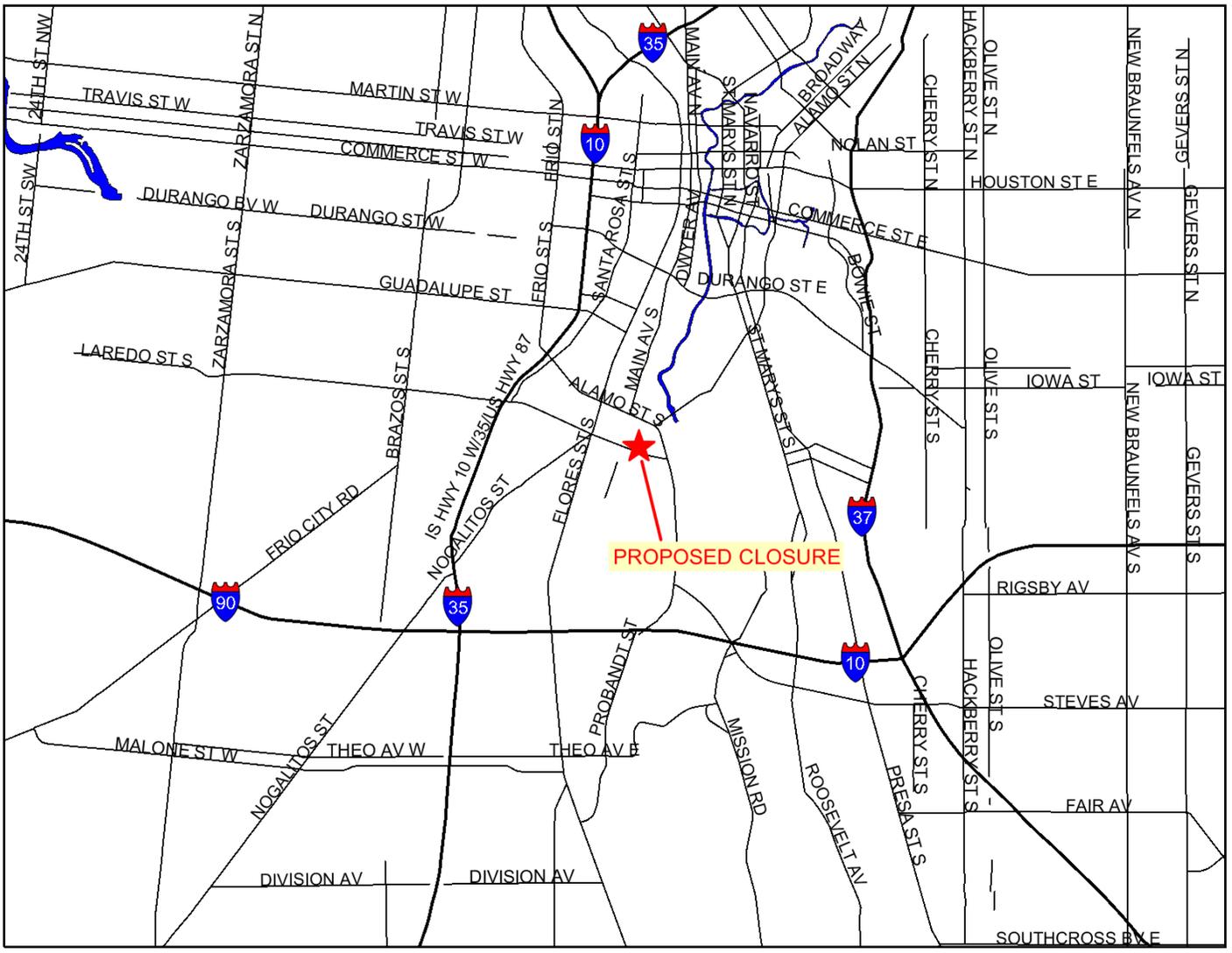
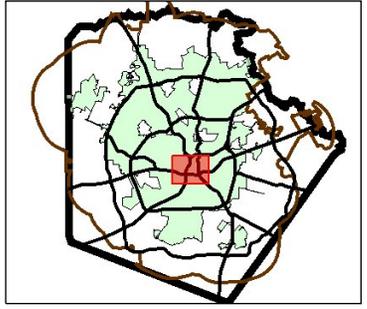
PETITIONER:

Cevallos Lofis, LLC

By T. Richard Bailey, Jr
Print Name

Managing Member
Title
10/23/08
Date

S. P. No. 1368 - Site Map



- ### Legend
- Major Highways
 - Minor Highways
 - Lakes
 - Military Bases
 - San Antonio City Limits
 - Incorporated Towns
 - Bexar County



Map center: 2127825, 13695607



Scale: 1:48,000

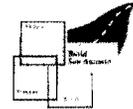
This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

**City of San Antonio
Capital Improvements Management
Services Department**

**January 29, 2009
Agenda Item 5:**

Request to close, vacate and abandon
a 25 foot-wide alley

Petitioner: Cevallos Lofts, LLC



Council Item

- Cevallos Lofts, LLC is requesting the closure, vacation and abandonment of 0.103 acres (4,474 sq ft) of an improved alley Public Right of Way, adjacent to NCB 2567, located in Council District 5.
- This right of way is located near the intersection of Cevallos and Probandt Streets.

