

AN ORDINANCE 2014 - 11 - 13 - 0911

**CLOSING, VACATING, AND ABANDONING AN APPROXIMATELY
0.386-ACRE IMPROVED PORTION OF COLIMA STREET IN COUNCIL
DISTRICT 5 AS REQUESTED BY PEANUT FACTORY LOFTS LTD
WITH CONDITIONS.**

* * * * *

WHEREAS, Peanut Factory Lofts Ltd. has requested the abandonment of this City of San Antonio Right of Way segment; and

WHEREAS, the Right-of-Way Segment, as defined below, is within the Inner City Revitalization Infill Policy Area; and

WHEREAS, closure of the Right-of-Way Segment will maximize the use of the underlying property and provide economic and employment benefit to the local community; and

WHEREAS, the Right-of-Way Segments are no longer needed for public purposes; and

WHEREAS, it is in the interest of the public that the City of San Antonio be relieved of the obligation to maintain the Right-of-Way Segment; **NOW THEREFORE**,

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

SECTION 1. Subject to the reservation below, as an exercise of its discretion, the City Council closes, vacates, and abandons the rights-of-way ("Right-of-Way Segment") identified in Section 2 of this Ordinance. A condition of the closure, vacation, and abandonment is City's receipt and approval within twelve months of passage of this ordinance of \$59,438.00 worth of infrastructure improvements to include landscaping, lighting and sidewalk repairs on Guadalupe and Medina Streets in accordance with the Letter of Agreement attached at **Attachment III**, and incorporated into this ordinance for all purposes as if fully set forth. The City Manager or her designee, severally, are authorized and directed to review and approve City's receipt of said infrastructure improvements upon completion, and file any necessary documents in the county records to indicate satisfactory completion. Should the infrastructure improvements not be satisfactorily completed within twelve months of passage of this ordinance, this ordinance shall be void, and the City Manager or her designee, severally, are authorized to file necessary documents in the county records indicating the voidance of this ordinance and reestablishment of the Right-of-Way Segment.

SECTION 2. The detailed description of the Right-of-Way Segment is set forth on **Attachment I**. Maps and pictures of the Right-of-Way Segment are set forth on **Attachment II**. Both Attachments I and II are incorporated into this ordinance for all purposes as if they were fully set forth. Attachment I controls over any discrepancy between it and Attachment II.

SECTION 3. The properties abutting the Right-of-Way Segment are:

Address:

Description: Owner Listed by Bexar Appraisal District:

1025 S Frio, San Antonio, TX 78207	NCB 274 BLK 102 LOT A1 AT 1000 Medina S	PEANUT FACTORY LOFTS LTD
301 Colima Street, San Antonio, TX 78207	NCB 273 BLK 100 LOT A6	PEANUT FACTORY LOFTS LTD
325 Colima Street, San Antonio, TX 78207	NCB 273 BLK 100 LOT A7, A8 and A9	PEANUT FACTORY LOFTS LTD

The listing above is made solely to facilitate indexing this Ordinance in the real property records. If the listing is inaccurate or not comprehensive, it does not affect the validity of the closure.

SECTION 4. All presently existing water and wastewater lines and facilities, electric transmission and distribution lines and facilities, gas lines and facilities, communication lines and facilities, or any other public utility lines and facilities, if any, may remain in place despite this Ordinance and may continue to be used, repaired, enlarged, and maintained in the ordinary course of business. Any person wanting removal of an existing utility line or facility must negotiate separately with the pertinent utility. Any person building on the Right-of-Way Segment without first reaching an agreement with a utility having lines or facilities in the segment does so at his own risk. After the date of this Ordinance, no utility may add additional utility lines or facilities in the Right-of-Way Segment based on a claim that the Right-of-Way Segment is public right of way. All existing drainage rights in the Right-of-Way Segments are retained by the City. This closure does not give up any right arising other than from the plat or other instrument creating the public street right of way.

SECTION 5. 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 6. The Right-of-Way Segments exist by easement. The underlying fee ownership of the Right-of-Way Segments by the adjacent lot owners is now unburdened by the rights closed, vacated, and abandoned.

SECTION 7. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 256000000001 and General Ledger 4903101.

SECTION 8. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 9. The disposition of surplus property must be coordinated through the city's Finance Department to assure the removal of these assets out of the City's financial records and to record the proper accounting transactions.

