



# City of San Antonio

## Legislation Details (With Text)

**File #:** 15-1154  
**Type:** Public Hearing  
**In control:** Historic and Design Review Commission  
**On agenda:** 1/21/2015  
**Title:** Address/Description: 155-161 E COMMERCE ST  
Landmark Name: Esquire Bar  
RIO District: RIO-3  
Downtown Business District: Yes  
Applicant: David Lake  
Request: Demolition and construction of a hotel tower

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Case\_23\_155-161\_E\_Commerce

Date	Ver.	Action By	Action	Result
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HISTORIC AND DESIGN REVIEW COMMISSION

January 21, 2015

Agenda Item No: 23

HDRC CASE NO: 2015-024

ADDRESS: 155 - 161 E COMMERCE ST

LEGAL DESCRIPTION: NCB 106 BLK LOT 32

ZONING: D HS RIO-3

CITY COUNCIL DIST.: 1

LANDMARK: Fishmarket / Sullivan Building / Alamo Savings

APPLICANT: David Lake

OWNER: Chilton Restoration, LLC

TYPE OF WORK: Demolition with conceptual approval of a hotel tower

REQUEST:

The applicant is requesting conceptual approval to:

1. Demolish the structure at 161 E Commerce commonly known as the Sullivan Building, the Alamo Savings Building and the MIC Building.. The applicant claims that retaining the structure will result in an unreasonable economic hardship on the owner of the property as well as make the property undevelopable; and
2. Construct a new 18 story hotel tower at the corner of E Commerce and N St. Mary's Street that retains the building at 155 E Commerce, commonly known as the Fishmarket Building. At approximately 200' in height with 114,767 square feet, the hotel will feature 197 rooms and approximately 7,600 square feet of restaurant and retail space.

**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 is 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

#### UDC Section 35-670. Criteria for Certificate of Appropriateness-Generally

##### (b)(4)C. Design Characteristics of "RIO-3" River Improvement Overlay District - 3.

- i. The historic work of Robert Hugman, CCC and WPA construction work, Ethel Harris tile work, and work of the National Youth Administration shall be respected and preserved in all construction efforts. Adherence to the intent and spirit of those plans is essential in all construction.
- ii. Traditional, formal street level design precedents shall be respected, but at the river level, the more informal, handcrafted style shall be maintained.
- iii. The integrity of historic properties shall be preserved as provided for in section 35-610. Historic differences between street level designs and river level designs shall be respected.
- iv. The traditional design context of the area shall be respected at two (2) levels: the broader downtown context and the immediate block as it faces the river.
- v. In new buildings that have more than one (1) facade, such as those that face the street and the river, the commission shall consider visual compatibility with respect to each important facade.

vi. The microclimate of the River Walk level shall be maintained and, during construction, shall be given extra protection. Downtown operations staff will be consulted to provide specific instructions for construction procedures.

vii. Over-crowding of plant life or altering levels of light and water along the river shall not be permitted.

viii. Enhance the pedestrian experience with high-quality building designs that include balconies facing the river and the primary entrance facing the street.

ix. Ensure adequate solar access on the River Walk.

#### Section 35-672. Neighborhood Wide Design Standards

(a) Pedestrian Circulation. Pedestrian access shall be provided among properties to integrate neighborhoods.

(2) Link the various functions and spaces on a site with sidewalks in a coordinated system.

Provide pedestrian sidewalks between buildings, parking areas and built features such as outdoor plazas and courtyards.

(5) Pedestrian Access Along the Riverwalk Pathway Shall Not Be Blocked.

A. Queuing is prohibited on the Riverwalk pathway.

B. Hostess stations shall be located away from the Riverwalk pathway so as to not inhibit pedestrian flow on the Riverwalk pathway. That is, the hostess station shall not be located in such a manner to cause a patron who has stopped at the hostess stand to be standing on the Riverwalk pathway. Pedestrian flow shall be considered "inhibited" if a pedestrian walking along the pathway has to swerve, dodge, change direction or come to a complete stop to avoid a patron engaged at the hostess stand.

C. Tables and chairs shall be located a sufficient distance from the Riverwalk pathway so that normal dining and service shall not inhibit the flow of pedestrian traffic. See inhibited definition in subsection B. above.

(c) Views. The river's course (both natural and manmade), and San Antonio's street pattern, creates unique views of certain properties from the public ROW. These properties often occur at prominent curves in the river or where a street changes direction and a property appears to be a terminus at the end of a street.

(1) Architectural Focal Point. When a property is situated in such a manner as to appear to be the terminus at the end

of the street or at a prominent curve in the river, the building shall incorporate into its design an architectural feature that will provide a focal point at the end of the view. (see Figure 672-3) An architectural feature will be considered to be a focal point through any of the following methods, but not limited to:

A. Additional height.

B. Creation of a tower.

C. Variation in roof shape.

D. Change of color or materials.

E. Addition of a design enhancement feature such as:

i. Embellished entrance areas.

ii. Articulated corners, especially when entrance is at corner, rounded or chamfered corners ease the transitions from one street facade to the adjoining facade.

iii. Recessed or projecting balconies and entrances.

#### Section 35-673. Site Design Standards

(a) Solar Access. The intent of providing and maintaining solar access to the San Antonio River is to protect the river's specific ecoclimate. The river has a special microclimate of natural and planted vegetation that requires certain levels and balanced amounts of sunlight, space and water. Development must be designed to respect and protect those natural requirements, keeping them in balance and not crowding or altering them so that vegetation does not receive more or less space and water, but particularly sunlight, than is required for normal expected growth.

(1) Building Massing to Provide Solar Access to the River. Building massing shall be so designed as to provide direct sunlight to vegetation in the river channel as defined:

A. The area to be measured for solar access shall be a thirty-foot setback from the river's edge or from the river's

edge to the building face, whichever is lesser, parallel to the river for the length of the property.

B. The solar calculations shall be measured exclusive to the applicant's property; that is, shades and shadows of other buildings shall not be included in the calculations. The solar calculations shall only measure the impact of new construction and additions. The shading impact of historic buildings on the site may be excluded from the



calculations.

C. The defined area shall receive a minimum of 5.5 hours of direct sunlight, measured at the winter solstice, and

7.5 hours of direct sunlight, measured at the summer solstice.

D. Those properties located on the south side of the river (whose north face is adjacent to the river) shall only be

required to measure the sunlight in the 30-foot setback on the opposite bank of the river.

E. Those properties within the river improvement overlay district not directly adjacent to the river are still subject to the provisions of this section. To determine the solar access effect of these buildings on the river the applicant must measure the nearest point to the river of an area defined by a thirty-foot setback from the river's

edge, parallel to the river for the length of their property that would be affected by their building. For those buildings on the south side of the river, the 30-foot setback shall be measured only on the opposite bank.

F. However, in those cases where the above conditions cannot be met due to the natural configuration of the river, existing street patterns, or existing buildings, the HDRC may approve a buildings mass and height as allowed by table 674-2.

G. If there is a conflict with this section and another section of this chapter this section shall prevail.

(b) Building Orientation. Buildings should be sited to help define active spaces for area users, provide pedestrian connections between sites, help animate the street scene and define street edges. Consideration to both the street and riverside should be given. The placement of a building on a site should therefore be considered within the context of the block, as well as how the structure will support the broader design goals for the area.

(2) Primary and Secondary Entrances.

A. Orient a building's primary entrance toward the street with subordinate entrances located on the riverside and/or the interior of the property. On a major thoroughfare street it is acceptable to provide the primary entrance through a common courtyard and then to a street.

B. The primary entrance shall be distinguished by architectural features such as, but not limited to: an entry portal; change in material or color; change in scale of other openings; addition of columns, lintels or canopies.

C. Secondary entrances shall have architectural features that are subordinate to the primary entrance in scale and

detail. For purposes of this division subordinate means that the entrance is smaller in height and width, and has fewer or simpler architectural elements.

(f) Plant Materials. A number of soil conditions converge in the San Antonio area to create unique vegetation ecosystems. Along the route of the San Antonio River, the soil conditions vary greatly from the northern boundary near Hildebrand to the city limits near Mission San Francisco de la Espada (Mission Espada) and therefore native and indigenous plants will vary accordingly. Landscaping should reflect the unique soil characteristics of the specific site.

(3) Install Trees to Provide Shade and to Separate Pedestrians From Automobile Traffic. Install street trees along the property line or in the ROW abutting all streets according to minimum requirement standards established in subsection 35-512(b), except where this conflicts with existing downtown Tri-Party improvements in "RIO-3." In "RIO-3" the owner has the option of placing trees at the property line, or along the street edge.

(g) Paving Materials. An important San Antonio landscape tradition is the use of decorative surfaces for paving and other landscape structures. Paving materials and patterns should be carefully chosen to preserve and enhance the pedestrian experience.

(1) Vary Walkway, Patio and Courtyard Paving to Add Visual Interest on the Riverside of Properties Abutting the River. Pervious paving is encouraged where feasible and appropriate to the site.

(i) Street Furnishings. Street furnishings are exterior amenities, including but not limited to, tables, chairs, umbrellas, landscape pots, wait stations, valet stations, bicycle racks, planters, benches, bus shelters, kiosks, waste receptacles and similar items that help to define pedestrian use areas. Handcrafted street furnishings are particularly important in San Antonio, and therefore this tradition of craftsmanship and of providing street furniture is encouraged.

(2) Street Furnishing Materials.

A. Street furnishings shall be made of wood, metal, stone, terra cotta, cast stone, hand-sculpted concrete, or solid

surfacing material, such as Corian or Surell.

(4) Street furnishings, such as tables and chairs may not be stored (other than overnight storage) in such a way as to be visible from the river pathway.

(j) Lighting. Site lighting should be considered an integral element of the landscape design of a property. It should help define activity areas and provide interest at night. At the same time, lighting should facilitate safe and convenient circulation for pedestrians, bicyclists and motorists. Overspill of light and light pollution should be avoided.

(1) Site Lighting. Site lighting shall be shielded by permanent attachments to light fixtures so that the light sources are

not visible from a public way and any offsite glare is prevented.

A. Site lighting shall include illumination of parking areas, buildings, pedestrian routes, dining areas, design features and public ways.

B. Outdoor spaces adjoining and visible from the river right-of-way shall have average ambient light levels of between one (1) and three (3) foot-candles with a minimum of 0.5-foot candles and a maximum of six (6) foot-candles at any point measured on the ground plane. Interior spaces visible from the river right-of-way on the river level and ground floor level shall use light sources with no more than the equivalent lumens of a one hundred-watt incandescent bulb. Exterior balconies, porches and canopies adjoining and visible from the river right-of-way shall use light sources with the equivalent lumens of a sixty-watt incandescent bulb with average ambient light levels no greater than the lumen output of a one hundred-watt incandescent light bulb as long as average foot candle standards are not exceeded. Accent lighting of landscape or building features including specimen plants, gates, entries, water features, art work, stairs, and ramps may exceed these standards by a multiple of 2.5. Recreational fields and activity areas that require higher light levels shall be screened from the river hike and bike pathways with a landscape buffer.

C. Exterior light fixtures that use the equivalent of more than one hundred-watt incandescent bulbs shall not emit a significant amount of the fixture's total output above a vertical cut-off angle of ninety (90) degrees. Any structural part of the fixture providing this cut-off angle must be permanently affixed.

D. Lighting spillover to the publicly owned areas of the river or across property lines shall not exceed one-half ( $\frac{1}{2}$ ) of one (1) foot-candle measured at any point ten (10) feet beyond the property line.

(2) Provide Lighting for Pedestrian Ways That is Low Scaled for Walking. The position of a lamp in a pedestrian-way light shall not exceed fifteen (15) feet in height above the ground.

(3) Light Temperature and Color.

A. Light temperature and color shall be between 2500° K and 3500° K with a color rendition index (CRI) of eighty (80) or higher, respectively. This restriction is limited to all outdoor spaces adjoining and visible from the river right-of-way and from the interior spaces adjoining the river right-of-way on the river level and ground floor level. Levels shall be determined by product specifications.

(4) Minimize the Visual Impacts of Exterior Building Lighting.

A. All security lighting shall be shielded so that the light sources are not visible from a public way.

B. Lighting (uplighting and downlighting) that is positioned to highlight a building or outdoor artwork shall be aimed at the object to be illuminated, not pointed into the sky.

C. Fixtures shall not distract from, or obscure important architectural features of the building. Lighting fixtures shall be a subordinate feature on the building unless they are incorporated into the over-all design scheme of the building.

(5) Prohibited Lighting on the Riverside of Properties Abutting the River.

A. Flashing lights.

B. Rotating lights.

C. Chaser lights.

D. Exposed neon.

E. Seasonal decorating lights such as festoon, string or rope lights, except between November 20 and January 10.

F. Flood lamps.

(6) Minimize the visual impacts of lighting in parking areas in order to enhance the perception of the nighttime sky and to prevent glare onto adjacent properties. Parking lot light poles are limited to thirty (30) feet in height, shall have

a 90° cutoff angle so as to not emit light above the horizontal plane.

(I) Access to Public Pathway Along the River. These requirements are specifically for those properties adjacent to the river to provide a connection to the publicly owned pathway along the river. The connections are to stimulate and enhance urban activity, provide path connections in an urban context, enliven street activity, and protect the ambiance and character of the river area.

(3) Clearly define a key pedestrian gateway into the site from the publicly owned pathway at the river with distinctive

architectural or landscape elements.

A. The primary gateway from a development to the publicly owned pathway at the river shall be defined by an architectural or landscape element made of stone, brick, tile, metal, rough hewn cedar or hand-formed concrete or through the use of distinctive plantings or planting beds.

(n) Service Areas and Mechanical Equipment. Service areas and mechanical equipment should be visually unobtrusive and should be integrated with the design of the site and building. Noise generated from mechanical equipment shall not exceed city noise regulations.

(1) Locate service entrances, waste disposal areas and other similar uses adjacent to service lanes and away from major streets and the river..

C. Air intake and exhaust systems, or other mechanical equipment that generates noise, smoke or odors, shall not be located at the pedestrian level.

#### Sec. 35-674. Building Design Principles

(a) Architectural Character. A basic objective for architectural design in the river improvement overlay districts is to encourage the reuse of existing buildings and construction of new, innovative designs that enhance the area, and help to establish distinct identities for each of the zone districts. At the same time, these new buildings should reinforce established building traditions and respect the contexts of neighborhoods.

When a new building is constructed, it shall be designed in a manner that reinforces the basic character-defining features of the area. Such features include the way in which a building is located on its site, the manner in which it faces the street and its orientation to the river. When these design variables are arranged in a new building to be similar to those seen traditionally, visual compatibility results.

(b) Mass and Scale. A building shall appear to have a "human scale." In general, this scale can be accomplished by using familiar forms and elements interpreted in human dimensions. Exterior wall designs shall help pedestrians establish a sense of scale with relation to each building. Articulating the number of floors in a building can help to establish a building's scale, for example, and prevent larger buildings from dwarfing the pedestrian.

(1) Express facade components in ways that will help to establish building scale.

A. Treatment of architectural facades shall contain a discernible pattern of mass to void, or windows and doors to solid mass. Openings shall appear in a regular pattern, or be clustered to form a cohesive design.

Architectural

elements such as columns, lintels, sills, canopies, windows and doors should align with other architectural features on the adjacent facades.

(2) Align horizontal building elements with others in the blockface to establish building scale.

A. Align at least one (1) horizontal building element with another horizontal building element on the same block face. It will be considered to be within alignment if it is within three (3) feet, measured vertically, of the existing architectural element.

(3) Express the distinction between upper and lower floors.

A. Develop the first floor as primarily transparent. The building facade facing a major street shall have at least fifty (50) percent of the street level facade area devoted to display windows and/or windows affording some view into the interior areas. Multi-family residential buildings with no retail or office space are exempt from this requirement.

(4) Where a building facade faces the street or river and exceeds the maximum facade length allowed in Table 674-1 divide the facade of building into modules that express traditional dimensions.

A. The maximum length of an individual wall plane that faces a street or the river shall be as shown in Table 674-1.

Table 674-1

Description	RIO-1	RIO-2	RIO-3	RIO-4	RIO-5	RIO-6
Maximum Facade Length	50 ft.	50 ft.	30 ft.	75 ft.	75 ft.	50 ft.

- B. If a building wall plane facing the street or river and exceeds the length allowed in Table 674-1, employ at least two (2) of the following techniques to reduce the perceived mass:
- Change materials with each building module to reduce its perceived mass; or
  - Change the height with each building module of a wall plane. The change in height shall be at least ten (10) percent of the vertical height; or
  - Change the roof form of each building module to help express the different modules of the building mass; or
  - Change the arrangement of windows and other facade articulation features, such as, columns, pilasters or

strap work, which divides large planes into smaller components.

(5) Organize the Mass of a Building to Provide Solar Access to the River.

A. One (1) method of doing so is to step the building down toward the river to meet the solar access requirements of subsection 35-673(a).

B. Another method is to set the building back from the river a distance sufficient to meet the solar access requirements of subsection 35-673(a).

(c) Height. Building heights vary along the river corridor, from one-story houses to high-rise hotels and apartments. This diversity of building heights is expected to continue. However, within each zone, a general similarity in building heights should be encouraged in order to help establish a sense of visual continuity. In addition, building heights shall be configured such that a comfortable human scale is established along the edges of properties and views to the river and other significant landmarks are provided while allowing the appropriate density for an area.

(1) The maximum building height shall be as defined in Table 674-2.

A. Solar access standards subsection 35-673(a), and massing standards subsection 35-674(b) also will affect building heights.

Table 674-2

Description	RIO-1	RIO-2	RIO-3	RIO-4	RIO-5	RIO-6
Maximum # of Stories	5	10	None	7	5	4
Maximum Height in Feet	60 ft.	120 ft.	None	84 ft.	60 ft.	50 ft.

(3) On the street-side, the building facade shall appear similar in height to those of other buildings found traditionally in the area.

If fifty (50) percent of the building facades within a block face are predominantly lower than the maximum height allowed, the new building facade on the street-side shall align with the average height of those lower buildings within

the block face, or with a particular building that falls within the fifty (50) percent range. However, the remainder of the building may obtain its maximum height by stepping back fifteen (15) feet from the building face.

(4) Designation of a development node provides for the ability to increase the building height by fifty (50) percent

from the requirements set out in article VI.

(d) Materials and Finishes. Masonry materials are well established as primary features along the river corridor and their use should be continued. Stucco that is detailed to provide a texture and pattern, which conveys a human scale, is also part of the tradition. In general, materials and finishes that provide a sense of human scale, reduce the perceived mass of a building and appear to blend with the natural setting of the river shall be used, especially on major structures.

(1) Use indigenous materials and traditional building materials for primary wall surfaces. A minimum of seventy-five (75) percent of walls (excluding window fenestrations) shall be composed of the following:

- A. Modular masonry materials including brick, stone, and rusticated masonry block, tile, terra-cotta, structural clay tile and cast stone. Concrete masonry units (CMU) are not allowed.
- B. Other new materials that convey the texture, scale, and finish similar to traditional building materials.
- C. Stucco and painted concrete when detailed to express visual interest and convey a sense of scale.
- D. Painted or stained wood in a lap or shingle pattern.

(2) The following materials are not permitted as primary building materials and may be used as a secondary material only:

- A. Large expanses of high gloss or shiny metal panels.
- B. Mirror glass panels. Glass curtain wall buildings are allowed in RIO-3 as long as the river and street levels comply with 35-674(d)(1) above.

(3) Paint or Finish Colors.

- A. Use natural colors of indigenous building materials for properties that abut the Riverwalk area.
- B. Use matte finishes instead of high glossy finishes on wall surfaces. Wood trim and metal trim may be painted with gloss enamel.
- C. Bright colors may highlight entrances or architectural features.

(e) Facade Composition. Traditionally, many commercial and multi-family buildings in the core of San Antonio have had facade designs that are organized into three (3) distinct segments: First, a "base" exists, which establishes a scale at the street level; second a "mid-section," or shaft is used, which may include several floors. Finally a "cap" finishes the composition. The cap may take the form of an ornamental roof form or decorative molding and may also include the top floors of the building. This organization helps to give a sense of scale to a building and its use should be encouraged.

In order to maintain the sense of scale, buildings should have the same setback as surrounding buildings so as to maintain the street-wall pattern, if clearly established.

In contrast, the traditional treatment of facades along the riverside has been more modest. This treatment is largely a



result of the fact that the riverside was a utilitarian edge and was not oriented to the public. Today, even though orienting buildings to the river is a high priority objective, it is appropriate that these river-oriented facades be simpler in character than those facing the street.

(1) Street Facade. Buildings that are taller than the street-wall (sixty (60) feet) shall be articulated at the stop of the street wall or stepped back in order to maintain the rhythm of the street wall. Buildings should be composed to include a base, a middle and a cap.

A. High rise buildings, more than one hundred (100) feet tall, shall terminate with a distinctive top or cap. This can be accomplished by:

- i. Reducing the bulk of the top twenty (20) percent of the building by ten (10) percent.
- ii. By stepping back the top twenty (20) percent of the building.
- iii. Changing the material of the cap.

B. Roof forms shall be used to conceal all mechanical equipment and to add architectural interest to the structure.

C. Roof surfaces should include strategies to reduce heat island effects such as use of green roofs, photo voltaic panels, and/or the use of roof materials with high solar reflectivity.

(2) Fenestration. Windows help provide a human scale and so shall be proportioned accordingly.

D. Curtain wall systems shall be designed with modulating features such as projecting horizontal and/or vertical mullions.

(3) Entrances. Entrances shall be easy to find, be a special feature of the building, and be appropriately scaled.

A. Entrances shall be the most prominent on the street side and less prominent on the river side.

B. Entrances shall be placed so as to be highly visible.

C. The scale of the entrance is determined by the prominence of the function and or the amount of use.

D. Entrances shall have a change in material and/or wall plane.

E. Entrances should not use excessive storefront systems.

(4) Riverside facade. The riverside facade of a building shall have simpler detailing and composition than the street facade.

A. Architectural details such as cornices, sills, lintels, door surrounds, water tables and other similar details

should use simple curves and handcrafted detailing.

B. Stone detailing shall be rough hewn, and chiseled faced. Smooth faced stone is not permitted as the primary building material, but can be used as accent pieces.

C. Facades on the riverside shall be asymmetrical, pedestrian scale, and give the appearance of the back of a building. That is, in traditional building along the river, the backs of building were designed with simpler details, and appear less formal than the street facades.

(g) Awnings, Canopies and Arcades. (See Figure 674-2) The tradition of sheltering sidewalks with awnings, canopies and arcades on commercial and multi-family buildings is well established in San Antonio and is a practice that should be continued. They offer shade from the hot summer sun and shelter from rainstorms, thereby facilitating pedestrian activity. They also establish a sense of scale for a building, especially at the ground level. Awnings and canopies are appropriate locations for signage. Awnings with signage shall comply with any master signage plan on file with the historic preservation officer for the property. Awnings and canopies installed at street level within the public right-of-way require licensing with the city's capital improvements management services (CIMS) department. Canopies, balconies and awnings installed at river level within the public right-of-way require licensing with the city's downtown operations department.

(1) If awnings, arcades and canopies are to be used they should accentuate the character-defining features of a building.

A. The awning, arcade or canopy shall be located in relationship to the openings of a building. That is, if there are a series of awnings or canopies, they shall be located at the window or door openings. However awnings, canopies and arcades may extend the length of building to provide shade at the first floor for the pedestrian.

B. Awnings, arcades and canopies shall be mounted to highlight architectural features such as moldings that may be found above the storefront.

C. They should match the shape of the opening.

D. Simple shed shapes are appropriate for rectangular openings.

E. Odd shapes and bubble awnings are prohibited except where the shape of an opening requires a bubble awning, or historic precedent shows they have been previously used on the building.

F. Canopies, awnings and arcades shall not conflict with the building's proportions or with the shape of the openings that the awning or canopy covers.

G. Historic canopies shall be repaired or replaced with in-kind materials.

(2) Materials and Color.

A. Awnings and canopies may be constructed of metal, wood or fabric. Certain vinyl is allowed if it has the appearance of natural fiber as approved by the HDRC.

B. Awning color shall coordinate with the building. Natural and earth tone colors are encouraged. Fluorescent colors are not allowed. When used for signage it is appropriate to choose a dark color for the canopy and use light lettering for signage.

(3) Incorporating lighting into the design of a canopy is appropriate.

A. Lights that illuminate the pedestrian way beneath the awning are appropriate.

B. Lights that illuminate the storefront are appropriate.

C. Internally illuminated awnings that glow are prohibited.

UDC Section. 35-675. Archaeology.

When an HDRC application is submitted for commercial development projects within a river improvement overlay district the city archeologist shall review the project application to determine if there is potential of containing intact archaeological deposits utilizing the following documents/methods:

(1)The Texas Sites Atlas for known/recorded sites, site data in the files of the Texas Archeological Research Laboratory and the Texas Historical Commission;

(2)USGS maps;

(3)Soil Survey maps;

(4)Distance to water;

(5)Topographical data;

(6)Predictive settlement patterns;

(7)Archival research and historic maps;

(8)Data on file at the office of historic preservation.

If after review the city archeologist determines there is potential of containing intact archaeological deposits, an archaeological survey report shall be prepared and submitted. If, after review by the city archeologist, a determination is made that the site has little to no potential of containing intact archaeological deposits, the requirement for an archaeological survey report may be waived.

Upon completion of a survey, owners of property containing inventoried archaeological sites are encouraged to educate the public regarding archaeological components of the site and shall coordinate any efforts with the office of historic preservation.

#### Sec. 35-676. - Alteration, Restoration and Rehabilitation.

In considering whether to recommend approval or disapproval of an application for a certificate to alter, restore, rehabilitate, or add to a building, object, site or structure, the historic and design review commission shall be guided by the National Park Service Guidelines in addition to any specific design guidelines included in this subdivision.

(a) Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.

(b) The distinguishing original qualities or character of a building, structure, object, or site and its environment, shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features shall be avoided when possible.

(c) All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance are prohibited.

(d) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship, which characterize a building, structure, object, or site, shall be kept where possible.

(f) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or

the availability of different architectural elements from other buildings or structures.

(g)The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building's materials shall not be permitted.

(h)Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

(i)Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.

(j)Wherever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

#### FINDINGS:

Findings related to request item #1:

- a. 159 - 161 E Commerce, which was at one time known as 301 - 303 W Commerce, commonly known as the Sullivan Building, Alamo Savings Association and the MIC (Mortgage Investment Corporation) Building is a local historic Landmark.
- b. The demolition of the Sullivan Building received conceptual approval based on unreasonable economic hardship on December 16, 2009. However, the status of that approval has expired and the applicant must reapply for demolition in compliance with UDC Section 35-614.
- c. Generally, property owners are encouraged to explore ways to incorporate historic and contributing buildings into new developments. Rehabilitation work for designated buildings is eligible for local, state and federal tax incentives. Demolition should always be a last resort.
- d. The loss of a historic landmark constitutes an irreplaceable loss to the quality and character of San Antonio.

Demolition of any contributing 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;

[The applicant claims that without the demolition of 161 E Commerce, the owner would not be able to develop an economically viable project at this location without adding additional density to the site. The property was originally purchased in 2013 for \$2,150,000. In total, the applicant has indicated that the current owner has invested over 1 million dollars throughout the period of ownership on improvements, taxes and architectural work attempting to re-use both buildings. During this time of ownership, the applicant has claimed a net loss of \$176,414.55. A 2013 estimate of the fair market value of the structure and property as determined by a qualified appraiser was \$2,100,000.]

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 claims that, due to issues related to the integrity of the structure of the existing building as well as existing constraints such as the structure's footprint, it is not feasibly possible to re-use both buildings, meet

current fire and safety codes and retain enough sufficient space to lease the building. A construction estimate provided in the summer of 2013 estimated the cost of the rehabilitation of the existing building to include 4 apartments and a shell (unfinished) restaurant space was \$4,290,942. The applicant has also noted that the property in question has been vacant for the past 30 + years.]

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.

[While the applicant has not actively marketed the site to potential purchasers, a history of projects have been proposed at this site by multiple owners that have been not been successful due to a lack of feasibility or economic hardships. The applicant as indicated that under the current proposal for demolition of the Sullivan building, additional density could be added while preserving to Fishmarket leading to the successful redevelopment of the corner of E Commerce and N St. Mary's.]

- e. Staff finds that the applicant has made a legitimate claim for an economic hardship based on Criterion A, B and C. However, staff finds that further explorations may indicate whether additional sections of the Sullivan Building can be retained, particularly if the preservation of additional portions is eligible for local, state and federal tax incentives.
- f. If the HDRC finds that the claim for an economic hardship has been thoroughly substantiated in the application 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.

Findings related to request item #2:

- g. Previously, conceptual approval was given to a similar proposal of a hotel tower at this site on May 5, 2010. Since that time, both the design and owners of the property have changed. On October 2, 2013, conceptual approval was given to another proposal to restore the facades of both 155 and 161, remove the rear façade of the Sullivan Building to create an open courtyard, install storefront windows and balconies and to construct a single story addition to the building at 161 E Commerce.
- h. This current request was reviewed by the Design Review Committee on November 24, 2014. At that meeting, concern was expressed over solar access to the river, the proposed materials, the demolition process and the visual weight of the concrete wall that's proposed for the E Commerce façade. Since then, the applicant has provided additional information in regards to each of these concerns.
- i. This request was reviewed again by the Design Review Committee on January 13, 2015. At that meeting concern was expressed over the façade arrangement in regards to the UDC Section 35-674(d)(1), how much of the original flood wall would be retained and if there would be any re-use of stone at the river level.
- j. The request for demolition was also reviewed by the Designation and Demolition Committee on January 14, 2014. At that meeting, the previous approval of the demolition of the Sullivan Building was discussed as well as the changes to the new construction and how they were different than the previous two approvals. The preservation of the Fishmarket as well as the preservation of the Rio Rita Cistern were two of the main concerns during this site visit.
- k. The applicant has proposed a restaurant and outdoor seating area at the Riverwalk level at the rear of the proposed hotel tower. The proposal is consistent with the UDC Section 35-672(a)(2) in regards to pedestrian circulation and linking the various functions and spaces on a site with sidewalks in a coordinated system. UDC Section 25-672(a)(5) addresses pedestrian access along the Riverwalk pathway and how it shall not be blocked by queuing, hostess stations and tables and chairs. The applicant is responsible for complying with this section.



- l. Given its unique placement at the corner of E Commerce and N St. Mary's as well as its placement on the San Antonio River, this proposal will be the focal point of many views. According to the UDC Section 35-672(c)(1), properties that appear to be the terminus at the end of the street or at a prominent curve in the river shall incorporate
- into their design an architectural feature that will provide a focal point at the end of the view. The proposed hotel is consistent with the section in many regards including additional height, variation in roof shape, change of color or material and the addition of other design enhancement features.
- m. The UDC Section 35-673(a)(1) provides guidelines for solar access to the San Antonio River in regards to new construction. The applicant has provided a solar study of both the summer and winter solstices indicating the impact
- that the proposed tower will have on solar access to the river. As shown in the solar study, the applicant's request is consistent with the UDC.
- n. According to the UDC Section 35-673, buildings should be sited to help define active spaces for area users, provide pedestrian connections between sites, help animate the street scene and define street edges. Primary entrances should
- be oriented toward the street and shall be distinguishable by an architectural feature. The applicant has proposed a material change at the ground floor where the primary entrances are located. This is consistent with the UDC Section
- 35-673.
- o. The applicant has proposed to retain the existing trees in the public right of way along N St Mary's and to plant a new tree at the river level as well as install planters at the property line along the Riverwalk. This is consistent with the UDC Section 35-673(f) in regards to plant materials.
- p. The applicant has proposed to create two dining areas at the Riverwalk level which have been named Cypress Dining and Riverwalk Dining. While no specific paving material has been specified, the applicant is responsible to complying with the UDC Section 35-673(g) in regards to paving materials. In addition to this, the applicant is also responsible for complying with UDC Section 35-673(i) in regards to street furnishing at both the Riverwalk level as well as the street level.
- q. Lighting design for any project located in a RIO district is an important aspect of not only that particular project's

design, but also the adjacent buildings as well as the Riverwalk. While a detailed lighting design has not been proposed at this time, the applicant is responsible for complying with the UDC Section 35-673(j) in regards to lighting.

- r. The UDC Section 35-673(l)(3)(A) addresses access to the public pathway along the river. The applicant has proposed to include dining areas at the Riverwalk level, therefore a clearly defined from the site onto the public right of way must be included into the design with either an architectural or landscape element. The applicant has complied with this section by including both architectural elements and landscaping elements in the form of planters.
- s. The UDC Section 35-673(n) addresses service areas and mechanical equipment and their impact on the public. Service areas and mechanical equipment should be visually unobtrusive and should be integrated with the design of the site and building. Noise generated from mechanical equipment shall not exceed city noise regulations. The applicant is responsible for complying with this section.
- t. According to the UDC Section 35-674(b) a building shall appear to have a “human scale”. To comply with this, an building must (1) express façade components in ways that will help to establish building scale, (2) align horizontal building elements with others in the blockface to establish building scale, (3) express the distinction between upper and lower levels, (4) in this instance, divide the façade of the building into modules that express traditional and (5) organize the mass of a building to provide solar access to the river. The applicant has provided evidence that they have met each of these requirements.
- t. The applicant has proposed a pool deck which is to extend out from the proposed hotel eastward over the Fishmarket.

The applicant has not made final design decisions on the specifics of the structural nor aesthetic properties of this proposed deck. The UDC Section 35-676 provides guidelines for the alteration, restoration and rehabilitation of historic structures and the applicant is responsible for complying with this section.

- u. According to the UDC Section 35-674(c) in regards to the height of new construction in RIO districts, there are no height restrictions for new construction in RIO 3 other than the solar access standards in which this proposal

complies. Section 35-674(c)(3) states that building facades shall appear similar in height to those of other buildings found traditionally in the area. This section also states that if fifty (50) percent of the building facades within a block face are predominantly lower than the maximum height allowed, the new building façade on the street-side shall align with the average height of those lower buildings within the block face, or with a particular building that falls within the fifty (50) percent range. While the current proposal is taller than more than fifty (50) percent of the other

facades along the block face, staff finds that there are other buildings of similar height in the area, notably the Drury Plaza Hotel located on the south side of E Commerce, and that the proposed height of approximately two-hundred (200) feet is appropriate at this location.

- v. In regards to materials and finishes, the UDC Section 35-674(d)(1) states that indigenous materials and traditional building materials should be used for primary wall surfaces. A minimum of seventy-five (75) percent of walls (excluding window fenestrations) shall be composed of the following: Modular masonry materials including brick, stone, and rusticated masonry block, tile, terra-cotta, structural clay tile and cast stone. Concrete masonry units (CMU) are not allowed. However according to 35-674(2)(B), glass curtain wall panels are allowed in RIO-3 as long as the river and street levels comply with 35-674(d)(1). The proposal materials and finishes at the street and river level do not comply with UDC 35-674 and the applicant must meet those requirements before this request will be in

compliance with 35-674(d)(1).

- w. According to the UDC Section 35-674 in regards to façade composition, high rise buildings, more than one hundred (100) feet in height shall terminate with a distinctive top or cap. In addition to this, curtain wall systems shall be designed with modulating features such as projecting horizontal and/or vertical mullions, entrances shall be easy to find, be a special feature of the building and be appropriately scaled and the riverside façade of a building shall have

simpler detailing and composition than the street façades.

- x. The applicant is proposing a black canopy to wrap from the E Commerce façade, to the N St. Mary's Façade and then to the Riverwalk side of the building to cover the entrance to the river level of the building at the patios. The proposal is consistent with the UDC Section 35-674(g) in regards to form and color, however the applicant is

responsible for complying with item (3) in regards to incorporating lighting into the design of the canopy.

- y. The UDC Section 35-675 states that an HDRC application for commercial development projects within a river improvement overlay district shall be reviewed by the city archaeologist to determine if there is potential of containing intact archaeological deposits. The applicant is responsible for complying with this section of the UDC.

**RECOMMENDATION:**

1. The demolition of a historic landmark constitutes an irreplaceable and irreversible loss to the quality and character of the City of San Antonio. Staff does not recommend approval of demolition at this time based on finding e. All incentives and resources should be fully explored in order to substantiate a claim for economic hardship.
2. If the demolition requested in item 1 is approved by the HDRC, then staff recommends conceptual approval of the proposed development with the following stipulations:
  - i. That the applicant provide a salvaging plan for incorporating historic materials that are indicative of the history of the Sullivan Building into the proposed development.
  - ii. That the applicant return to the Design Review Committee to resolve certain aspects of the new construction including, but not limited to lighting design, street and river level façade arrangement, the placement of mechanical and service equipment.

**CASE MANAGER:**

Edward Hall