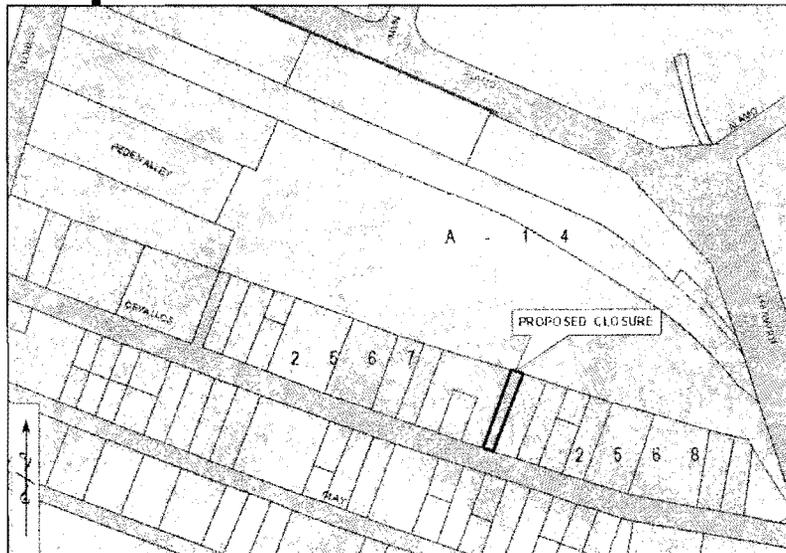
Background

Purpose:

- The petitioner is the sole abutting property owner.
- If approved, petitioner would like to incorporate this right of way with their adjacent properties for the construction of commercial and multi-family residential development.

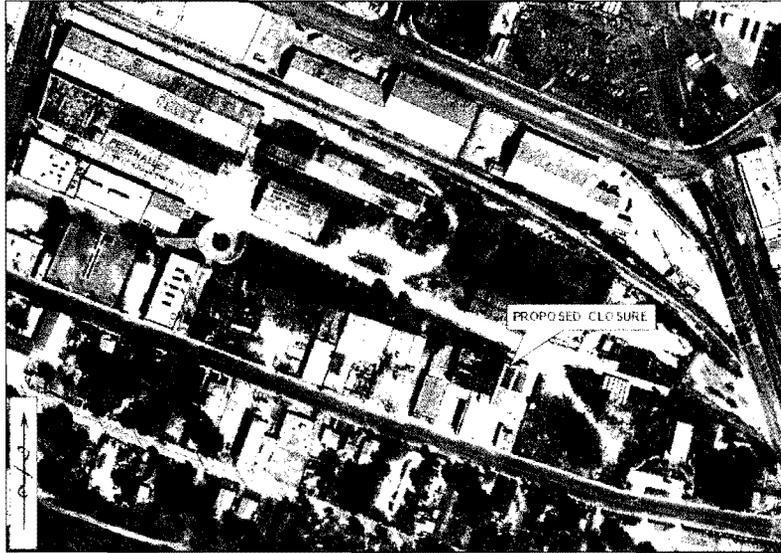
3

Exhibit "A" Map



4

Exhibit "B" (cont.) Aerial



5

Background (cont)

Coordination:

- Project has been canvassed to all interested city departments and utility agencies.
- Project received conditional approval
- Petitioner has agreed to comply with all conditions.

6

Background (cont)

Notification:

- 34 notices were mailed to property owners within a 500 foot radius of the proposed closure.
- 3 were returned in favor.
- None were returned in opposition.

7

Fiscal Impact

Financial Impact:

- The fee established for this Public Right of Way is \$26,925; however, it is waived in accordance with the 100% reduction provided under the Incentive Scorecard Program.

8

Issues & Recommendation

Policy Analysis:

- This action is consistent with City Code and Ordinances relative to closing Public Rights of Way.

Supplemental Comments:

- The Planning Commission recommended approval of this request at its meeting of December 10, 2008.

Recommendation:

- Staff recommends approval of this request.