SECTION 10. This ordinance becomes effective 10 days after passage, unless it receives the eight votes requisite to immediate effectiveness under San Antonio Municipal Code §1-15, in which case it becomes effective immediately.

PASSED AND APPROVED this 13th day of November, 2014.

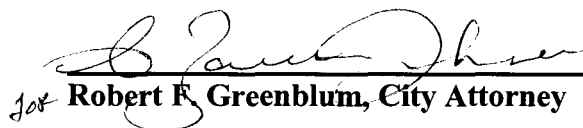


M A Y O R
Ivy R. Taylor

ATTEST:


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:


for Robert F. Greenblum, City Attorney

Agenda Item:	22 (in consent vote: 5, 6, 8, 9, 10, 11, 13, 15A, 15B, 16, 17, 18, 19A, 19B, 22, 23, 24, 25, 26, 27, 28, 30, 31, 33, 37A, 37B, 37C, 37D, 37E)						
Date:	11/13/2014						
Time:	09:45:37 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing the closure, vacation, and abandonment of a 0.386 acre improved portion of Colima Street, in Council District 5, as requested by Peanut Factory Lofts Ltd. with conditions. [Peter Zanoni, Deputy City Manager; Mike Etienne, Director, EastPoint & Real Estate Services Office]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Diego Bernal	District 1		x				x
Keith Toney	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4	x					
Shirley Gonzales	District 5	x					
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x			x	
Michael Gallagher	District 10		x				

Attachment I

MDS

LAND SURVEYING COMPANY, INC.
BOUNDARY • TOPOGRAPHIC • CONSTRUCTION
SPENCER ROAD
BOERNE, TEXAS 78008
PHONE: 830-816-1818
EMAIL: MDSINC@GVTX.COM

