

KENNETH W. BROWN, AICP
DANIEL ORTIZ
JAMES B. GRIFFIN
PHILIP J. MOSS

BROWN & ORTIZ, P.C.
ATTORNEYS AT LAW

PAUL M. JUAREZ
OF COUNSEL

112 E. PECAN STREET
SUITE 1360
SAN ANTONIO, TEXAS 78205
TELEPHONE: 210.299.3704
FAX: 210.299.4731

November 8, 2011

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CITY OF SAN ANTONIO
CITY CLERK

City of San Antonio
Office of the City Clerk
City Hall, 2nd Floor
100 Military Plaza
San Antonio, TX 78205

VIA Hand Delivery

RE: Request for a Waiver of the Requirements of Sections 4-6(c), 4-6(d)(1) & (6), and 4-5(e)(1), and for a Variance to sell Alcoholic Beverages Within Three Hundred Feet of the Hawthorne Academy, for Property Located at 102 West Josephine Street, San Antonio, Bexar County, Texas (*see Exhibit "1"*); *Our File No. 9482.001*

To Whom it May Concern,

Please see attached Application for a Variance from the Minimum Distance Regulations Related to the Sale of Alcoholic Beverages pursuant to Section 4-6(c) of the City of San Antonio ("COSA") Code of Ordinances (the "Code") and Section 109.33(e) of the Texas Alcoholic Beverage Code (the "TABC Code") (*see Exhibit "2"*). The purpose of this application is to request a variance from the minimum distance requirements for the sale of alcoholic beverages for on-premise consumption for a restaurant with a full bar on the Subject Property. The Subject Property is located within three hundred feet (300ft) of the Hawthorne Academy, a San Antonio Independent School District school. The property owner wishes to develop a restaurant on the Subject Property, which will include the sale of alcoholic beverages for on-premise consumption. In addition to the variance, we are also respectfully requesting a waiver of Sections 4-6(c), 4-6(d)(1) & (6), and 4-5(e)(1) of the COSA Code.

Although we are seeking a waiver of certain criteria for granting a variance, the request meets the intent of the TABC Code because enforcement of the regulation in this instance is not in the best interest of the public, constitutes waste and inefficient use of land, creates an undue hardship on the applicant, does not serve its intended purpose, and is not effective or necessary. The Subject Property has long been used for industrial uses, but is in an emerging restaurant and entertainment area of COSA. The Subject Property is located on the San Antonio River, across from the Pearl Brewery development, and is in close proximity to several existing and proposed restaurants, all of which are engaged in the sale of alcoholic beverages. By granting the waivers

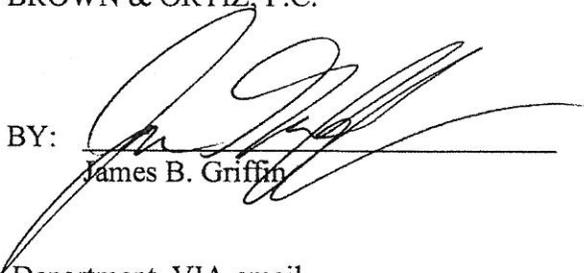
and variance requested, the Subject Property may be redeveloped from an industrial use to a new restaurant, which will complement the area and be a beneficial use of the land.

For the reasons stated above, *we respectfully request a variance from the minimum distance regulations related to the sale of alcoholic beverages found in Section 4-6 of the COSA Code, as well as a waiver from the criteria listed in Sections 4-6(c), 4-6(d)(1) & (6), and 4-5(e)(1).* Please do not hesitate to contact our office should you have any questions or need any additional information in connection with this request.

Thank you,

BROWN & ORTIZ, P.C.

