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MAYOR



**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**

Metropolitan Historic Zoning Commission  
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**STAFF RECOMMENDATION**

**201 Broadway  
August 17, 2016**

**Application:** New construction  
**District:** Broadway Historic Preservation Zoning Overlay  
**Council District:** 19  
**Map and Parcel Number:** 09306209900  
**Applicant:** Old Town Trolley Tours of Washington, Inc.  
**Project Lead:** Robin Zeigler, robin.zeigler@nashville.gov

<p><b>Description of Project:</b> The applicant is seeking approval of construction that has already taken place without a Preservation Permit. The project includes resurfacing the parking lot, 5 flag poles, an ATM structure, ticket-sales kiosk and food trucks on a corner lot.</p> <p><b>Recommendation Summary:</b> Staff recommends disapproval of the project finding that it does not meet Section III of the design guidelines for new construction. If the retail trucks will not be in place more than 90 days at a time, staff recommends that the Commission obtain a letter from the applicant stating such and not include that portion of the project in its review.</p>	<p><b>Attachments</b> A: Site Plan B. Plans</p>
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**Vicinity Map:**



**Aerial Map:**



## Applicable Design Guidelines & Ordinances:

### ORDINANCE

#### 16.08.012 Amendments to International Building Code

**O.** Section 3103 of the 2012 Edition of the International Building Code is hereby amended by deleting Section 3103 and substituting the following:

#### 3103 TEMPORARY STRUCTURES

3103.1 General. The provisions of this section shall apply to structures erected for a period of 90 days or less. Tents and other membrane structures erected for a period of 90 days or less shall comply with the Metropolitan Fire Code. Those erected for a longer period of time shall comply with applicable sections of this code.

#### 17.40.410 Powers and duties

**C. Design and Demolition Review.** The historic zoning commission shall make the following determinations with respect to historic overlay districts:

1. The appropriateness of the exterior architectural design and features of, and appurtenances related to any new structure or improvement;
5. The appropriateness of the maximum size of buildings and structures on a lot and the buildable area within which a building can be located, including setbacks and height; and,
7. The historic zoning commission may take into consideration the historical or architectural significance of the subject structure or improvement; and the impact of the proposed undertaking on the historic character and integrity of the district as a whole.

### DESIGN GUIDELINES

#### III. New Construction

**General Principles:** New construction should be consistent with existing buildings along a street in terms of height, scale, setback, and rhythm; relationship of materials, texture, details, and color; roof shape; orientation; and proportion and rhythm of openings.

#### I. Parking/Parking Structures, Plaza, Arcades, Landscape and Open Space

1. Parking, parking structures, plazas, arcades, landscape and open space may be appropriate components of new construction when the design of such development contributes to the overall character of the district and the streetscape, and the new construction is consistent with the design guidelines for new construction.
2. New parking should remain subordinate to the street scene and should be wrapped with a pedestrian friendly buffer or façade.
3. Parking structures should be wrapped with retail space or other active use along the street edge.
4. Curb cuts are not permitted on Broadway, and vehicular access should occur at the alley on properties that abut alleys.
5. All applicable guidelines for new construction shall be followed for parking structures.
6. Removal or demolition of existing historic buildings or portions of buildings to create a plaza, arcade, or open space is not appropriate.

**Background:** 201 Broadway is a parking lot at the corner of Broadway and Second Avenue that was added to the Broadway Historic Preservation Zoning Overlay in 2014. The parking pay machine and curb cut on Broadway were constructed prior to the lot being added to the overlay. (See figure 1.)



Figure 1: Parking pay machine installed prior to overlay.

#### Violation schedule

On January 13, 2016, the MHZC received a request to sign off on a building permit (T201601703) to install an ATM structure on this site. Two staff members spoke to Todd Bailey, the contractor, and Don Williams with Gresham Smith letting them know that plans should be submitted for a Preservation Permit. Staff also spoke to a gentleman on 5/5/16 about the possibility of a “shipping container that is open like a kiosk” facing Second Avenue. She let him know what additional information was needed in order to review the project. No application was submitted.

Construction was noted on May 25, 2016. Staff contacted: Todd Bailey, Carter Group LLC (615) 294-0811; Don Williams, Gresham Smith Architects and Christian Belland, owner to notify them of the violation. Mr. Williams responded that their attorney would contact staff. A notice of abatement letter was sent on May 26, 2016 asking that the new construction be removed or that an application be submitted for the Commissions review by noon Friday, July 1, 2016. A partial application was received on July 6, 2016.

The Building Permit that was begun was later cancelled. Bill Herbert, zoning administrator for the Codes Administration stated that he did not know if a building permit is required for the ATM, and that it is not his call. He told Shawn Henry, applicant’s legal counsel, the use is allowed at this location by the zoning code.

#### ATM Background

In 2004 Metro Legal provided the opinion the Commission has the authority to review ATMs. Based on a four month discussion about ATMs in the Second Avenue Historic Preservation Zoning Overlay, the Commission voted in favor of a policy that would not allow for ATMs that puncture the facade or obscure the architectural features of buildings, but that they could be located inside buildings or in an alcove not on the primary facade.” Based on that policy the Commission disapproved 4 ATMs in the Second Avenue Historic Preservation Zoning Overlay that were installed without Preservation Permits. The ATMSs were removed by the owners in the following month.

The ATM at 201 Broadway is different in that it is not associated with an existing building but a free-standing structure. There are two free-standing ATMs currently in the Broadway Historic Preservation Zoning Overlay. The one at Full Moon Saloon was installed prior to the establishment of the overlay. The one at Legends is located within a

recessed doorway on the side façade, which meets the policy created by the Commission in 2004, but was also may have been installed prior to the overlay.

The lot is also located in an MDHA district. MDHA has advised staff that if they were asked to sign-off on a free-standing ATM, they would not as it would not meet their design guidelines since ATMs must be associated with a building. Since the Codes Administration determined that a Building Permit was not required, MDHA did not review the project. Although Building Permits are required to trigger MDHA’s review, they are not required to trigger MHZC review since, MHZC’s review is a stand-alone permit rather than a sign-off on a Building Permit.

**Analysis and Findings:**

Summary

The project includes resurfacing the parking lot, five poles on Broadway and Second Avenue South, a corner ATM machine and associated structure, a ticket kiosk and retail trucks that are assumed to be food trucks.



Figure 2: The parking lot during resurfacing in April 2016.



Figure 3: The 5 flag poles are thirty-five foot (35’) tall steel poles. The diameter was requested but not provided.



Figure 4: The ATM surround is seven feet and four inches wide (7' 4") and ten feet and six inches (10' 6") tall. It has painted brick walls with a mural and the cover includes internally lit signage as well as lighting beneath the cover. Painted signage is included directly above the machine itself.



Figure 5: Drawings were not provided for the ticket kiosk. It is approximately eight feet (8') in width, four feet (4') deep and eight feet (8') tall. The walls are sheet metal and it rests on casters covered by a skirt. It is hooked up to electric but no plumbing. The kiosk includes signage; however, the total square footage was not provided.



Figure 6: Two retail trucks

Plans provided show locations for up to four (4) food trucks. Information was not provided in terms of materials, dimensions and lease lengths. Two of the spots facing Second Avenue South are shown as twenty-five feet (25') wide and ten feet (10') deep. One of the spots facing Broadway is nineteen feet and five inches (19' 5") wide and ten feet (10') deep. The second space facing Broadway is nine feet (9') wide and six feet (6') deep. The applicant states that the food truck parking spaces are available to rent for different periods of time. They are all on wheels with electric service. There is no plumbing.

### Analyses

It is not known at this time whether or not the retail trucks (food trucks and ticket kiosk) require a Preservation Permit as their length of stay has not been provided. According to section 16.08.012.O of the zoning code, review is not required if the trucks are in place 90 days or less at a time. Resurfacing the lot does not require review since the same material was used. The ATM and flag poles require review since they are permanent alterations to the property.

General Principles, Section III states that “new construction should be consistent with existing buildings along a street in terms of height, scale, setback, and rhythm; relationship of materials, texture, details, and color; roof shape; orientation; and proportion and rhythm of openings.” The historic streetscape includes a minimum of two-story buildings with walls that extend the full width of the lot. The collection of ATM, flag poles and retail trucks do not create the solid rhythm established by the historic buildings.

Since the project does not include a building, it was more specifically reviewed under design guideline III.I for “parking/parking structures, plaza, arcades, landscape and open spaces.” Parking/parking structures, plaza, arcades, landscape and open spaces are only appropriate when the “design of such development contributes to the overall character of the district and streetscape and the new construction is consistent with the design guidelines for new construction.” As reviewed above, the proposal does not contribute to the overall character of the district and the streetscape, nor is it “consistent with the design guidelines” for new construction as it does not meet “General Principles” of section III for new construction.

### Recommendation

Staff recommends disapproval of the project finding that it does not meet Section III. of the design guidelines for new construction. If the retail trucks will not be in place more than 90 days at a time, staff recommends that the Commission obtain a letter from the applicant stating such and not include that portion of the project in its review.











First Farmers ATM  
Panel 1

Artwork is 1/4 actual size

Width = 45.38"

Width = 39.97"

Width = 22.48"

Cap height = 4.734"

Cap height = 1.079"

Cap height = 1.769"



Front

Side

First Farmers ATM  
Panel 2

Artwork is 1/4 actual size

Width = 69.03"

Width = 60.97"

Width = 33.65"

Width = 39.19"

Width = 11.54"

Width = 19.32"



Cap height = 8.268"

Cap height = 1.08"

Cap height = 7.152"

Cap height = 1.637"

Cap height = 2.613"

Back

Side