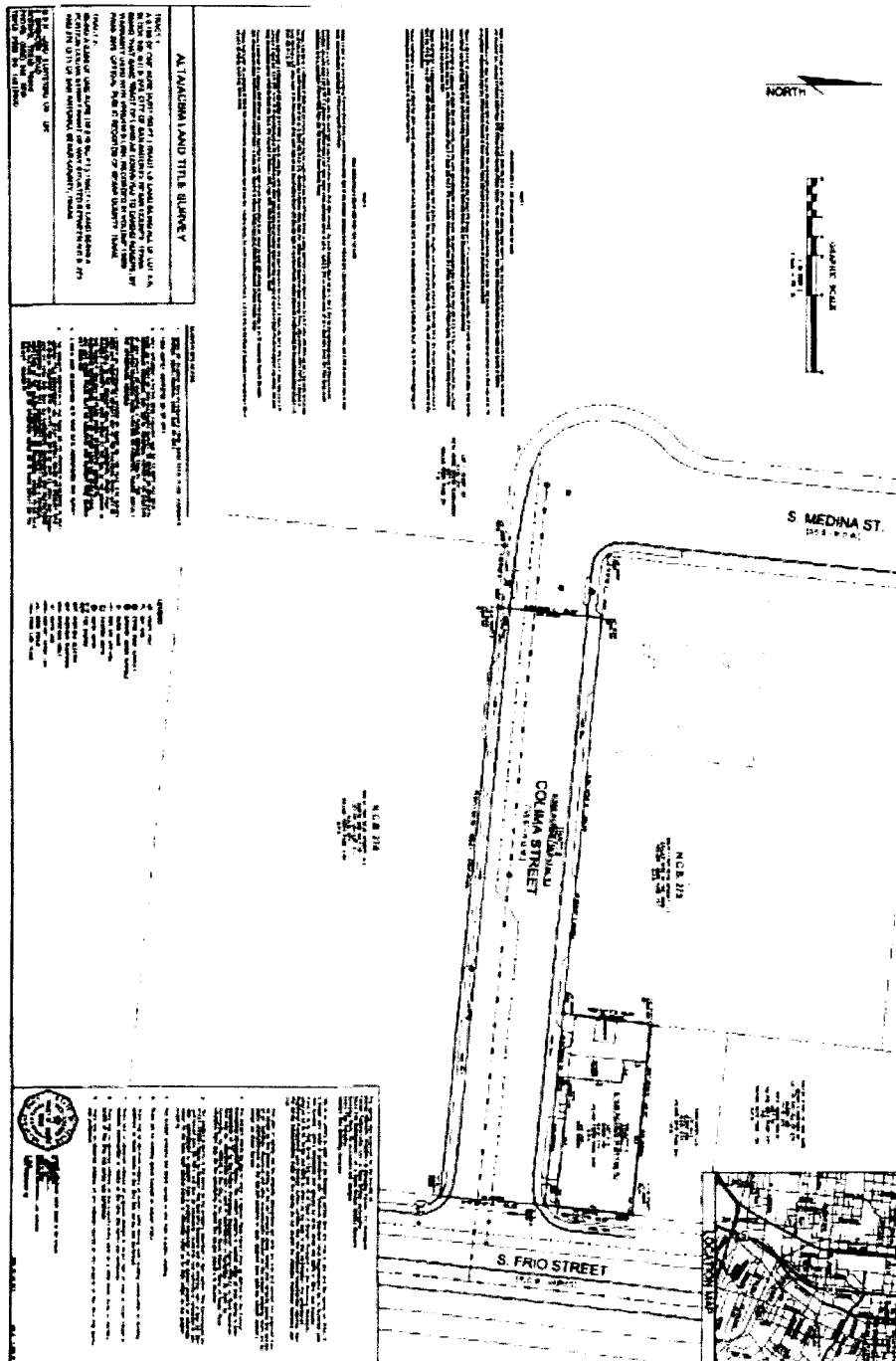
TRACT 2

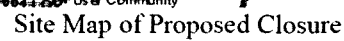
FIELD NOTES FOR A 0.386 OF ONE ACRE TRACT OF LAND

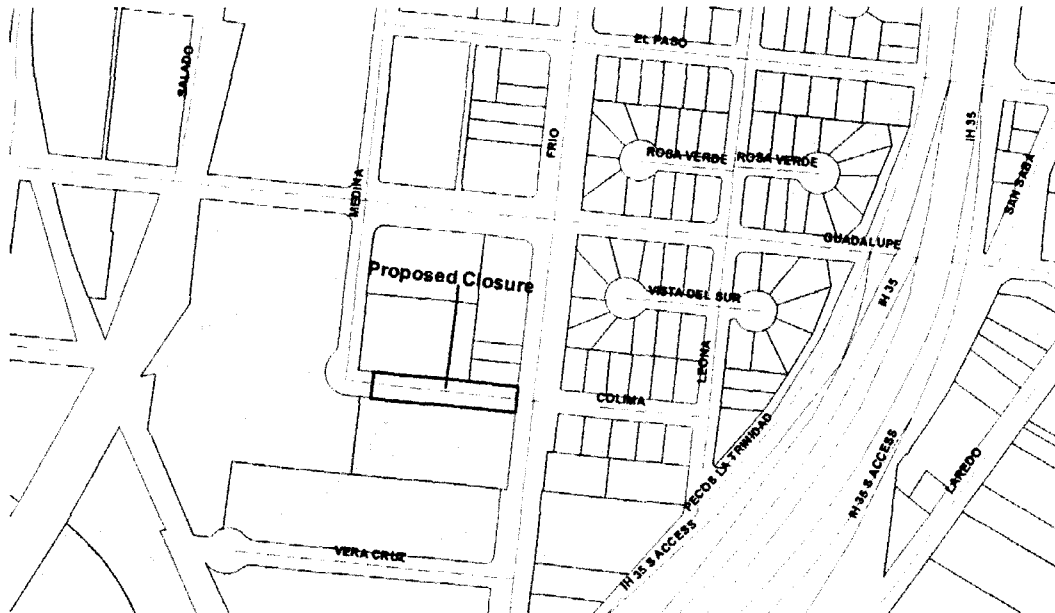
BEING a 0.386 of one acre (16,810 sq. ft.) tract of land being a portion Colima street right of way situated between N.C.B. 273 and 274, City of San Antonio, Bexar County, Texas, said 0.386 of one acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" rebar with MDS cap set in the south right-of-way line of Colima Street (55.6'-right-of-way), the north boundary line of Lot A-1, N.C.B. 274, for the southwest corner of the tract herein described, said point bears S 84°11'03" E, a distance of 32.00 feet from a 1/2" rebar found at the northwest corner of Lot A-1, N.C.B. 274, an exterior corner of Lot 1, Block 101, N.C.B. 237, Vista Verde South Subdivision, Unit 3, recorded in Volume 9500, Page 211, Plat Records of Bexar County, Texas,