BY:


James B. Griffin

CC: COSA Development Services Department, VIA email

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City of San Antonio Development Services Department

Cliff Morton Development and Business Services Center
1901 South Alamo Street
PO Box 839966
San Antonio, Texas 78283-3966

**Application for a Variance from the Minimum Distance
Regulations Related to the Sale of Alcoholic Beverages
(Section 4-6 of the Code of Ordinances)**

TO THE HONORABLE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

Property Details

Lot No.: 6 + 64.7 x 2.2 ft strip adjacent to 6 City Council District: 1
Block No.: B Property Address: 102 Josephine Street
NCB: 7007 Zoning: I-1 RIO-2
Name of School(s) located within 300 feet of the subject property: Hawthorne Academy (SAISD),
located at 115 W. Josephine
Proposed Use: Restaurant / full bar
Proposed Hours of Alcohol Sales: 10am to 2pm (certain days only)
 On-Premises Consumption Off-Premises Consumption

The applicant, Brown + Ortiz, PC, requests from the City Council of the City of San Antonio, the variance or waiver detailed below (include the exact measurements in question and an explanation of how measurements were determined; may submit survey or other supporting documents):

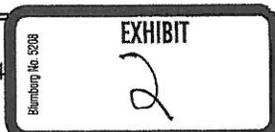
See attached correspondence

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Attach a detailed statement explaining the request and how it conforms to the criteria listed below. Requests must conform to all four criteria in order for City Council to grant the variance.

- (1) The sale of alcoholic beverages had been permitted within the last two (2) years at the location in question;
- (2) The discontinuance of the sale of alcoholic beverages was not a result of a violation of law;
- (3) A variance is necessary because the manner of measurement, as currently prescribed in V.T.C.A. § 109.33(b), has changed and as a result thereof, the premises in question has been determined to be within three hundred feet (300) feet of a public school; and
- (4) The proposed sale of alcoholic beverages would be for on premise consumption and constitute no more than thirty (30) percent of the establishment's annual gross revenues.

If the request does not meet these requirements, you may request a waiver from the criteria. In order to have a waiver considered, the above variance request explanation and the attached statement of justification must explicitly include the waivers being requested.



DECLARATIONS

Name of Property Owner: Kirsten A. Carabin

Mailing address: 4040 Broadway, Suite 525 San Antonio TX 78209

Telephone (day-time) _____ Email: _____

Name of Applicant: Brown & Ortiz, PC Status: Owner () Agent ()

Mailing Address: 112 E Pecan, Suite 1360 SA TX 78205

Telephone (day-time) 299-3704 Email: James@kbrownpc.com

Name of Representative: Brown & Ortiz, PC (% James Griffin)

Mailing address: 112 E Pecan, Suite 1360 SA TX 78205

Telephone (day-time) 299-3704 Email: James@kbrownpc.com

AUTHORIZATION BY PROPERTY OWNER(S)

I, Kirsten A. Carabin, the owner of the property to be considered,
(Property Owner's Printed Name)

hereby authorize Brown & Ortiz, P.C. to file this request for a variance
(Applicant's Printed Name)

from the requirements of Chapter 4, Section 4-6 of the City of San Antonio Code of Ordinances.

I authorize Brown & Ortiz, P.C. to serve as my representative in this variance request before the City of
(Representative's Printed Name)

San Antonio City Council.

[Signature]
Property Owner Signature

10/25/2011
Date

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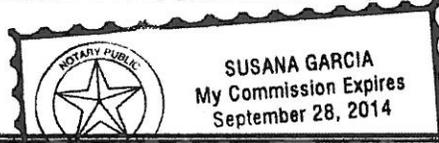
I have read, examined, and completed this application; and know the information provided to be true and correct. I hereby apply for a variance from the distance requirements in Chapter 4, Section 4-6 of the City of San Antonio Code of Ordinances. I understand that this application, including all submitted documentation, are public information and can be made available through an Open Records Request per the Texas Public Information Act (Texas Government Code, Chapter 552).

James B. Griffin
Applicant's Printed Name

11-8-11
Date

[Signature]
Applicant Signature
Agent
Title

Sworn to and subscribed before me by James Griffin on this 8th day
of November in the year 2011 to certify which witness my hand and seal of office.



[Signature]
Notary Public in and for the State of Texas

CERTIFIED ONLY

CASE NO

HEARINGS

Assigned/Planned

City of San Antonio Receipt



Payer Brown and Ortiz PC 112 E Pecan Ste 1360 SAN ANTONIO TX 78205 USA	Facility Location Brown and Ortiz PC 112 E Pecan Ste 1360 SAN ANTONIO TX 78205 USA
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Sale Date	Order Number	Customer Number	Responsible Department
11/08/2011	316204	1	City Clerk

Description	Quantity	Rate	Amount
ALCOHOL VARIANCE-102 Josephine Street	1.00	100.00	100.00

Service Date	Ordinance No.	Reference Document	Subtotal
11/08/2011			100.00
			Tax
			0.00
			Total Amount
			100.00

* An amount with a negative sign is a credit or credit balance

City of San Antonio

* Financial Services - Revenue Collections - P.O. Box 839975 - San Antonio, TX 78283-3975

Bexar CAD

Property Search Results > Property ID 386115 CARABIN KIRSTEN A for Year 2011

Property Details

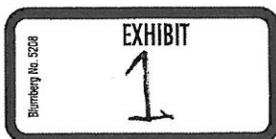
Account
 Property ID: 386115
 Geo. ID: 07007-001-0080
 Type: Real
 NCB 7007 BLK B LOT 8 & 64.7 X 2.2 FT STRIP ADJ TO 8
 Location
 Address: 102 W JOSEPHINE TX
 Neighborhood: NBHD code10490
 Mapsco: 617A2
 Jurisdictions: 06, 08, 09, 10, 11, 21, ST. CAD, SA031
 Owner
 Name: CARABIN KIRSTEN A
 Address: 5150 BROADWAY ST STE 463 SAN ANTONIO, TX 78209-5710
 Property
 Appraised Value: \$475,580
 Map Layers
 Radius Search

Website version: 1.2.2.0

Database last updated on: 11/7/2011 1:44 AM
This site only supports Internet Explorer 6+, Netscape 7+ and Firefox 1.5+.

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Bexar CAD

Property Search Results > 386115 CARABIN KIRSTEN A for Year 2011

Property

Account

Property ID: 386115 Legal Description: NCB 7007 BLK B LOT 6 & 64.7 X 2.2 FT STRIP ADJ TO 6
 Geographic ID: 07007-001-0060 Agent Code:
 Type: Real
 Property Use Code: 444
 Property Use Description: OFFICE/LOFT

Location

Address: 102 W JOSEPHINE Mapsco: 617A2
 TX
 Neighborhood: NBHD code10490 Map ID:
 Neighborhood CD: 10490

Owner

Name: CARABIN KIRSTEN A Owner ID: 2727586
 Mailing Address: 5150 BROADWAY ST STE 463 % Ownership: 100.0000000000%
 SAN ANTONIO, TX 78209-5710

Exemptions:

Values

(+) Improvement Homesite Value: + \$0
 (+) Improvement Non-Homesite Value: + \$223,120
 (+) Land Homesite Value: + \$0
 (+) Land Non-Homesite Value: + \$252,460 Ag / Timber Use Value
 (+) Agricultural Market Valuation: + \$0 \$0
 (+) Timber Market Valuation: + \$0 \$0

 (=) Market Value: = \$475,580
 (-) Ag or Timber Use Value Reduction: - \$0

 (=) Appraised Value: = \$475,580
 (-) HS Cap: - \$0

 (=) Assessed Value: = \$475,580

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Taxing Jurisdiction

Owner: CARABIN KIRSTEN A
 % Ownership: 100.0000000000%
 Total Value: \$475,580

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
06	BEXAR CO RD & FLOOD	0.030679	\$475,580	\$475,580	\$145.90
08	SA RIVER AUTH	0.017370	\$475,580	\$475,580	\$82.61
09	ALAMO COM COLLEGE	0.141623	\$475,580	\$475,580	\$673.53
10	UNIV HEALTH SYSTEM	0.276235	\$475,580	\$475,580	\$1,313.72
11	BEXAR COUNTY	0.296187	\$475,580	\$475,580	\$1,408.61
21	CITY OF SAN ANTONIO	0.565690	\$475,580	\$475,580	\$2,690.31
57	SAN ANTONIO ISD	1.307600	\$475,580	\$475,580	\$6,218.68
CAD	BEXAR APPRAISAL DISTRICT	0.000000	\$475,580	\$475,580	\$0.00
SA031	San Antonio TIF #31 Midtown	0.000000	\$475,580	\$475,580	\$0.00
Total Tax Rate:		2.635384			
Taxes w/Current Exemptions:					\$12,533.36

Taxes w/o Exemptions: \$12,533.36

Improvement / Building

Improvement #1:	Commercial	State Code:	F1	Living Area:	6358.8 sqft	Value:	\$146,267
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
220	RETAIL STORE	C	CB	1961	4239.2		
320	STORAGE WAREHOUSE	C	CB	1961	2119.6		
Improvement #2:	Commercial	State Code:	F1	Living Area:	5218.0 sqft	Value:	\$76,336
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
320	STORAGE WAREHOUSE	C	CB	1961	5218.0		
Improvement #3:	Commercial	State Code:	F1	Living Area:	sqft	Value:	\$89
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
OPP	Detached Open Porch	*		0	20.0		
Improvement #4:	Commercial	State Code:	F1	Living Area:	sqft	Value:	\$428
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
ASP	Asphalt	*		0	850.0		

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Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	CSS	Commercial Store Site	0.2898	12623.00	0.00	0.00	\$252,460	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2012	N/A	N/A	N/A	N/A	N/A	N/A
2011	\$223,120	\$252,460	0	475,580	\$0	\$475,580
2010	\$223,120	\$252,460	0	475,580	\$0	\$475,580
2009	\$100	\$475,480	0	475,580	\$0	\$475,580
2008	\$100	\$475,480	0	475,580	\$0	\$475,580
2007	\$166,760	\$142,640	0	309,400	\$0	\$309,400

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	7/28/2010 12:00:00 AM	Deed	Deed	102 WEST JOSEPH	CARABIN KIRSTEN	14584	0626	20100137398
2	4/6/1999 12:00:00 AM	Deed	Deed		102 WEST JOSEPH	7911	0570	0

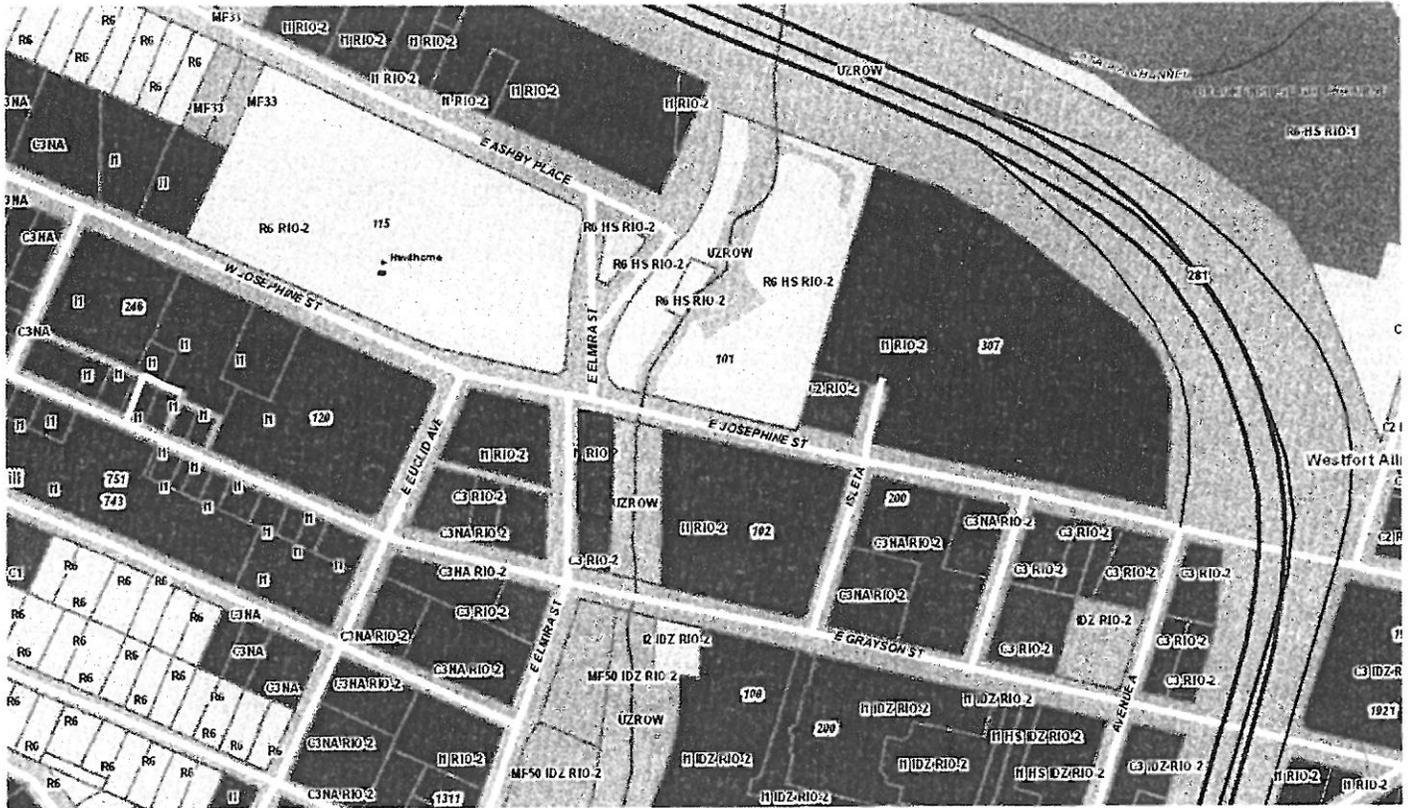
2012 data current as of Nov 7 2011 1:44AM.
 2011 and prior year data current as of Oct 18 2011 2:31PM
 For property information, contact (210) 242-2432 or (210) 224-8511 or email.
 For website information, contact (210) 242-2500.

Website version: 1.2.2.2

Database last updated on: 11/7/2011 1:44 AM

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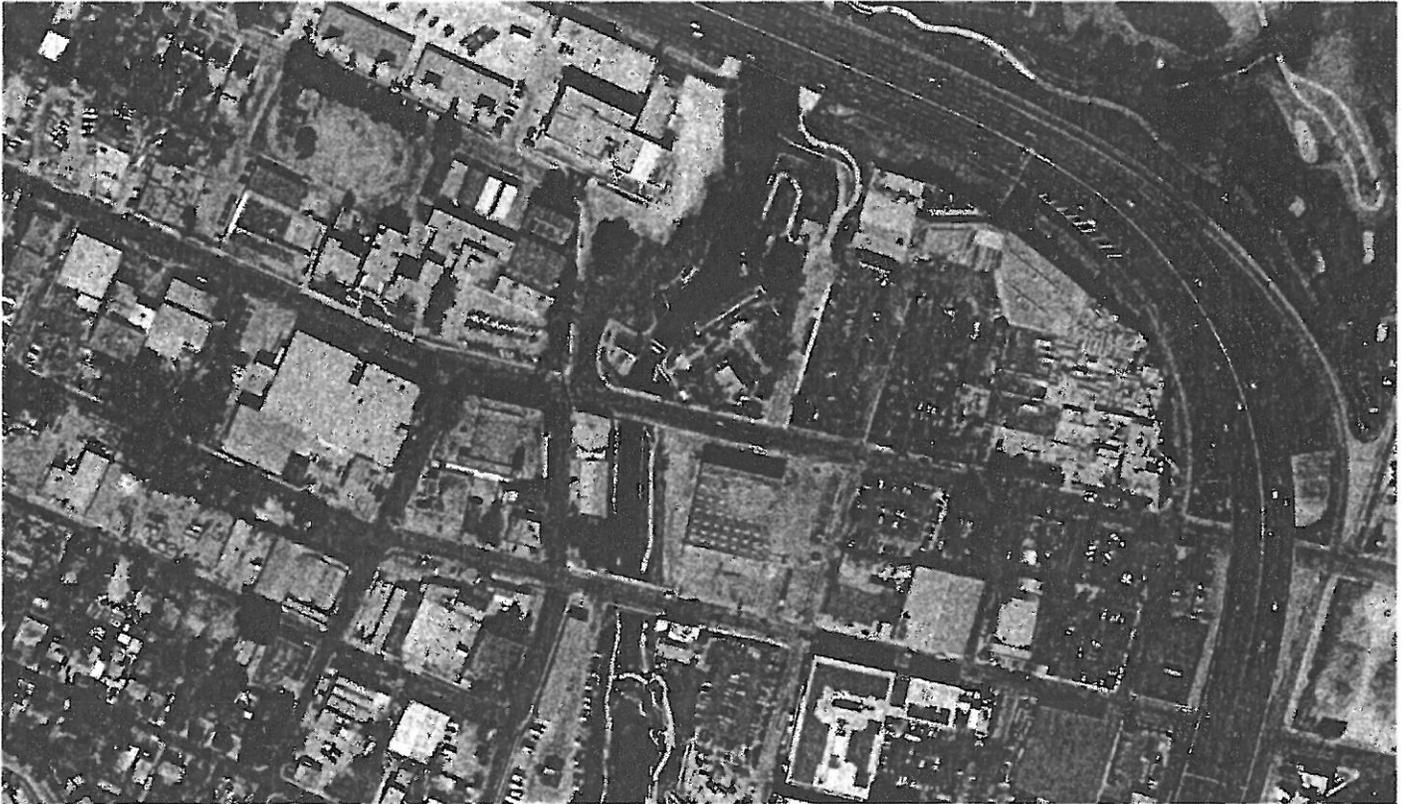


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Jacob T. Floyd

From: James Griffin [james@kbrownpc.com]
Sent: Monday, November 21, 2011 2:06 PM
To: Jacob T. Floyd
Subject: RE: Waiver & Variance 102 West Josephine

Jacob,

Yes, the waiver should be for 4-6(c), 4-6(d)(1) & (d)(6) and 4-6(e)(1), **not** 4-5(e)(1).

Also, our requested hours of alcohol sales are 10am to 2am. Thank you,
James

James B. Griffin
Brown & Ortiz, P.C.
Attorneys at Law
112 E. Pecan Street, Suite 1360
San Antonio, Texas 78205
(210) 299-3704-Telephone
(210) 299-4731-Fax
james@kbrownpc.com
<http://brownortizpc.com/>

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From: Jacob T. Floyd [mailto:Jacob.Floyd@sanantonio.gov]
Sent: Monday, November 21, 2011 1:55 PM
To: James Griffin
Subject: Waiver & Variance 102 West Josephine
Importance: High

James,

I need to clarify your intent with this application. You requested waivers to sections 4-6(c), 4-6(d)(1) & (d)(6), and 4-5(e)(1).

Section 4-5 concludes with subsection (d) and deals with consumption on public property. Should this actually be section 4-6(e)(1)?

Also, I think the waiver to (d)(1) is due to the requirement to submit documentation that a beverage license previously and (d)(6) is to do away with the requirement to annually submit proof that alcohol sales do not constitute more than 30% of the establishment's gross revenue. Please confirm.

Call me if you have any questions.

Jacob T. Floyd
Senior Planner | Development Services Department
City of San Antonio, Texas
P.O. Box 839966 | San Antonio, TX 78283
210.207.8318 | <http://www.sanantonio.gov/dsd>

Please take a moment to tell us how we are doing by taking our survey: <http://www.sanantonio.gov/dsd/survey.asp>

Partnering with our community to build and maintain a safer San Antonio