

HISTORIC AND DESIGN REVIEW COMMISSION

August 03, 2016

Agenda Item No: 18

HDRC CASE NO: 2016-296
ADDRESS: 323 W COMMERCE ST
LEGAL DESCRIPTION: NCB 105 BLK LOT 11 & 12
ZONING: D HS
CITY COUNCIL DIST.: 1
LANDMARK: Commercial Building
APPLICANT: Penner Brothers LLC/San Antonio River Authority, Kerry Averyt
OWNER: Penner Brothers LLC
TYPE OF WORK: Demolition with new construction
REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to:

1. Demolish the structure at 323 W Commerce.
2. Construct a public plaza as part of the San Pedro Creek Improvement Project

APPLICABLE CITATIONS:

UDC Section 35-614. – Demolition

Demolition of a historic landmark constitutes an irreplaceable loss to the quality and character of the City of San Antonio. Accordingly, these procedures provide criteria to prevent unnecessary damage to the quality and character of the city's historic districts and character while, at the same time, balancing these interests against the property rights of landowners.

(a)Applicability. The provisions of this section apply to any application for demolition of a historic landmark (including those previously designated as historic exceptional or historic significant) or a historic district.

(3)Property Located in Historic District and Contributing to District Although Not Designated a Landmark. No certificate shall be issued for property located in a historic district and contributing to the district although not designated a landmark unless the applicant demonstrates clear and convincing evidence supporting an unreasonable economic hardship on the applicant if the application for a certificate is disapproved. When an applicant fails to prove unreasonable economic hardship in such cases, the applicant may provide additional information regarding loss of significance as provided in subsection (c)(3) in order to receive a certificate for demolition of the property.

(b)Unreasonable Economic Hardship.

(1)Generally. The historic and design review commission shall be guided in its decision by balancing the historic, architectural, cultural and/or archaeological value of the particular landmark or eligible landmark against the special merit of the proposed replacement project. The historic and design review commission shall not consider or be persuaded to find unreasonable economic hardship based on the presentation of circumstances or items that are not unique to the property in question (i.e. the current economic climate).

(2)Burden of Proof. The historic and design review commission shall not consider or be persuaded to find unreasonable economic hardship based on the presentation of circumstances or items that are not unique to the property in question (i.e. the current economic climate). When a claim of unreasonable economic hardship is made, the owner must prove by a preponderance of the evidence that:

A. The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable return possible, unless the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;

B. The structure and property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return; and

C. The owner has failed to find a purchaser or tenant for the property during the previous two (2) years, despite having made substantial ongoing efforts during that period to do so. The evidence of unreasonable economic hardship introduced by the owner may, where applicable, include proof that the owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property.

(3)Criteria. The public benefits obtained from retaining the cultural resource must be analyzed and duly considered by the historic and design review commission.

As evidence that an unreasonable economic hardship exists, the owner may submit the following information to the historic and design review commission by affidavit:

A. For all structures and property:

- i. The past and current use of the structures and property;
- ii. The name and legal status (e.g., partnership, corporation) of the owners;
- iii. The original purchase price of the structures and property;
- iv. The assessed value of the structures and property according to the two (2) most recent tax assessments;
- v. The amount of real estate taxes on the structures and property for the previous two (2) years;
- vi. The date of purchase or other acquisition of the structures and property;
- vii. Principal balance and interest rate on current mortgage and the annual debt service on the structures and property, if any, for the previous two (2) years;
- viii. All appraisals obtained by the owner or applicant within the previous two (2) years in connection with the owner's purchase, financing or ownership of the structures and property;
- ix. Any listing of the structures and property for sale or rent, price asked and offers received;
- x. Any consideration given by the owner to profitable adaptive uses for the structures and property;
- xi. Any replacement construction plans for proposed improvements on the site;
- xii. Financial proof of the owner's ability to complete any replacement project on the site, which may include but not be limited to a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution; and
- xiii. The current fair market value of the structure and property as determined by a qualified appraiser.
- xiv. Any property tax exemptions claimed in the past five (5) years.

B. For income producing structures and property:

- i. Annual gross income from the structure and property for the previous two (2) years;
- ii. Itemized operating and maintenance expenses for the previous two (2) years; and
- iii. Annual cash flow, if any, for the previous two (2) years.

C. In the event that the historic and design review commission determines that any additional information described above is necessary in order to evaluate whether an unreasonable economic hardship exists, the historic and design review commission shall notify the owner. Failure by the owner to submit such information to the historic and design review commission within fifteen (15) days after receipt of such notice, which time may be extended by the historic and design review commission, may be grounds for denial of the owner's claim of unreasonable economic hardship.

When a low-income resident homeowner is unable to meet the requirements set forth in this section, then the historic and design review commission, at its own discretion, may waive some or all of the requested information and/or request substitute information that an indigent resident homeowner may obtain without incurring any costs. If the historic and design review commission cannot make a determination based on information submitted and an appraisal has not been provided, then the historic and design review commission may request that an appraisal be made by the city.

(d)Documentation and Strategy.

(1)Applicants that have received a recommendation for a certificate shall document buildings, objects, sites or structures which are intended to be demolished with 35mm slides or prints, preferably in black and white, and supply a set of slides or prints to the historic preservation officer.

(2)Applicants shall also prepare for the historic preservation officer a salvage strategy for reuse of building materials deemed valuable by the historic preservation officer for other preservation and restoration activities.

(3)Applicants that have received an approval of a certificate regarding demolition shall be permitted to receive a demolition permit without additional commission action on demolition, following the commission's recommendation of a certificate for new construction. Permits for demolition and construction shall be issued simultaneously if requirements of section 35-609, new construction, are met, and the property owner provides

financial proof of his ability to complete the project.

(4)When the commission recommends approval of a certificate for buildings, objects, sites, structures designated as landmarks, or structures in historic districts, permits shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, departments and agencies. Permits for parking lots shall not be issued, nor shall an applicant be allowed to operate a parking lot on such property, unless such parking lot plan was approved as a replacement element for the demolished object or structure.

(e)Issuance of Permit. When the commission recommends approval of a certificate regarding demolition of buildings, objects, sites, or structures in historic districts or historic landmarks, permits shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, departments and agencies. Once the replacement plans are approved a fee shall be assessed for the demolition based on the approved replacement plan square footage. The fee must be paid in full prior to issuance of any permits and shall be deposited into an account as directed by the historic preservation officer for the benefit, rehabilitation or acquisition of local historic resources. Fees shall be as follows and are in addition to any fees charged by planning and development services:

0—2,500 square feet	= \$2,000.00
2,501—10,000 square feet	= \$5,000.00
10,001—25,000 square feet	= \$10,000.00
25,001—50,000 square feet	= \$20,000.00
Over 50,000 square feet	= \$30,000.00

FINDINGS:

Findings related to request item #1:

- a. This property was designated as a historic landmark by Ordinance 68210 on October 27, 1988. The property is listed in the ordinance as 327 W Commerce, Commercial Building. The current address for the property is 323 W Commerce. Likewise, staff has a survey record from 1981 which also identifies the property as 323 W Commerce. At the time of the 1988 ordinance, the building would have been approximately 38 years old. The 1988 ordinance was the result of several years of surveys with oversight by a task force. The criteria for evaluation at that time allowed properties of 25 years of age or older to be considered eligible if they represented a part of the City's cultural heritage and were significant cultural resources. However, most buildings were only considered eligible if they were at least 50 years of age or older. The survey record for 323 W Commerce states that the building is an "intrusion" in the historic area which is located near the Main & Military Plaza Historic District.
- b. The adjacent building to the west is identified in the survey as 327-331 W Commerce and a significant historic building. In the ordinance, both 327 and 331 W Commerce are listed separately as two distinct properties for a single building adjacent to 323. Because of the discrepancy between the address listed in the survey (323 W Commerce) and the address listed in both the ordinance and inventory (327 W Commerce), staff finds that the zoning map was likely updated in error to include a historic zoning overlay for the property at 323 W Commerce. The ordinance does not include a detailed map or photograph which would clarify the intended designation. With consideration for the span of time in which the property has been legally noticed as a historic landmark, the property should nevertheless be reviewed for demolition in accordance with the criteria established by the UDC for demolition of a landmark.
- c. The structure at 323 W Commerce was built c. 1953 and designed by local architectural firm Peery & Tuggle. Allison B. Peery was well-known for his modern design work in San Antonio, and he would go on to work with O'Neil Ford as site plan coordinator for HemisFair '68. The building was initially occupied by F.W. Woolworth Co. Its mid-century mercantile design is expressed through the stark brick façade interrupted by a single horizontal band of windows at the second story, its blade sign, and recessed entryway at the street level framed by large display cases.
- d. The structure is considered potentially eligible for listing on the National Register (Tomka, Nichols & Murray 2015). The UTSA Center for Archaeological Research surveyed the building and determined it maintained

medium integrity of location, design, materials and setting. The survey also noted it was significant for its design and construction, representing a rare example of mid-century mercantile design in the downtown core.

- e. The east side of the structure's foundation is cantilevered over San Pedro Creek. Below the brick wall, a stone and brick retaining wall lines the creek. This wall was deemed ineligible for the National Register (Tomka, Nichols & Murray 2015).
- f. The demolition is being proposed to increase the public right of way for the San Pedro Creek Improvement Project. The loss of a contributing or eligible building constitutes an irreplaceable loss to the quality and character of San Antonio. Demolition of any contributing or eligible buildings should only occur after every attempt has been made, within reason, to successfully reuse the structure. Clear and convincing evidence supporting an unreasonable economic hardship on the applicant if the application for a certificate is disapproved must be presented by the applicant in order for demolition to be considered. The criteria for establishing unreasonable economic hardship are listed in UDC Section 35-614 (b)(3). The applicant must prove by a preponderance of the evidence that:
 - A. *The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable return possible, unless the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;*
[Applicant has noted that the current property owner has offered to sell this property to the River Authority in order to expand the right-of-way available for use on the project. The proposed use of this site is incompatible with the current structure which precludes pedestrian access to the future park.]
 - B. *The structure and property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return;*
[The applicant states that the purpose of the San Pedro Creek Improvements Project is to efficiently control flood risk by producing a linear urban park. The channel at this juncture represents the most restricted section of the project, requiring widening and deepening in order to accommodate the flow of both water and people.]
 - C. *The owner has failed to find a purchaser or tenant for the property during the previous two (2) years, despite having made substantial ongoing efforts during that period to do so. The evidence of unreasonable economic hardship introduced by the owner may, where applicable, include proof that the owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property.*
[The structure is currently occupied by Dollar General.]
- g. If the HDRC finds that the claim for an economic hardship has been thoroughly substantiated in the application and at the public hearing and that the conditions of UDC 35-614 which would warrant demolition apply, a recommendation for approval of the request for demolition will not authorize the issuance of a demolition permit. A permit will not be issued until replacement plans for the new construction are approved and all applicable fees are collected. The UDC states that permits for demolition and new construction shall be issued simultaneously if the requirements for new construction are met, and the property owner provides financial proof of his ability to complete the project.
- h. If demolition is approved, the applicant is responsible for complying with the UDC Section 35-614 in regards to building documentation prior to the issue of a Certificate of Appropriateness. Any documentation required by the Texas Historical Commission for the project may also be provided to OHP staff in order to fulfill this requirement.

Findings related to request item #2:

- i. The proposed replacement plan for this space is a public plaza with access to the street level via staircase at the Commerce Street Bridge. A pedestrian walkway will cross the creek upstream from the property and direct people along the eastern wall of the Alameda Theater. The east wall on the creek and the parking lot west of Penner's appear to remain intact. The proposed plaza creates another opportunity for activation along this corridor. Its location on the opposite bank from the upstream amphitheater provides better design balance and livens up this previously barren stretch. Planting areas along the northern wall will mask the starkness of the Alameda Theater addition. The vista will also generate visual interest at an important juncture of the pedestrian experience, pulling the eye from the street level retail downward to the park through a more organic transition. Materials and fixture details were not provided by the applicant.
- j. **ARCHAEOLOGY-** Archaeological investigations have occurred for the San Pedro Creek Improvements Project and have received approval from the Texas Historical Commission (THC). However, due to the extremely sensitive nature of the project area, the San Antonio River Authority and the Office of Historic Preservation (OHP), in consultation with the THC, have agreed to execute archaeological monitoring of excavations from the San Pedro Creek tunnel inlet to the general vicinity of Cesar Chavez Boulevard. The property located at 323 West Commerce is associated with the San Pedro Creek Improvements Project and is, therefore, subject to the aforementioned archaeology requirements. Moreover, the project area is nearby/adjacent to the Main and Military Plaza National Register of Historic Places District, San Pedro Creek, and the location of the 1722 Presidio de Bexar. Furthermore, the project area is in close proximity to previously recorded archaeological sites 41BX1598, 41BX179, and 41BX2088. Therefore, archaeological investigations shall be required. The archaeology consultant should submit the scope of work to the OHP for review and approval prior to the commencement of field efforts.

RECOMMENDATION:

1. **DEMOLITION:** Staff recommends approval. There is a documented discrepancy in the ordinance which resulted in an erroneous update to the zoning map to include a historic zoning overlay for this property. Given the error, the building at 323 W Commerce may be considered for demolition provided that all requirements of the UDC section 35-614 are fulfilled. In accordance with the UDC, the HDRC shall be guided in its decision by balancing the historic value of the building against the special merit of the proposed replacement project.

2. **CONSTRUCTION OF A PUBLIC PLAZA:** Staff recommends conceptual approval with the stipulation that elevations, materials, and fixtures should be provided to OHP staff for review at the time of a request for approval. At this time, the applicant has not provided information sufficient for final approval which includes eighty (80) percent development of construction documents. The following archaeological stipulation applies:

- i. Archaeological investigations are required. The archaeological scope of work should be submitted to the OHP archaeologists for review and approval prior to the commencement of field efforts. The development project shall comply with all federal, state, and local laws, rules, and regulations regarding archaeology.

CASE MANAGER:

Edward Hall



Flex Viewer

Powered by ArcGIS Server

Printed: Jul 21, 2016

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W Houston St

W Houston St

Domino's Pizza

Holiday Inn Express
San Antonio N...

W Houston St

Cameron St

323 West
Commerce Street

Penner's Inc

Goodwill

W Commerce St

W Commerce St

Spanish
Governor's Palace

Public Art San Antonio

N Laredo St

N Santa Rosa St

N Laredo St



May 27, 2016
Ms. Shanon Shea Miller
Historic Preservation Office
CITY OF SAN ANTONIO
Office of Historic Preservation

Re: San Pedro Creek Improvements – Demolition of the Dollar General Store

Dear Shanon:

The San Antonio River Authority and the design team are working towards completion of the 70% Construction Documents next month with completion of the 90% and 100% Construction Documents scheduled for completion in September and December respectively. To complete Phase 1 by the San Antonio Tri-Centennial in May 2018, the project must be under construction by January 2017.

We hope to award a contract for Construction Manager-at-Risk services within the next 30 days and pending approval by the U.S. Army Corps of Engineers, start work on early bid packages by early Fall.

The San Pedro Creek Improvements Project is primarily a flood control project, but is planned as a linear urban park linking neighborhoods with the downtown core. Critical to its success is the completed project's ability to convey both flood waters and people. The channel between Penner's and the Dollar General Store on either side of the creek at its intersection with West Commerce Street is the most restricted section of the entire project. In this area, the channel must be both widened and deepened to function.

Penner's has offered property on both sides of the creek to accommodate the necessary expanded right-of-way; and has agreed to sell the Dollar General Store property to the River Authority. We anticipate that the transaction will be finalized on or before September 1st.

Accompanying this letter is a completed City of San Antonio Historic & Design Review Application Form with the required supporting documentation. Following the required 60-day review period we intend to submit an application, including design documents, for the August 3rd Historic & Design Review Commission hearing.

We are available to review the project with you and your staff and the reasons why demolition of the Dollar General Building is of critical importance to the project.

Sincerely,

Kerry Averyt
San Antonio River Authority

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Suzanne Scott

San Pedro Creek Improvements Project - Dollar General Demolition Application Narrative

The 2.2 mile section of San Pedro Creek that courses from Fox Tech High School through downtown to the vicinity of the old stockyards is subject to a flood control and improvements project funded by the County of Bexar and administered by the San Antonio River Authority.

The primary design goals are to modify the channel to contain the 100-year floodplain within the banks of the creek; Reimagine the creek as a linear urban park for San Antonians working, living, and visiting the center city; Advance San Antonio's urban watershed and water quality management practices; and Enhance and catalyze cultural and economic revitalization opportunities.

Critical to the success of the San Pedro Creek Improvements Project is sufficient ROW for the conveyance of water and people. The channel between Penner's Store and the Dollar General Building is the narrowest part of the entire project. The design calls for the existing channel to be both deepened and widened. The Owner of both properties has agreed to an expanded ROW and has offered the Dollar General property for acquisition.

Removal of the Dollar General Building will allow the channel to be widened to the west, create a desirable urban open space at water and street levels, and provide accessible access between the street and creek levels. To maintain compliance with CFR Section 106, the Dollar General is being documented according to Historic American Building Survey standards.



2015.11. 4 19:15





2015.11. 4 19:23



2015. 11. 4 19:13



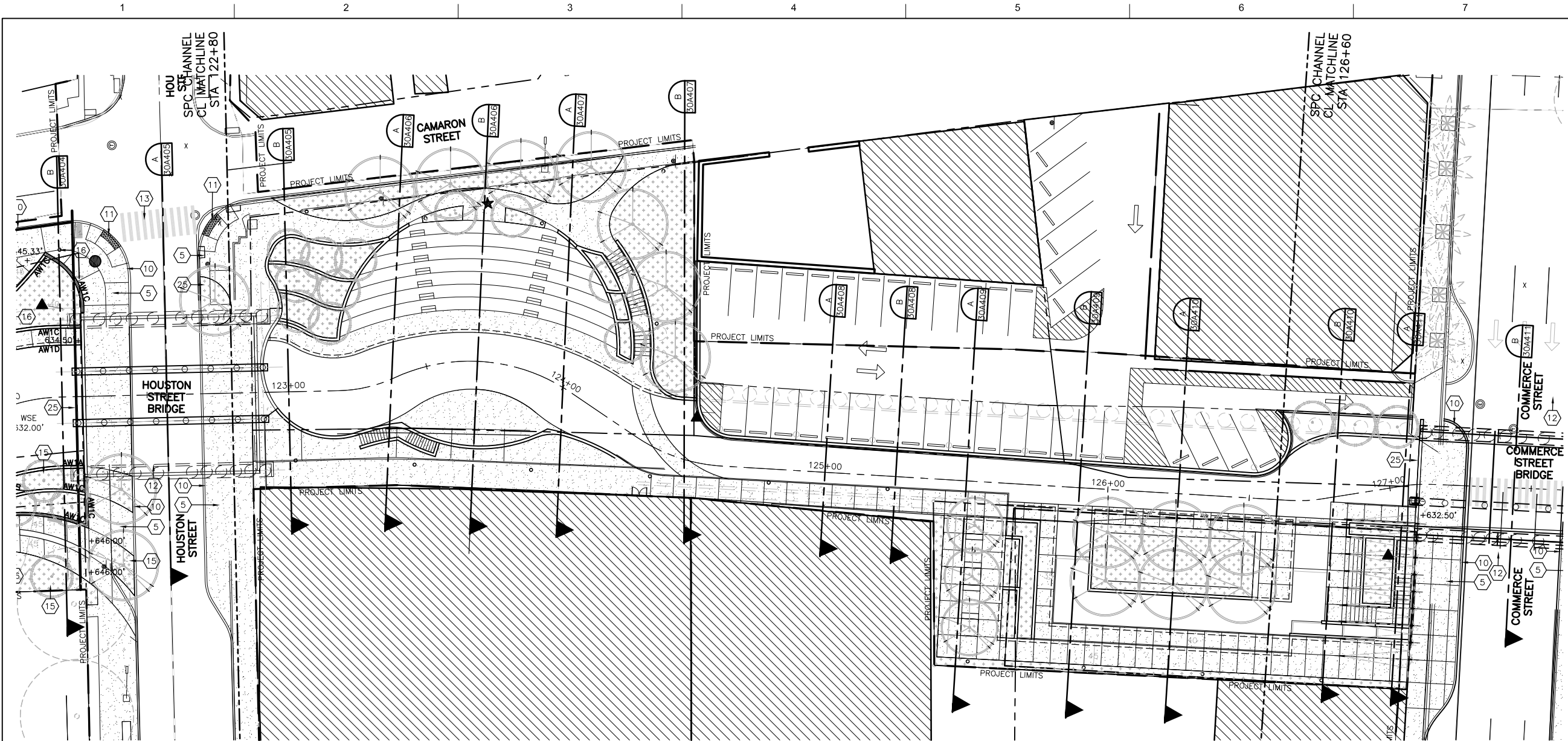
TEXAS STATE OPTICAL

OPTICAL

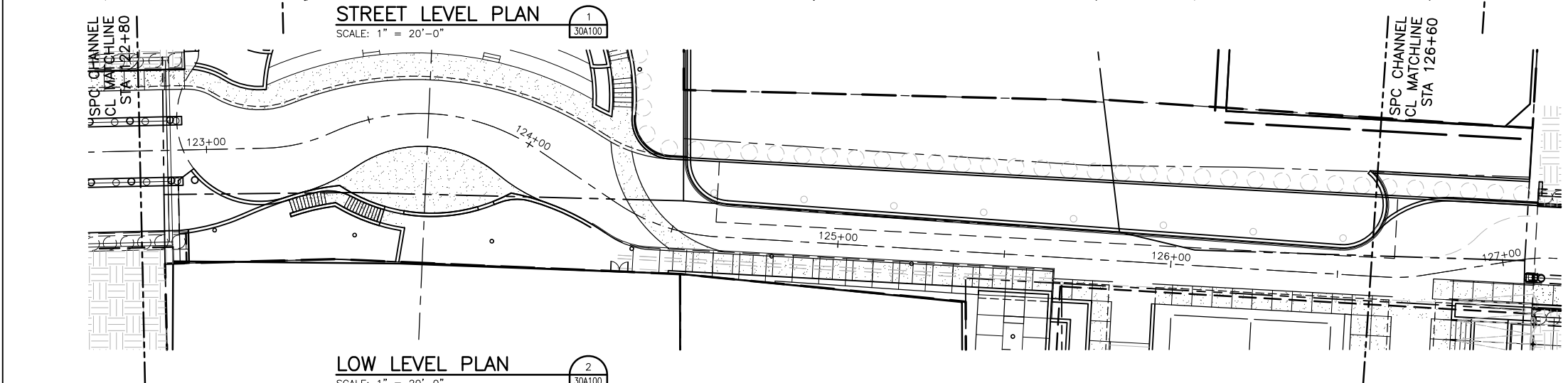
DOLLAR GENERAL

Penner's
est. 1916

2015.11.4 19:17



STREET LEVEL PLAN
SCALE: 1" = 20'-0"



LOW LEVEL PLAN
SCALE: 1" = 20'-0"

SITE PLAN GENERAL NOTES

1. REFER TO SURVEY FOR EXIST. SITE CONDITIONS. CONTRACTOR TO FIELD VERIFY ALL EXISTING SITE DIMENSIONS & CONDITIONS.
2. REFER TO CIVIL "X" DRAWINGS FOR SITE DEMOLITION INFORMATION. PROTECT ANY EXISTING BUILDINGS, TREES, SIDEWALKS, BRIDGES, WALLS & OTHER ITEMS THAT ARE TO REMAIN DURING CONSTRUCTION.
3. MAINTAIN SAFE & UNRESTRICTED FIRE EGRESS ROUTES FROM ALL AREAS OF THE SITE INCLUDING EXISTING BUILDINGS & NEW CONSTRUCTION & COMPLY WITH ALL APPLICABLE CODES.
4. REFER TO CIVIL DRAWINGS FOR BUILDING, DRIVEWAY & CURB LOCATIONS. FOR GRADING, BUILDING FINISH FLOOR ELEVATIONS, SITE UTILITIES, CHANNEL BOTTOM & WSE.
5. REFER TO LANDSCAPE DRAWINGS FOR EXISTING & NEW LANDSCAPE INFORMATION.
6. REFER TO MEP DRAWINGS FOR SITE LIGHTING INFORMATION.
7. REFER TO SHEETS 00A601 & 00A602 FOR ARCHITECTURAL WALL TYPES.
8. REFER TO SHEETS 00A604 FOR ARCHITECTURAL RAILING TYPES.
9. REFER TO SHEET 00A607 FOR ARCHITECTURAL CONC. SIDEWALK PAVING FINISHES & PATTERNS.
10. PROVIDE WALK CONTROL JOINTS 10'-0" O.C. OR AS INDICATED ON PLANS AND EXPANSION JOINTS AT 40'-0" O.C. MAX.
11. MAX SIDEWALK CROSS SLOPE SHALL BE 2%.
12. REFER TO STRUCTURAL DRAWINGS FOR ALL STRUCTURAL WALL AND SLAB INFORMATION.
13. REFER TO SHEETS 00WF601, 00WF602 & 00WF603 FOR WAYFINDING SCHEDULES & GRAPHICS INFORMATION.

KEYNOTE LEGEND

- 1 EXISTING CHANNEL TO REMAIN
- 2 EXISTING WALL TO REMAIN
- 3 EXISTING CONC. WALK TO REMAIN
- 4 EXISTING CONC. CURB TO REMAIN
- 5 CONC. WALK, RE. CIVIL
- 6 CONC. STAIR W/TYP. RAILING, SEE XX/AXXX
- 7 RAMP W/TYP. RAILING, SEE XX/AXXX
- 8 INCLINED WALK, RE. CIVIL
- 9 TYP. RAILING, SEE XX/AXXX
- 10 CONC. CURB, RE. CIVIL
- 11 FLUSHED CONC. CURB, RE. CIVIL
- 12 PAVING, RE. CIVIL
- 13 STRIPING, REF. TO CIVIL
- 14 BIO-SWALE, RE. CIVIL
- 15 PLANTING AREA, RE. LANDSCAPE
- 16 LIGHT FIXTURE, RE. ELECTRICAL
- 17 MTL. GRATING AS SPEC.
- 18 WATER FEATURE, RE. XXX
- 19 18"H TILE-FACED CONC. BENCH, SEE DTL. X/XXX
- 20 STONE WALK, RE. CIVIL
- 21 TYP. ORNAMENTAL FENCE, SEE X/XXX
- 22 TYP. BOLLARD, SEE DTL. X/XXX
- 23 MAINTENANCE PATH, RE. LANDSCAPE
- 24 EDGE OF BRIDGE ABOVE
- 25 BRIDGE CRASH RAIL, RE. STRUCT.
- 26 BRIDGE STRUCTURE, RE. STRUCT.
- 27 MEP EQUIPMENT, RE. MEP
- 28 BIKE RACK, SEE DTL. X/XXX

LEGEND

- CONCRETE PAVING
- PLANTING AREAS
- WATER
- WALL-MOUNTED WAYFINDING GRAPHICS
- FLOOR-MOUNTED WAYFINDING GRAPHICS

ISSUE	DATE	DESCRIPTION
	06/17/2016	REVISED 70% SUBMITTAL
	07/31/2015	70% SUBMITTAL
	03/27/2015	40% SUBMITTAL

San Antonio River Authority
Texas P.E. Firm
Registration No. F-754

muñoz

INTERIM REVIEW DOCUMENTS
THE DESIGN DOCUMENTS DEPICTED THEREIN ARE INCOMPLETE AND MAY NOT BE USED FOR REGULATORY APPROVAL, PERMIT OR CONSTRUCTION.

ALAMEDA/AGUA ANTIGUA
MAIN CHANNEL
PARTIAL SITE PLAN
SAN PEDRO CREEK IMPROVEMENTS
SAN ANTONIO TEXAS

Project Number: 00000000228497
Scale: 1" = 20'-0"
Date: 5-27-16
Reviewed by: V. CARRILLO
Drawn by: Y. YANG

Drawing No. CONCEPT PLAN