- (1) Thence, N 05°39'21" E a distance of 54.87 feet (no record), departing the south right-of-way line of Colima Street, crossing said Colima Street right-of-way, to a 1/2" rebar with MDS cap set in the north right-of-way line of Colima Street, the south boundary line of Lot A-8, Block 100, N.C.B. 273, recorded in Volume 15846, Page 757, Official Public Records of Bexar County, Texas, said point bears S 84°12'25" E, a distance of 32.00 feet from a 1/2" rebar found at the intersection of the north right-of-way line of Colima Street with the east right-of-way line of South Medina Street (55.6'-right-of-way) for the southwest corner of Lot A 8, Block 100, N.C.B. 273;
- (2) Thence, S 84°12'25" E a distance of 305.66 feet (S 83°58'09" E -record), along the north right-of-way line of Colima Street, the south boundary line of Lot A-8, Block 100, N.C.B. 273, Lot A-7, Block 100, N.C.B. 273 and Lot A-6, Block 100, N.C.B. 273, to an "X" in concrete found at the intersection of the north right-of-way line of Colima Street and the west right-of-way line of South Frio Street (right-of-way varies), said point being the southeast corner of Lot A6, Block 100, N.C.B. 273, recorded in Volume 13669, Page 2370, Official Public Records of Bexar County, Texas;
- (3) Thence, S 04°52'10" W a distance of 55.00 feet (no record), departing the north right-of-way line of Colima Street, along the west right-of-way of South Frio Street, to an "X" in concrete found in the south right-of-way line of Colima Street at the northeast corner of Lot A-1, N.C.B. 274, recorded in Volume 15916, Page 2116, Official Public Records of Bexar County, Texas;
- (4) Thence, N 84°11'03" W, a distance of 306.41 feet (338.4-record), along the south right-of-way line of Colima Street, the north boundary line of Lot A-1, N.C.B. 274, to the Place of Beginning and containing 0.386 of one acre (16,810 sq. ft.) of land, more or less.







Map of Proposed Closure



Aerial Map of Proposed Closure

Attachment III



CITY OF SAN ANTONIO

OFFICE OF EASTPOINT & REAL ESTATE SERVICES
P. O. BOX 839966
SAN ANTONIO TEXAS 78283-3966

October 20, 2014

South Frio Development, LLC
C/o Big Red Dog Engineering Consulting
Attn: Russell Yeager, P.E.
5710 W. Hausman, Suite 115
San Antonio, Texas 78249

S.P. No. 1816 – Request to close, vacate and abandon an improved portion of Colima Street located between S. Frio and S. Medina Streets Public Right of Way adjacent to New City Blocks 273 and 274

Dear Mr. Yeager:

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 client's request subject to the following conditions:

DEVELOPMENT SERVICES DEPARTMENT: Provided proper permits are obtained. The site must be platted as applicable in the Unified Development Code, per section 35-430. Please note that there are platting exceptions that may apply. Please see the enclosed Informational Bulletin: <http://www.sanantonio.gov/dsddocumentcentral/upload/IB531.pdf>. The South Frio Development shall comply with applicable tree preservation/canopy, buffer and landscape ordinance requirements (35-523, 35-510, 35-511).

TRANSPORTATION AND CAPITAL IMPROVEMENTS DEPARTMENT: **Storm Water:** The existing drainage system with Colima Street will be required to be encompassed in a drainage easement. All required studies, permits and fees must be submitted to and approved by all applicable local (city and/or county), state and federal governing bodies. Furthermore, all local (city and/or county), state and federal regulations must be complied. **Traffic:** In accordance with the Unified Development Code and International Fire Code, petitioner must provide a cul-de-sac or approved fire apparatus turnaround at the terminus of Medina Street and Colima Street since the resulting dead-end street will be longer than 150 feet. A dead-end sign (W14-1) and dead end sign (W14-1P (Right)) will need to be placed at the intersection of Guadalupe frontage Road and S. Medina Street and a fence will need to be placed at the end of closure along the right-of-way/property line parallel to S. Frio Street and Medina Street. Petitioner will also need to provide end of road markers sign (OM-4P) at S. Medina Street and Colima Street. Petitioner must assure that the cul-de-sac is well lighted for motorists at night. **Right of Way:** Contact and confirm with all utilities that there are no conflicts. **Project Management:** This proposal appears to significantly change the current access to several other properties. The plan must be approved by TCI Traffic. Also, need to get utility company approvals. **Environmental:** Coordinate with right of way.

SAN ANTONIO FIRE DEPARTMENT: A thoroughfare must be maintained and fire services are able to gain access to adjacent structures.

CPS ENERGY: Petitioner will need to remove the overhead single phase primary line feeding the temporary feeding the construction trailer on Colima Street. The existing 4-inch gas distribution main within the Colima Street public right of way providing gas service to multiple properties must be centered within a fourteen (14) foot easement where the public right of way will be vacated/abandoned or, if more practical, the easement boundaries can mirror the boundaries of the existing public right of way. In addition, the gas services to the aforementioned properties, and any additional affected services that might be discovered through further research, will also require easement(s) if the property located at those addresses is owned by someone other than the Petitioner. Finally, no structures of any kind may be constructed within these easements. CPS Energy will need to retain as an electric and gas easement for existing facilities.

SAN ANTONIO WATER SYSTEM (SAWS): SAWS has water and sewer facilities within the public right of way of Colima Street where Petitioner is requesting the City of San Antonio to close, vacate and abandon (see attached Geocortex Map); therefore, we request the City of San Antonio to reserve all rights necessary for SAWS to maintain, operate, repair, patrol, realign, construct, and reconstruct its facilities, now and in the future. Petitioner shall, at its sole expense, insure that SAWS has access to its facilities at all times for the purpose of inspecting, maintaining, constructing, reconstructing, replacing and removing of said facilities. Should SAWS incur any damage to or failure in its facilities due to Petitioner's activities, Petitioner shall, upon notice, promptly reimburse SAWS for any and all damages and for any expense incurred by SAWS in repairing and/or replacing its facilities. SAWS shall have no obligation to restore or replace any of Petitioner's property damaged or destroyed by SAWS during its operations. Petitioner must agree to allow SAWS perpetual access on, over, across and through its property for inspection, operations, maintenance, construction, reconstruction and realignment of its facilities located on the Petitioner's property, on the adjoining property or within the public right of way. Petitioner expressly covenants and agrees for itself, legal representatives, successors and assigns, that no building or structure will be built or placed on the above public right of way and that removal of any building or structure placed within the public right of way area shall be at Petitioner's expense. Also, make sure there is language in the agreement document stating that if there will be any demolition or new construction on the property, make sure the water and sewer service lines are protected to prevent contamination of SAWS' water distribution system and prevent any debris from entering SAWS' collection system. In order to determine exactly where the existing SAWS lines are located, please contact SAWS Mains and Services at (210) 233-2009 and ask for Locates or you can contact them by email at locates@saws.org.

Page 3
S. P. No. 1816
October 20, 2014

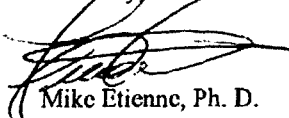
OFFICE OF EASTPOINT & REAL ESTATE SERVICES: The closure, vacation and abandonment of this Public Right of Way will be authorized by a City Ordinance in accordance with current policies relevant to street/alley closures. Petitioner asserts that all evidence of ownership of property abutting the Public 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 must take the property subject to all easement rights for 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. and allow access to any such utilities or may seek the relocation of a specific utility with express permission and coordination of the respective owner of the utility at the sole expense of the petitioner.

The established fees for this street closure is \$67,044.00, which staff is recommending be waived. Staff recommends that the fee be waived in exchange for Petitioner installing a total of \$59,438.00 worth of infrastructure improvements to include landscaping, lighting and sidewalk repairs on Guadalupe and Medina Streets. The fees being waived includes the property's assessed value of \$65,000.00 conducted by Eckmann Groll, Inc. on June 29, 2014, plus \$1,800.00 for the appraisal report, \$144.00 for the posting of two signs to notify the public of the proposed closure and \$100.00 for the recording fees.

This Letter of Agreement is being offered by City of San Antonio only to the petitioner named below 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 you concur with the above mentioned conditions, please countersign this letter in the space provided below and return it to the undersigned. Upon receipt of this executed Letter of Agreement and a Discretionary Contracts Disclosure Form (to be completed on the <http://www.sanantonio.gov/atty/ethics/forms.asp> website link then printed and signed), we will continue processing your request.

Sincerely,



Mike Etienne, Ph. D.
Officer

AGREED AS TO TERMS AND CONDITIONS:



By:

President

Title:

10/21/14

Date: