

MEGAN BARRY  
MAYOR



**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**

Metropolitan Historic Zoning Commission  
Sunnyside in Sevier Park  
3000 Granny White Pike  
Nashville, Tennessee 37204  
Telephone: (615) 862-7970  
Fax: (615) 862-7974

**STAFF RECOMMENDATION**

**Broadway Historic Preservation Zoning Overlay, Second Avenue Historic Preservation Zoning Overlay and Downtown Historic Preservation Zoning Overlay  
December 20, 2017**

**Application:** Revisions to the Broadway, Second Avenue and Downtown HPZO Design Guidelines

**Districts:** Broadway, Second Ave and Downtown Historic Preservation Zoning Overlays

**Council District:** 19

**Map and Parcel Number:** Multiple

**Project Lead:** Robin Zeigler, robin.zeigler@nashville.gov

|   |  |
|---|--|
| <p><b>Description of Project:</b> The application is for a revision to the Broadway, Second Avenue and Downtown HPZO design guidelines.</p> <p><b>Recommendation Summary:</b> Staff recommends approval of the revised design guidelines finding them to meet section 17.40.410.B. of the zoning ordinance.</p> | <p><b>Attachments</b><br/><b>A:</b> Correspondence<br/><b>B:</b> Draft Design Guidelines</p> |
|---|--|

## **Applicable Ordinance:**

17.40.410.B. Establishment of Design Review Guidelines. The historic zoning commission shall adopt design guidelines for each historic overlay district and apply those guidelines when considering preservation permit applications. Design guidelines relating to the construction, alteration, addition and repair to, and relocation and demolition of structures and other improvements shall be consistent with the National Historic Preservation Act of 1966, as amended. A public hearing following the applicable public notice requirements of Article XV of this chapter shall precede the adoption of all design review guidelines by the historic zoning commission. Testimony and evidence material to the type of historic overlay under consideration may be considered by the commission in its deliberations.

**Background:** The existing Broadway Historic Preservation Zoning Overlay includes the Broadway National Register of Historic Places district (1980) and two individually listed properties: the Ryman Auditorium (1971) and Acme Farm Supply (1998.) In 2001, The Ryman gained National Historic Landmark status.

In addition to the required mailed notice of the public hearing, Staff provided a brief presentation to The District Board and The District Merchant's Meeting. The District is a private 501 (c)(3) non-profit organization dedicated to economic and community revitalization of three historic districts and their contiguous areas in downtown Nashville; Broadway, 2nd Avenue/Riverfront and Printers Alley, collectively known as The DISTRICT. Three community meetings were also held on October 16, November 27, and November 30 at the Nashville Civic Design Center and the Wildhorse Saloon, where a more in-depth overview of potential changes was presented.

## **Analysis and Findings:**

A revision of the design guidelines is needed in order to address new requests that were not contemplated at the time of the establishment of the district and to provide more clarity that is in line with how the Commission has interpreted the design guidelines in the past.

A draft of the design guidelines has been on the Historical Commission website for more than two months. In the draft, alterations are noted in green with underlining representing proposed new language and stricken text denoting information suggested to be removed. Additional changes made in response to two public hearings in late November are noted in red. Information that is simply moved to another location or is changed from italicized to non-italicized is not noted. Typos, corrections, renumbering and replacement, deletion or addition of photographs that do not change the design guidelines are likewise not noted as these actions are not actual alterations of the guidelines.

Following is a summary of the initial changes but is not an exhaustive list of every change. The actual draft should also be referenced and is attached.

## **Introductory Information:**

- Map shows the National Register boundaries as well as the overlay boundaries.

## **Rehabilitation**

- Changes are primarily further clarifications of existing design guidelines.
- Some italicized information is no longer italicized. Italicized information provides further guidance regarding a design guideline and does not change existing design guidelines.

## **New Construction**

- Many changes provide further clarification of existing design guidelines and policies.
- Added a section for “awnings and canopies”.
- Added a section for “vacant lots, open space and sidewalk cafes”.
- Added guidance for additional appurtenances such as telecommunication towers and vending. The language regarding vending follows a policy adopted by the Commission in 2004.
- Broadway design guidelines allow for additional height in some areas that are not in the National Register district, following the established method already in the design guidelines which is allowing for increasing height south of Broadway. (Design guidelines regarding height for the Second Avenue and Downtown districts is not proposed to be changed as there are no areas of little to no historic context in these two areas.)
- Changed italicized information regarding rooftop railings that follows previous interpretations of the design guidelines
- Additional guidance on building illumination
  - focuses on lighting illuminating architectural features;
  - allows for “day-light” colored lighting. Changed the italicized language that states that the MHZC does not review holiday lighting to non-italicized.
  - The language regarding lighting color follows a policy adopted by the Commission earlier in 2017. This language is currently italicized language in the design guidelines.\*

## **Signage**

- Now allows for window signs that are not allowed elsewhere in the DTC.
- Provides specifics for rotating signage on Broadway.
- Allows for a separate allocation for painted murals that are not allowed elsewhere in the DTC.
- Allows for a separate allocation for menu boards that are not covered by DTC.
- Provides direction for 3D signs that do not appear to be allowed elsewhere in DTC.
- Removed monument signs from 2<sup>nd</sup> Ave design guidelines since there aren’t any locations where they would be possible.

- Removed some general information from the signage section, such as instructions regarding “modifications,” as the Commission regularly reviews projects that do not fit the design guidelines, not just signage, and the modification section doesn’t provide the Commission with any additional guidance for doing so.
- For clarity a list of “prohibited” signs has been added. (Note that none of the listed signs have been allowed in the past.)
- Removed “bare bulb illumination” from the list of prohibited light sources.
- Changed italicized information regarding chasing lights and rope lighting to non-italicized.

## **Appendix**

- Additional terms defined

## **General**

- Numbering of some sections that were not previously numbered was added to facilitate referencing of these sections in reports.
- A small number of existing design guidelines were moved to different sections to assist with finding information.
- Some additional photographs were added to provide examples.

\*The Commission held a charrette on 6/19/17 to discuss building and signage illumination and then discussed the issue at the 6/21/17 public hearing. The charrette included presentations from lighting expert, Anthony Denami, sign company owner, Bobby Joslin, preservation consultant, Phil Thomason, Tennessee Historical Commission representative Dan Brown, and Planning Department representative Andrew Collins. Staff researched the design guidelines of more than 40 cities, finding that of those that address building illumination, only one seems to allow for colored building illumination as an example image shows colored lighting, but does not provide specific guidance regarding the lighting. Cities like Philadelphia allow colored building illumination on large Landmarks. For instance, S Broad Street is a street that is approximately three-times the width of other streets and includes buildings that are one-half to one-quarter of a block in length. Staff found that lower Broadway, with significantly narrower buildings, is not a similar context to those areas where colored lighting has been allowed on historic buildings. Guidelines for the Vieux Carre in New Orleans are the most extensive in terms of building illumination and state that colored lighting “often creates a visual spectacle and disharmonious atmosphere that has no connection to the color of the building itself or the Historic District. As a result, the use of an intentionally colored bulb or filter is not allowed in the Vieux Carre.” Based on research, and to follow best-practices established in other cities, the Commission chose to require building illumination to be a white/day light color. The Commission adopted the current policy regarding building illumination at the 8/16/17 public hearing, with the support of Historic Nashville, Inc, the Tennessee Historical Commission and the Planning Department.

Following is a list of changes made in response to two community meetings hosted in late November, these are the changes noted in red in the draft and have been available on the website since December 4, 2017.

| <b>Broadway Pg #</b> | <b>Second Ave Pg #</b> | <b>Downtown Pg #</b> | <b>Note</b>   |
|----------------------|------------------------|----------------------|---|
| 20                   | 20                     |                      | Although this is the “rehab” section, clarified that roll up doors are allowed on rooftop additions. (Rooftop additions are covered under “new construction.”)  |
| 25, sec 5            | 25, sec 3              |                      | Section 5/3 was divided into two sections so that the sentence about roof <u>materials</u> is separated from roof <u>form</u> and added clarification about roof materials  |
| 35                   | 34                     |                      | Remove review of security cameras   |
| 38                   | 38                     |                      | The rooftop addition section now references the “awnings” section of this page so there is clarification that lighting above awnings and signage on awnings is not appropriate for awnings on rooftop additions. Removed the phrase in Section 3 that awnings should not cover no more than 1/3 of a storefront                                   |
| 40                   | 40                     |                      | Added that “holiday lighting” is not reviewed in the “general principle” section  |
| 52                   | 50                     |                      | Removed reference to existing 4-story buildings when talking about roof top additions. Added a sentence to explain the purpose of the height and step back restrictions.  |
| 53                   | 51                     |                      | Clarified: that awnings are appropriate on rooftops, rooftop lighting, and openings on rooftop additions. Added section to list the items that do not need to be reviewed, which means these features can be bolted down since we are no longer relying solely on the definition of “permanently installed” to define what can be on the rooftop. |
| 57                   |                        |                      | Remove second reference to review of security cameras   |
| 58                   | N/a                    | N/a                  | Removed sidewalk cafes from Broadway DG (left in design guidelines for Second Ave and Downtown)   |
| 67                   | 65                     |                      | clarify what a “mural” is   |
| 76                   | n/a                    |                      | changed three-second flashing back to one-second flashing   |

Additional changes are recommended, from the version available online, in response to public comment received since the last community meeting. On the draft attached to this report, those changes are noted in blue.

| <b>Broadway Pg #</b> | <b>Second Ave Pg #</b> | <b>Downtown Page #</b> | <b>Notes</b>   |
|----------------------|------------------------|------------------------|--|
| 32-33, 53            | 31, 52                 | 32-33, 51              | Added clarification of rooftop screening of mechanicals and removed some duplication about solar panels  |
| 53                   | 51                     | 53                     | Allows for awnings and roof overhangs associated with rooftop additions to intrude into the stepback area by 4’.   |
| 53                   | 51                     | 53                     | Added items to list of features associated with rooftop additions that do not require review: free-standing, single-pole umbrellas, mechanicals attached to the wall |
| 60                   | 58                     | 60                     | Removed “sandwich” board sign guidance since Metro does not allow.   |

State law and the Metro zoning ordinance require that design guidelines be consistent with the National Historic Preservation Act of 1966, which is the Secretary of Interior's Standards. Staff finds all revisions meet the Standards and therefore recommends approval. The Standards were listed in the original design guidelines and are likewise included in the draft.

**Recommendation:** Staff recommends approval of the revised design guidelines finding them to meet section 17.40.410.B. of the zoning ordinance.

**From:** Tuck, Seab [mailto:stuck@Tuck-Hinton.com]  
**Sent:** Tuesday, December 05, 2017 3:39 PM  
**To:** Zeigler, Robin (Historical Commission)  
**Cc:** Walker, Tim (Historical Commission); O'Connell, Freddie (Council Member)  
**Subject:** RE: Broadway, 2nd Ave and Downtown DG revisions

I write the following comments about the recent Broadway Guideline revisions as an architect that has worked on numerous historic buildings in Nashville. I have also rehabilitated many in the downtown historic district and seen many changes in the area over my 40 years of practice. My comments are not necessarily meant to represent any particular client or building; however, I have used some as examples.

**SCREENING OF ROOF TOP MECHANICAL UNITS-** Although suggested that they go on the rear of a building or as far back from the street as practical, there is now requirement to screen them in any case. I do not think it should be a requirement but if an owner wishes to conceal it, I think that would be best. On ACME we were required to do so from the bridge, but on 300 Broadway we were not allowed to do so as it counted in the height. We thought it important to do so as the roof is so visible from Broadway driving east. You seem to be very concerned about non-historic elements of every kind (security, lights, etc.) but this one which is huge gets little attention and mixed staff reviews.

**EXTERIOR LIGHTING-** You do not review color on signs and it is the signs that produce the distracting color on the building facades. Therefore you already have colored lighting and resulting shadows that visually destroy the architecture. I strongly believe that consistent LED colored light will in fact mitigate the sign light and visually enhance the architectural elements. It is not contrary to the Standards and I specifically asked the question to your presenter at your first hearing whether it had been outlawed in the seven historic districts that he used as examples and his answer was no. I suggest the historic area of Philadelphia where streets of buildings are lit in color.

**ROOF TOP SETBACKS-** Currently stated is 30' from Broadway and 20' from a side street. The whole notion is that the addition can't be seen from the far side of the street and doesn't overwhelm the historic building. This used to be determined by a skyplane angle that would vary depending on the building height. The guidelines do not differentiate between very tall and short buildings. My opinion is that the setback should be greater on shorter buildings and on taller ones an addition can be closer to the street. A skyplane setback is already in the zoning code for buildings outside the DTC. This can be similarly done with a formula. I suggest you simply take the width of Broadway and divide it by the height of the building. This will give you the horizontal setback to 1 vertical foot. If Broadway ROW is 80' and the building height is 40', you divide 80 by 40 and get 2. Therefore, you setback 2' for every 1' in height. That would be 30' back for a 15' height. That is an approximate average which probably set the original guideline. However, if a building were only 20 feet tall, the setback would be 4' for every vertical foot, or 60' for 15'.

Generally, I feel the Historic staff should assure to the public that the architectural integrity of the buildings themselves is not permanently damaged or harmed. Other than that, I believe it is unwise to try to control the detail of signage and lighting. The buildings are naturally lit most of the time. Only after dark do the merchants have the opportunity to create a vibrant and fun place. I believe they should have that right when only 6 of the 24 hours. Otherwise, I believe you are reaching beyond your obligation only to continue to create misunderstanding and confusion.  
Thank you for what I know is a difficult task. S

Seab A. Tuck,III FAIA  
Tuck-Hinton Architects  
410 Elm Street  
Nashville, TN 37203  
615.254.4100 ext. 250

**From:** Joe Hall <[Joe@hallstrategies.com](mailto:Joe@hallstrategies.com)>  
**Date:** December 11, 2017 at 3:52:33 PM CST  
**To:** "Elizabeth R. Mayhall" <[elizabeth.mayhall@regions.com](mailto:elizabeth.mayhall@regions.com)>  
**Subject: RE: inquiry about a project**

[External Content] Please use caution.

---

I was unaware of that fact. I suppose in that way y'all are similar to planning commission.

Well, this is not a conversation, but rather a statement.

My clients support the staff recommendations. Staff did a thorough and thoughtful job across the board with the guidelines. It is very necessary for MHZC to be flexible over time and occasionally update guidelines to adapt to modern conditions as is proposed here by staff. (Against the heated opposition of a property owner who is throwing every possible obstacle to stop the height guideline.)

This site has been a parking lot for two decades (since the tornado forced demolition of the existing structure) and next year begins a third decade of the site as a parking lot. Vibrancy of the historic structures require vibrancy of what's around them.

The most important issue is that Maxwell and Maher are at the end of the rope as it relates to their prospective tenant. Our hope--- our need – is that the guidelines are approved December 20.

Thanks for the cell number – I'll tuck it away for another, more appropriate time.  
Cheers! Joe

**From:** Elizabeth R. Mayhall [<mailto:elizabeth.mayhall@regions.com>]  
**Sent:** Monday, December 11, 2017 3:40 PM  
**To:** Joe Hall <[Joe@hallstrategies.com](mailto:Joe@hallstrategies.com)>  
**Subject:** Re: inquiry about a project

Hi Joe, I just checked and the height guidelines are coming up for a vote. This project is included in that. As a commissioner, I am not allowed to discuss it outside of public hearing.

**From:** frank may [mailto:frankcharlesmay@gmail.com]  
**Sent:** Friday, November 10, 2017 3:50 PM  
**To:** frank may  
**Subject:** Protecting Broadway Historic District

My name is Frank May. I am a 4<sup>th</sup> generation Nashvillian and I have owned property in the Historic District for over 40 years. I have always been a supporter of the district and I understand the importance to downtown and to Nashville.

I have reviewed the proposed revisions to the current Broadway Design guidelines. While most seem as though they will strengthen the district, I do have concerns about the proposed infill regulations on pages 44 and 45.

As I understand it, new infill buildings are currently allowed to be a maximum of 90 feet tall – roughly 6 stories. The new revisions proposed would seem to have the effect of allowing at least one 12 story (150 feet) and one 18 story (220 feet) building on 1st Avenue. My concerns over this change are the following:

1. The boundaries of the district were set by the Historic Commission and revised in 2007 in part to protect the backside of the Broadway block from high-rises being built. It is unclear what has changed that we should deviate from protecting the back as well as the front of Broadway.
2. The 2007 guidelines treated all buildings, whether on Broadway or behind Broadway, in a non-discriminatory manner, allowing for a floor or two of height variation. The proposed revised guidelines, do not attempt to protect the scale and historical character of the rear properties in the District. These proposed changes effectively create spot zoning, allowing two properties in the district, zoning for buildings 150 and 220 feet tall.
3. According to the existing code, on page 42, “New construction should be consistent with existing buildings along a street in terms of Height, Scale, Setbacks, and Rhythm; relationship of materials, texture, details, and color: roof shape: orientation: and proportion and rhythm of openings.” These new allowances would not be compatible in height or scale with the 4 story Acme or the 4-story American Feed Steam building on 2nd Ave.

4. The historic Shelby Street Bridge defines the southern edge of the Historic District. It makes little sense to put high-rise buildings separating the historic Shelby Street Bridge from the Historic District.
  
5. Perhaps the biggest single concern is the law of unintended consequences. Today there is a hard and fast limit on height for buildings in the District. Once that door is opened, developers have a strong incentive to find ways, unthought-of of by those drafting the new regulations, to add additional buildings with excessive heights. I have heard on many occasions from the Historic Commissioners that it is important to be consistent on compatibility issues of height, scale, and quantity. A 12 or 18 story building is a violation of that compatibility.
  
6. It is also well known there is a developer actively trying to propose a high-rise building in the Historic District. Coincidentally, the site of this proposal is the 1st Ave site that is being considered for an 18-story building. It is my understanding that the staff, with no consultants, made these revisions to the new Historic Commission Guidelines. The property owners in the Historic District were only notified in the past two weeks of this public hearing on Wednesday, November 15, 2017. It is my understanding it has been several months that the staff has been working on these revisions, without input from the community, property owners or other interested parties. It was only in the last couple weeks that the staff made presentations to “The District” and one other organization.

“The future well-being of lower Broadway is important of all of Nashville. No part of our city is more historic and more tied to the river to which Nashville has been seeking to reconnect, than this small, fragile, human-scaled section of downtown. These buildings tell the authentic story of our city’s development.” This quote is taken directly from the introduction to the Historic District Guidelines.

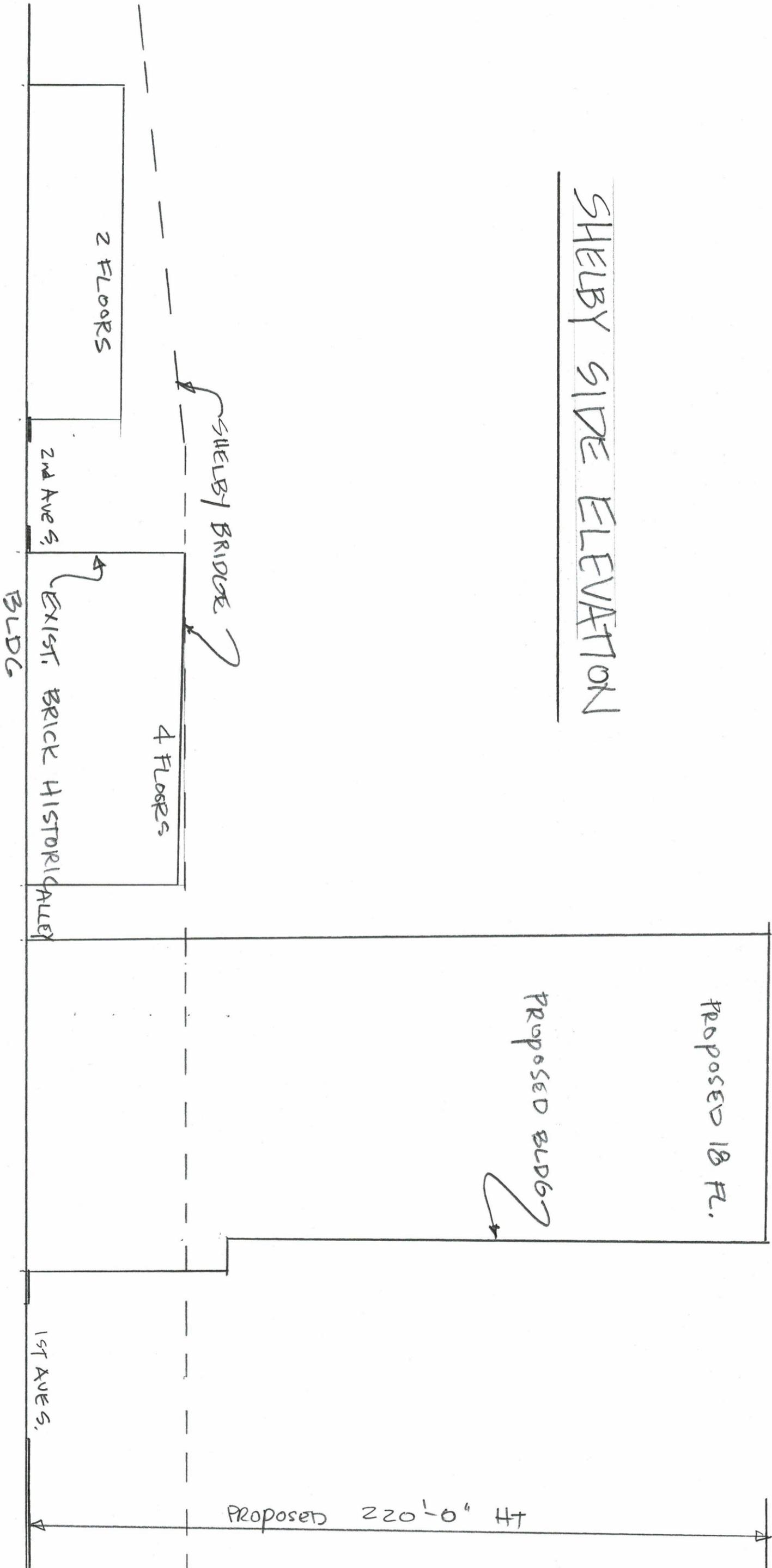
Please do not jeopardize the district and do not allow these proposed building exceptions. Currently most of downtown zoning allows high-rises and skyscrapers. Can we not have one area in downtown Nashville that does not allow high-rises: this being the Historic District? It is unclear after 20 years having the Historic District with height limitations that we go from 7 stories to 18 stories with secrecy, rapidity, and very little public input. Please keep the maximum height of new buildings at 90 feet or table this vote to allow for public input and discussion.

Attached are two drawings, visually showing the proposed changes.

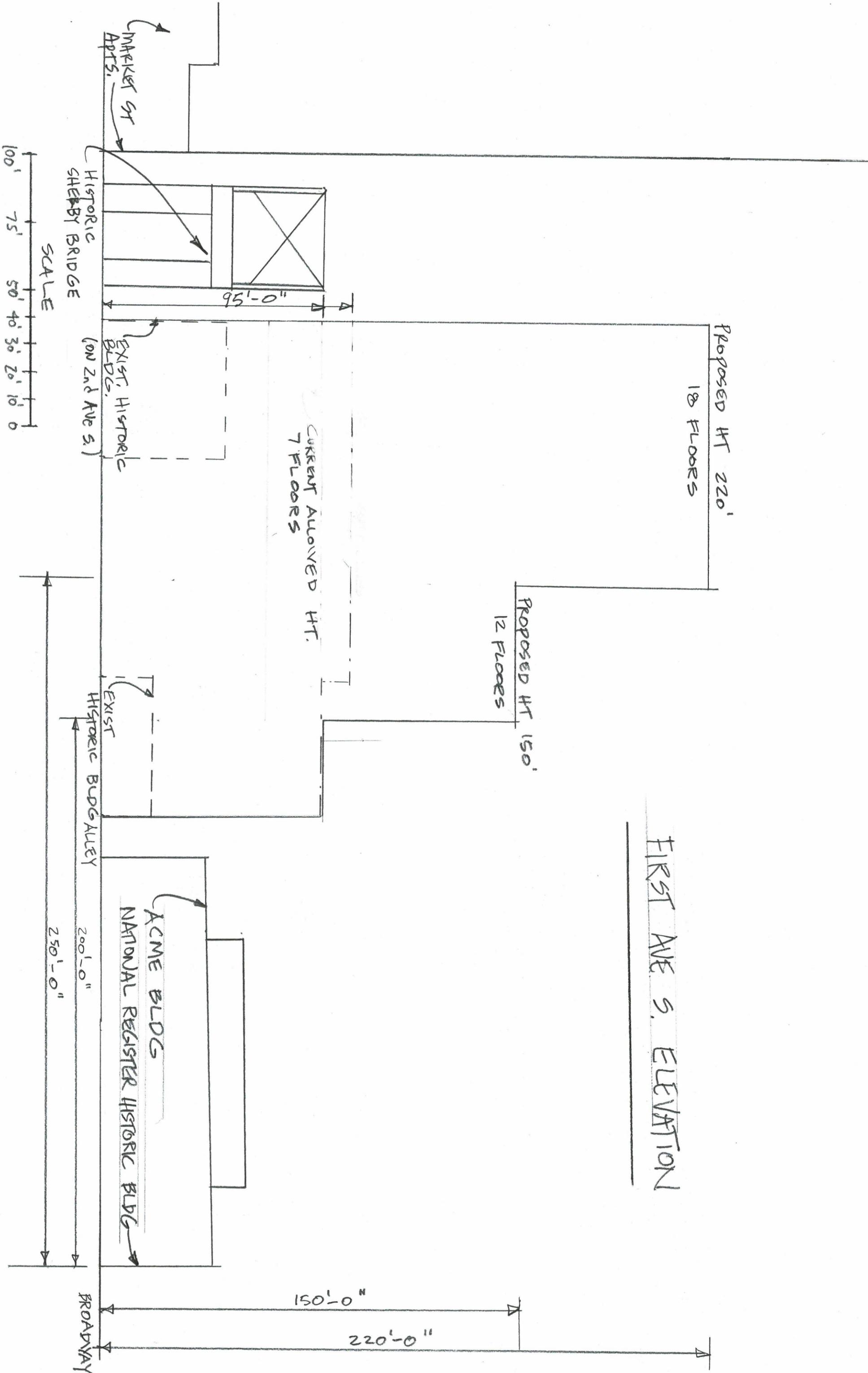
Thank You,

Frank C. May

SHELBY SIDE ELEVATION



# FIRST AVE S. ELEVATION



Kelly L. Frey  
T 615.664.5304  
kelly.frey@nelsonmullins.com

150 Fourth Avenue, North | Suite 1100  
Nashville, TN 37219-2415  
T 615.664.5300 F 615.664.5399  
nelsonmullins.com

December 1, 2017

**Via Electronic Mail**

Robin Zeigler  
Administrator  
Metro Historic Zoning Commission  
3000 Granny White Pike  
Nashville, TN 37204

Ms. Zeigler:

This letter is on behalf of my client, Bill Miller, and his affiliated entities (as property owners of three buildings and a dozen business ventures located within the Broadway overlay) in response to your request for public comments on the proposed revisions to the Broadway, Second Avenue and Downtown overlays that have been recommended by the staff of the Commission. In general, we oppose these revisions and current policies of the Commission consistent with these revisions.

**Background**

As background, Mr. Miller's companies own buildings located at 119 Third Avenue South (where through his affiliates he operates the world-renowned *Johnny Cash Museum*, the *Patsy Kline Museum*, *Bongo Java Café*, *Music City Threads*, *Icon Entertainment*, and the soon to be opened *House of Cards* dining facility) and 409 Broadway (where his affiliate operates *Nudie's Honky Tonk*). Mr. Miller has, at his sole risk, lovingly restored and put these properties to constructive contemporary use consistent with the character of the overlay at a cost of millions of dollars. Listed below are just a few of the awards that one of Mr. Miller's ventures, the *Johnny Cash Museum*, has received to date:

- Top 10 Trending U.S. Attraction for Fall 2017 - TripAdvisor
- Top 25 Trending U.S. Attractions for Summer 2017 – TripAdvisor
- Top 5 Museums Dedicated to Pop-Rock Music (worldwide) - Marie Claire
- Top 3 Best Things to Do in Nashville – Orbitz
- Top 10 Best Attractions in Nashville- USA Today
- Gem Rating - AAA
- #1 Must Visit Museum for Music Lovers [Worldwide] – Conde Nast's Traveler

- #1 Pitch Perfect Museum [Worldwide] – National Geographic
- 5 Nashville Must Sees – Forbes
- 7 Great American Vacation Spots (That Won't Bust Your Budget) – Time
- 50 Reasons We're Thankful to be Southern – Southern Living
- 22 Reasons You Should Visit Nashville – Huffington Post
- Top 10 Tennessee Spots for Music Lovers – Rolling Stone
- Best Culture Stop in Nashville – Money Magazine

Mr. Miller has also recently acquired the Hats Boot Co. building located at 121 Third Avenue South and announced plans for a multi-million dollar renovation of that building to house a new *Merle Haggard Museum* and *Merle's Meat +3 Saloon – Powered by Swett's* (and a possible third/unannounced museum project of national significance).

Outside of the overlays, Mr. Miller's company also owns the Southern Turf building on Fourth Ave North (and operates the *Skull's Rainbow Room*).

In summary, Mr. Miller has (without any incentives from the city or the state) invested tens of millions of dollars in the purchase and restoration of multiple downtown Nashville properties, created over 200 new jobs, substantially contributed to Nashville's reputation and fame as a destination location, and generated tens of thousands of dollars in new tax revenues for the state and the city. Objectively, the Commission should be interested in hearing his position on the proposed revisions and the current policies of the Commission.

### **Opposition to Proposed Revisions**

*Lack of Notice to Stakeholders* - Despite Mr. Miller's substantial personal investment in the Broadway overlay (and Nashville in general), at no time was he given actual notice of any of the proposed revisions or any of the hearings scheduled by the Commission. This is in direct contradiction of public comments by Commission representatives that "all property owners in the overlay were personally contacted by the Commission." Lack of notice to stakeholders such as Mr. Miller is at the best an indication that the Commission is practically disinterested in the very constituencies who have revived the lower Broadway area from peep shows and flop houses to its current vibrant character as a tourist destination site. At worst, such lack of notice indicates an intent by the Commission to engage in regulation without reference to any constituencies (property owners or otherwise).

*Lack of Public Involvement in Regulatory Decision Making* - Consistent with lack of notice to Mr. Miller, there was (until public outcry demanded otherwise) a lack of involvement in or input from any/all stakeholders in the overlays. Per the public comments of the Commission's representatives, the revisions proposed were developed by Commission staff and were not reviewed beyond that (including a lack of review by Metro Legal Counsel, who is charged with Commission enforcement proceedings). There has been no public indication that any of the owners of property within the overlays or other stakeholders with respect to the overlay requested any of the proposed revisions. Since objections to the proposed revisions surfaced prior to the scheduled Commission agenda item on the revisions in November (which resulted in a deferral of

the proposed revisions until the Dec 20 meeting of the Commission), the Commission has scheduled two discussion groups (one on November 27 and one on November 30) and has invited written comments in anticipation of Commission staff making further edits to the proposed revisions (which meetings and input Mr. Miller and the other stakeholders appreciate and applaud). This letter, specifically, is made in response to the openness of the Commission to receive candid comments on the revisions from stakeholders. However, the general public remains unaware of the proposed changes and the potentially chilly effects these revisions and enforcement of current policies may have on current or future economic development in the overlays, and there has been no public discourse or news reporting on the revisions. The practical result is that the proposed revisions are being made behind closed doors and without reference to the opinions of the larger Nashville community that must live with the results.

*Revisions Exceeding Commission Authority or Mandate* - With many of the revisions, the Commission attempts to extend its regulation beyond its authority. Specifically, the Commission is charged with “design guidelines relating to construction, alteration, addition, and repair to, and relocation and demolition of structures and other improvements that shall be consistent with the National Preservation Act of 1966, as amended [the “Act”].” However, the proposed revisions far exceed the guidelines articulated in the Act or any guidance on the Act. Specifically, there is no national standard for regulation of “white” versus “colored” lighting – however the proposed revisions explicitly limit certain lighting to “white” or “bare bulb” lighting. While “white only” provisions in the lower Broadway area may be an historical artifact of an earlier era and “black and white photography” (which fail to reveal the rainbow of colors that existed in this area, historically), such provisions are inconsistent with any practical usage within the area over the last two decades. Downtown Nashville is “NashVegas” – brimming with colorful lighting and signs that attract tens of thousands of tourists and residents each week. To reduce the lighting in the overlay to a monochromatic schema is bad preservation, bad policy, and bad business for the city. Similarly, the Commission has historically regulated only exteriors and conduct that requires permitting. However, the revisions attempt to impose regulation under Commission authority for conduct that does not require permitting (such as awnings, temporary string lighting consistent with Christmas decoration, etc.). To the extent that the revisions reflect merely explicit statements of policies that currently exist, then the policies themselves should be revisited in open discourse with the community.

*Revisions Inconsistent with State Law* – Some of the revisions include prohibitions against conduct that is regulated by other governmental entities and/or pre-empted from Commission regulation. Specifically, the provisions with respect to state right of ways and outdoor cafes illustrates this conflict (although this issue is not of personal interest to Mr. Miller or his affiliated businesses).

*Confusion with Respect to Signage Versus Lighting* – While the Commission has regulatory authority over signage in the overlays, its proposed authority to regulate “lighting” (as opposed to “light fixtures”) is questionable. The revisions further confuse this issue by including lighting restrictions within New Construction, when in fact the regulation and enforcement policies go beyond such new construction.

*Height Restrictions* – While not of immediate concern to Mr. Miller, the proposed height, set-back, and other restrictions on improvements for multi-story additions to current buildings seems a barrier to continued effective use of buildings consistent with the current character of the overlay (as well as being inconsistent with the general overlay plan). On the one hand, the revisions allow the southern corners of the Broadway overlay to be used for 18 story new construction projects pursuant to a “plan of transition from the overlay to the area on the other side of Shelby street walkway” – but such revision concerns only two parcels and provides for absolutely no transition from 2 story buildings on Broadway to gradually increasing heights at the periphery of the overlays. While within the authority of the Commission to make such decisions, a more studied and reasonable approach to gradual transitions from 2 to 4 to 6 story buildings would seem to be more consistent with preserving the unique character of the core of the overlay while accommodating to changing commercial uses/needs at its periphery (especially where such transitions relate to the overlay but not the National Register District).

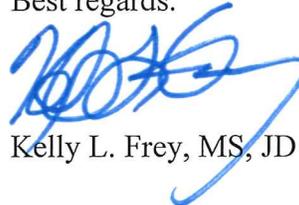
#### **Request for Deferral and/or Rejection of Revisions**

Given the forgoing and the general opposition publicly expressed to the proposed revisions to the regulations, Mr. Miller would request:

1. that the Commission indefinitely defer action on the revisions or reject the current version of the revisions pending a concerted effort by the Commission to involve relevant constituencies and make a comprehensive review of regulations and the need for their revision (with the benefit of Metro Legal and Metro Council);
2. if such deferral is not possible, request that the Commission defer any authority to regulate “lighting” (as opposed to “lighting fixtures”) included within the revisions;
3. if such deferral is not possible, request that the Commission re-evaluate height restrictions to include a gradual/increasing transition of building height from Broadway outward (i.e. 2 to 4 to 6 stories, etc.), especially in areas beyond the National Register District to allow for increased usage at the periphery (but in a gradual/transitional fashion);
4. if such deferral is not possible, request that the Commission re-evaluate the revisions related to rooftop additions and obtain further comment as to consistent/best use within the specific context of the Broadway overlay.

Thanks for the ability to provide comments and work with the Commission on envisioning the Nashville in which we all want to live and flourish.

Best regards.



Kelly L. Frey, MS, JD

Kelly L. Frey  
T 615.664.5304  
kelly.frey@nelsonmullins.com

150 Fourth Avenue, North | Suite 1100  
Nashville, TN 37219-2415  
T 615.664.5300 F 615.664.5399  
nelsonmullins.com

To: Metropolitan Historic Zoning Commission

Re: Proposed Revisions to the Broadway HP Zoning Overlay

Dated: December 6, 2017

This comment on the proposed revisions to the Broadway HP Zoning Overlay (and the current policies which the revisions intend to codify) is submitted on behalf of my client, Bill Miller, and his affiliated entities (as property owners of three buildings and a dozen business ventures located within the Broadway overlay). In general, we oppose these revisions and current policies of the Commission consistent with these revisions. We also take exception to the process involved in attempting to rapidly push through these sweeping regulations without properly informing/involving constituencies, the community, or elected officials.

## BACKGROUND

As background, Mr. Miller's companies own historic buildings located at 119 Third Avenue South (where through his affiliates he operates the world-renowned *Johnny Cash Museum*, the *Patsy Kline Museum*, *Bongo Java Café*, *Music City Threads*, Icon Entertainment, and the soon to be opened *House of Cards* dining facility) and 409 Broadway (where his affiliate operates *Nudie's Honky Tonk*). Mr. Miller has, at his sole economic risk, taken these underutilized buildings and lovingly restored and put these properties to constructive contemporary use consistent with the character of the overlay at a personal cost of millions of dollars. Listed below are just a few of the awards that one of Mr. Miller's ventures, the *Johnny Cash Museum*, has received to date:

- Top 10 Trending U.S. Attraction for Fall 2017 - TripAdvisor
- Top 25 Trending U.S. Attractions for Summer 2017 - TripAdvisor
- Top 5 Museums Dedicated to Pop-Rock Music (worldwide) - Marie Claire
- Top 3 Best Things to Do in Nashville - Orbitz
- Top 10 Best Attractions in Nashville- USA Today
- Gem Rating - AAA
- #1 Must Visit Museum for Music Lovers [Worldwide] - Conde Nast's Traveler
- #1 Pitch Perfect Museum [Worldwide] - National Geographic
- 5 Nashville Must Sees - Forbes
- 7 Great American Vacation Spots (That Won't Bust Your Budget) - Time
- 50 Reasons We're Thankful to be Southern - Southern Living
- 22 Reasons You Should Visit Nashville - Huffington Post
- Top 10 Tennessee Spots for Music Lovers - Rolling Stone

- Best Culture Stop in Nashville – Money Magazine

Through his singular efforts, Mr. Miller has substantially increased destination tourism to the Broadway overlay and the resultant tax dollars to the city and the state from the conversion of the buildings to their current retail usage.

Mr. Miller has also recently acquired the Hats Boot Co. building located at 121 Third Avenue South and announced plans for a multi-million dollar renovation of that building to house a new *Merle Haggard Museum* and *Merle's Meat +3 Saloon – Powered by Swett's* (and a possible third/unannounced museum project of national significance) – all planned at the same caliber as the *Johnny Cash Museum*.

Outside of the overlays, Mr. Miller's company also owns the Southern Turf building on Fourth Ave North (and operates the historically significant *Skull's Rainbow Room*).

In summary, Mr. Miller has (without any incentives from the city or the state) invested tens of millions of dollars in the purchase and restoration of multiple downtown Nashville historic properties, created hundreds of new jobs, substantially contributed to Nashville's reputation and fame as a destination location, and generated tens of thousands of dollars in new tax revenues for the state and the city. Objectively, the Commission should be interested in hearing his position on the proposed revisions and the current policies of the Commission (as well as other property owners equally invested in the overlay).

## **OPPOSITION TO PROPOSED REVISIONS**

**Lack of Notice to Stakeholders** - Despite Mr. Miller's substantial personal investment in the Broadway overlay (and Nashville in general), at no time prior to November 29 was he given actual notice of any of the proposed revisions or any of the hearings scheduled by the Commission. This is in direct contradiction of public comments by Commission representatives that "all property owners in the overlay were personally contacted by the Commission." Lack of notice to stakeholders such as Mr. Miller is at the best an indication that the Commission is practically disinterested in the very constituencies who have revived the lower Broadway area from the peep shows and flop houses of the 1980s to its current vibrant character as a tourist destination site. At worst, such lack of notice indicates an intent by the Commission to formalize administrative procedures and recommendations and to engage in regulation without reference to any constituencies (property owners, voters, elected officials, or otherwise).

**Lack of Public Involvement in Regulatory Decision Making** - Consistent with lack of notice to Mr. Miller, there was (until public outcry demanded otherwise) a lack of involvement in or input from any/all stakeholders in the overlays or outside of the Commission staff. Per the public comments of the Commission's representatives, the revisions proposed were developed by Commission staff and were not reviewed beyond that before being put on the November Commission agenda (including a lack of review by Metro Legal Counsel, who is charged with Commission enforcement proceedings). There has been no public indication that any of the owners of property within the overlays or other stakeholders with respect to the overlay (outside

of the Commission staff) requested any of the proposed revisions. Since objections to the proposed revisions surfaced prior to the scheduled Commission agenda item on the revisions in November (which resulted in a deferral of the proposed revisions until the Dec 20 meeting of the Commission), the Commission staff scheduled two discussion groups (one on November 27 and one on November 30) and invited written comments in anticipation of Commission staff making further edits to the proposed revisions (which meetings and input Mr. Miller and the other stakeholders appreciate and applaud – but which practically were “too little, too late” to really be effective in this process, giving these constituencies a voice but one that practically didn’t matter). This letter, specifically, is made in response to the openness of the Commission to receive candid comments on the revisions from stakeholders. However, the general public remains unaware of the proposed changes and the potentially chilling effects these revisions and enforcement of current policies may have on current or future economic development so critical in the overlays to assure the success of these areas, and there has been no public discourse or news reporting on the revisions. The practical result is that the proposed revisions are being made behind closed doors by specialists advocating only one perspective of this contentious issue and without reference to the opinions of the larger Nashville community who must live with the results.

**Revisions Exceeding Commission Authority or Mandate** - With many of the revisions, the Commission attempts to extend its regulation beyond its authority. Specifically, the Commission is charged with “design guidelines relating to construction, alteration, addition, and repair to, and relocation and demolition of structures and other improvements that shall be consistent with the National Preservation Act of 1966, as amended [the “Act”].” However, the proposed revisions far exceed the guidelines articulated in the Act or any guidance on the Act. Specifically, there is no national standard for regulation of “white” versus “colored” lighting – however the proposed revisions explicitly limit certain lighting to “white” or “bare bulb” lighting (based upon some vague reference to “other comparable cities” – none of which have the same current economic usage of the Broadway overlay). While the overlay revisions advocate a “white only” position for the lower Broadway area, such advocacy may be an historical artifact of an earlier era, “black and white photography”, or just the perception of “museum quality restoration” that could keep the overlays in a romanticized (and unproductive) era of gaslights – and such restrictions utterly fail to accommodate the rainbow of colors that existed in this area, historically, within the bounds of the then current technologies. Such provisions are inconsistent with any current practical usage within the area over the last two decades when this area was completely repurposed to the current retail usage and certainly completely fail to recognize the current character of the usage of the buildings the Commission is charged with regulating. Downtown Nashville is “NashVegas” – brimming with colorful lighting and signs that attract tens of thousands of tourists and residents each week (along with the tax dollars they spend there). To reduce the lighting in the overlay to a monochromatic schema is bad preservation, bad policy, and bad business for the city. Similarly, the Commission has historically regulated only exteriors and conduct that requires permitting. However, the revisions attempt to impose regulation under Commission authority for conduct that does not require permitting. To the extent that the revisions reflect merely explicit statements of policies that currently exist, then the policies themselves should be revisited in open discourse with the community. The Commission should at all times remain cognizant that its charter is “preservation of structures”

– not “regulation of the businesses conducted at those structures” (or the necessary/contemporary lighting and amenities required by those business in order to survive in today’s economy). It is also inconsistent that the Commission would allow conduct in signage (i.e. colors other than white) while restricting such conduct in lighting. It is not the Commission or the city that has capital at risk in the overlays – it is the business owners. And any attempt to overly restrict or regulate conduct (rather than preservation of structures) should be viewed skeptically against the unforeseeable negative impact such restrictions and regulations might have on the city, the overlays, and the future of the overlays as a national and international destination site. I am a Nashvillian. I was born here and educated here. I shopped at Harvey’s and Levy’s and went to see films at the Paramount, Tennessee and Crescent. I ate at the downtown lunch counters and bought grain/feed at Acme. At no time, other than the period of decay in the 1970s and 1980s (when flophouses and peepshows populated the area – and the major flashing color was from the police car parked outside of Tootsies after sundown) was Broadway monochromatic. Nashville and Nashvillians have always loved festive lighting and decorations. It is disingenuous of the Commission to ignore this fact and the history of colored lighting in the overlay.

**Revisions Inconsistent with State Law** – Some of the revisions include prohibitions against conduct that is regulated by other governmental entities and/or pre-empted from Commission regulation. Specifically, the provisions with respect to state right of ways and outdoor cafes illustrates this conflict (although this issue is not of personal interest to Mr. Miller or his affiliated businesses).

**Confusion with Respect to Signage Versus Lighting** – While the Commission has regulatory authority over signage in the overlays, its proposed authority to regulate “lighting” (as opposed to “light fixtures”) is questionable. The revisions further confuse this issue by including lighting restrictions within New Construction, when in fact the regulation and enforcement policies go beyond such new construction to all current structures within the overlay.

**Height Restrictions** – While not of immediate concern to Mr. Miller, the proposed height, setback, and other restrictions on improvements for multi-story additions to current buildings seems a barrier to continued effective use of buildings consistent with the current character of the overlay (as well as being inconsistent with the general overlay plan). One the one hand, the revisions allow the southern corners of the Broadway overlay to be used for 18 story new construction projects pursuant to a “plan of transition from the overlay to the area on the other side of Shelby street walkway” – but such revision concerns only two parcels and provides for no actual/true transition from 2 story buildings on Broadway to gradually increasing heights at the periphery of the overlays (while the revisions now include increasing height restrictions at progressive distances from the Historic Register buildings on Broadway, such relief is only available for a couple of “non-contributing” buildings – so it looks good on paper the way the revisions are cross-hatched, but such cross-hatching fails to reveal which buildings are actually eligible for increased height provisions and a true topographical representation reveals that there is no actual “transition” re height as asserted). While within the authority of the Commission to make such decisions, a more studied and reasonable approach to gradual transitions from 2 to 4 to 6 story buildings would seem to be more consistent with preserving the unique character of

the core of the overlay while accommodating to changing commercial uses/needs at its periphery (especially where such transitions relate to the overlay but not the National Register District).

### **Request for Deferral and/or Rejection of Revisions**

Given the forgoing and the general opposition publicly expressed to the proposed revisions to the regulations, Mr. Miller would request:

1. that the Commission indefinitely defer action on the revisions or reject the current version of the revisions (and the underlying policies they attempt to document) being advocated by the Commission's staff pending a concerted effort by the Commission to involve relevant constituencies and make a comprehensive review of regulations and the need for their revision (with the benefit of enforcement review by Metro Legal, a clear mandate by the Metro Council, and public comment from the Mayor's office). This is not a decision that should be made primarily upon administrative staff recommendations – it is a decision that should require actual, practical constituency involvement (and not just “lip service” in that regard);
2. if such deferral is not possible, request that the Commission defer any authority to regulate “lighting” (as opposed to “lighting fixtures”) included within the revisions. There is no historical or legal precedent in Nashville for such regulation (and while the Commission may have considered this issue earlier in the year, it was without effective input from the relevant constituencies and all of the information required in order to make informed decisions consistent with the current usages of the buildings within the overlays and the current economic and practical necessities of the operating entities housed in the overlay);
3. if such deferral is not possible, request that the Commission re-evaluate height restrictions to include an actual gradual/increasing transition of building height from Broadway outward (i.e. 2 to 4 to 6 stories, etc.), especially in areas beyond the National Register District to allow for increased usage at the periphery (in a true gradual/transitional fashion and with a true topological skyscape perspective on a building-by-building basis rather than the cross-hatched version included within the revision that fails to illustrate the actual skyscape that could exist in the overlay based upon the vast majority of buildings being designated as “contributing” versus “non-contributing” structures);
4. if such deferral is not possible, request that the Commission re-evaluate the revisions related to rooftop additions and obtain further comment as to consistent/best use within the specific context of the Broadway overlay given the and future current economic uses to which such buildings are put. In this regard, the Commission should strictly limit its regulations and policies to “preservation of structures” and not “regulation of business” within the overlay. Setback requirements should be considered against the actual visual impact they have on the district and not in isolation. While we want to preserve the buildings, we do not want to freeze them in some arbitrary timeframe that is disconnected from the practical usages (and costs) that exist today (i.e. without a transition to retail and

expanded uses, few if any of the buildings could support their tax valuations, their operating costs, or the very renovation that the Commission so wants to assure in the exercise of its discretion).

Thanks for the ability to provide comments and work with the Commission on envisioning the Nashville in which we all want to live and flourish.



November 14<sup>th</sup>, 2017

Metropolitan Historic Zoning Commission  
Sunnyside in Sevier Park  
3000 Granny White Pike  
Nashville, TN 37204

RE: Proposed Changes to Broadway Design Guidelines

Metropolitan Historic Zoning Commission,

Historic Nashville, Inc. is opposed to the specific changes to the downtown Broadway Historic District Design Guidelines listed in Section III:B:3 regarding the height of infill new construction and states, "Infill buildings which directly front on First and Fourth Avenues and are a minimum of 250 feet south from the front property line of Broadway shall not exceed a height greater than 220 feet and 18 stories." Eighteen stories so close to Broadway is excessive for a historic district with 2-4 story buildings and would have adverse visual effects to the setting of the historic district, specifically the adjacent historic commercial buildings.

We ask that the commission consider lowering the height allowance for the properties that fall within this section of the guidelines or consider a more appropriate path to achieving development goals that would better preserve the character of this iconic district in downtown.

Sincerely,

Jenn Harrman, President  
Historic Nashville, Inc.



**METROPOLITAN GOVERNMENT  
OF NASHVILLE AND DAVIDSON COUNTY**

Planning Department  
Metro Office Building  
800 Second Avenue South  
Nashville, Tennessee 37201

November 15, 2017

Dear Members of the Historic Commission,

As the Executive Director of the Planning Commission I am writing in support of the revisions proposed by the Historic Zoning Commission for the Broadway Guidelines. I particularly support the revisions concerning height, which includes specific setbacks to protect the historic viewsheds of this district. The height is only allowed on certain parcels located on the edge of the district that are not within the National Register portion of the district. If this guideline is adopted it will help to transform and activate First Avenue, enliven West Riverfront Park and will encourage development and activation adjacent to and underneath the bridge, all critical areas that need to be utilized and improved.

I have worked with the staff for the Historic Zoning Commission for months concerning this language and I believe that the proposal set forth before you today is an excellent change that will help to continue the vibrancy and strategic growth of Broadway while protecting the viewsheds and the look and feel of this historic area that we all love.

Thank you for your work and for considering this change to the guidelines.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug Sloan III".

Doug Sloan  
Executive Director  
Metro Nashville/Davidson County Planning Commission



# THE CONGRESS GROUP

To: [tim.walker@nashville.gov](mailto:tim.walker@nashville.gov)

CC: [robin.zeigler@nashville.gov](mailto:robin.zeigler@nashville.gov)

Mr. Tim Walker  
Executive Director  
Metro Historic Commission

Dear Mr. Walker,

As the developer of a project directly neighboring the Broadway Zoning Overlay, I am writing to support the Historic Commission staff's proposed design guidelines to the Broadway Zoning Overlay. We consider these wise and appropriate updates to Metro policy that will enhance historic preservation of Nashville's downtown historic buildings and the historic district while addressing the needs of a growing city.

Respectfully,

Richard O. KERSHAW JR.

Cc: Robin Zeigler

Metro Historic Board of Commissioners



RYMAN HOSPITALITY PROPERTIES, INC.  
A REAL ESTATE INVESTMENT TRUST

**COLIN V. REED**

CHAIRMAN & CHIEF EXECUTIVE OFFICER

November 15, 2017

Metropolitan Davidson County Historic Zoning Commission  
300 Granny White Pike  
Nashville, TN 37204

RE: Revisions to the Downtown Design Guidelines

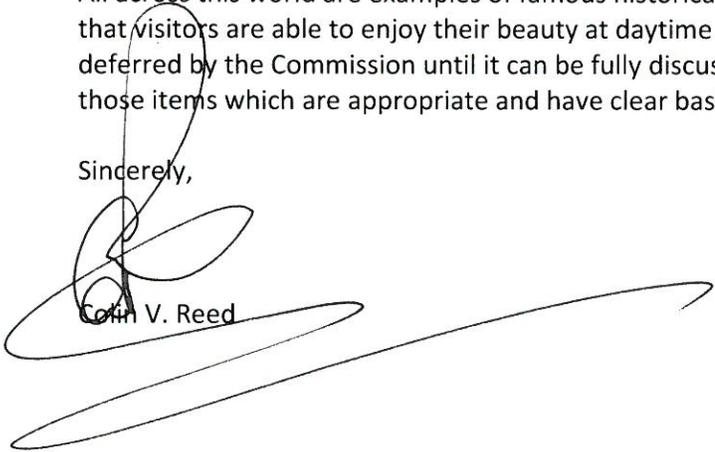
Dear Commissioners:

As the long-time owners and stewards of the Ryman Auditorium and the Wildhorse Saloon, and more recently 300 Broadway and 114 2<sup>nd</sup> Avenue North, our company has invested heavily into the preservation of these iconic buildings. This is especially true regarding the Ryman Auditorium. Our goal has been to glorify its rich history and showcase its remarkable architecture. We share the mission of the Historic Zoning Commission and we want our buildings to continue be authentic and extraordinary for generations to come.

Today, I am writing to express my company's strong opposition to the staff proposed revisions to the Downtown Design Guidelines. We find many of the proposed changes to be inappropriate and unnecessary, especially those proposed new regulations affecting the external lighting of buildings. Furthermore, our experts believe that there is no basis in the *Secretary of the Interior's Standards for the Treatment of Historic Properties* for many of the changes, including the regulation of the color of light.

All across this world are examples of famous historical buildings that are lit in multiple, dignified ways so that visitors are able to enjoy their beauty at daytime and nighttime. We request that this matter be deferred by the Commission until it can be fully discussed and the guideline modifications be limited to those items which are appropriate and have clear basis in the Secretary's standards.

Sincerely,



Colin V. Reed

**From:** Michael Hayes [mailto:mwhayes@cbragland.com]  
**Sent:** Tuesday, November 14, 2017 3:36 PM  
**To:** Walker, Tim (Historical Commission)  
**Cc:** Zeigler, Robin (Historical Commission)  
**Subject:** Broadway Historic Overlay

Dear Mr. Walker,

As a company involved in real estate and business in downtown Nashville since 1919, C.B. Ragland Company values the preservation of our historic district as a key to the quality of our downtown and greater community.

Having reviewed the Historic Commission staff's proposed modifications to the design guidelines for the Broadway Zoning Overlay, we want to express our strong support and encourage the Board of Commissioners to adopt these recommendations. We consider these changes a necessary update that balances the preservation of our historic district with the modern requirements of business and civic life within the historic district. Most importantly, these proposed changes will help to activate and animate 1st and 4th Avenues and will truly enhance downtown.

Sincerely,

Michael W. Hayes

Cc: Robin Zeigler  
Metro Historic Board of Commissioners

**From:** Emily Evans [mailto:Emily@emilynevans.com]

**Sent:** Wednesday, November 15, 2017 4:58 AM

**To:** Historical Commission

**Cc:** Megan Barry; Gilmore, Erica (Council Member); Mendes, Bob (Council Member); Hurt, Sharon (Council Member); Cooper, John (Council Member); Shulman, Jim (Council Member); O'Connell, Freddie (Council Member); BaileyC@montgomerybell.edu; jwplf@comcast.net; Walker, Tim (Historical Commission); Zeigler, Robin (Historical Commission)

**Subject:** Letter from Lower Broad Property Owners Requesting Deferral of Broadway Design Guidelines

Dear Commission Members,

Please see below for letter from downtown property owners re: proposed revised design guidelines for the Broadway Historical Commission

\*\*\*\*\*

November 14, 2017

Mr. Brian Tibbs

Chairman, Metro Historic Zoning Commission

[3000 Granny White Pike](#)

[Nashville, TN 37204](#)

Dear Chairman Tibbs:

The Metro Historic Zoning Commission will be taking public comment on Wednesday Nov. 15, 2017 regarding new proposed design guidelines for the Broadway Historic Overlay District. **We are writing today to ask that you defer indefinitely any action on these guidelines for the following reasons:**

- There has been limited effort to involve all stakeholders in the changes contemplated by the draft guidelines
- Certain provisions of the guidelines exceed the authority granted to MHZC by the Metro Council
- Regulation of appurtenances for which no permit is required are only enforceable after a property owner has spent time and money
- Regulation of outdoor seating on Lower Broad creates the impression that outdoor cafes are permitted in the State Right of Way which contradicts state law

**Lack of stakeholder input.** As far as we are aware, there has only been one officially sanctioned meeting on anything even remotely associated with the content of the draft guidelines. A meeting was held at the Sonny West Conference room this past summer to discuss lighting.

The proposed guidelines go well beyond lighting, of course. For the life of us we cannot understand why MHZC feels the need to regulate Christmas lights and art work as there has been no stakeholders demanding such changes. If anything, property owners of Lower Broad have grown increasingly frustrated with the arbitrary and capricious enforcement of current regulations.

**MHZC exceeds its authority.** The Metro Council grants to MHZC the power to adopt "[D]esign guidelines relating to the construction, alteration, addition and repair to, and

relocation and demolition of structures and other improvements [that] shall be consistent with the National Historic Preservation Act of 1966, as amended.

The National Historic Preservation Act of 1966, of course, led the way for the creating of the U.S. Department of the Interior's Standards for the Treatment of Historic Properties with which the MHZC staff asserts it complies. However, the Secretary's standards make no mention of regulating temporary and transitory things like light color and patio furniture **Provisions are unenforceable or enforceable after the fact.** Things like murals, AV equipment, and tents do not require a permit from codes. A property owner that erects a canopy or paints a mural is likely to find out that it does not comport with MHZC guidelines, should you not see the wisdom of deferral, after they have expended time and money.

There is a reason that since its inception, MHZC has attempted only to regulate those building and demolition activities that require a permit. To stray from this critical precondition is to invite property owner anger and widespread criticism of historic preservation efforts – something we would not like to see happen

**Provisions contrary to state law.** It is well known that state law prohibits use of State Right of Way for a commercial purpose. For that reason, there have never been, nor there shall ever be outdoor cafes on Lower Broad which is under TDOT's jurisdiction. However, MHZC staff appears to ignore State law as it includes guidelines for creating outdoor seating areas within the Broadway Historic District.

We do not agree that MHZC has authority to regulate outdoor patio furniture but even if that were the case, the guidelines must be modified to exclude outdoor seating areas along Lower Broad.

Mr. Tibbs, many of us have been long standing supporters of the goals of historic preservation. However, the staff of MHZC continues to overreach their authority and undermining public confidence in their mission. These draft guidelines are just the most recent example.

Please defer a decision of the Broadway Historic District design guidelines until there is property owner consensus for some or all of these changes.

Sincerely,

Mrs. Brenda Sanderson, Mr. Ruble Sanderson and Mr. Brad Sanderson,  
The Stage on Broadway  
Legends Corner  
The Second Fiddle  
Nashville Crossroads

Mr. Steve Smith,  
Tootsie's World Famous Orchid Lounge  
Honky Tonk Central  
Rippy's BBQ  
The Diner  
Harry O's Steakhouse

Mr. Bill Miller,  
The Johnny Cash Museum  
The Patsy Cline Museum  
Bongo Java Cafe  
Nudie's Honky Tonk  
Skull's Rainbow Room

Mr. Barrett Hobbs,  
Whiskey Bent Saloon  
Bootleggers Inn  
Doc Hollidays

Cc: Mayor Megan Barry  
Councilwoman Erica Gilmore  
Councilman John Cooper  
Councilman Bob Mendes  
Councilwoman Sharon Hurt  
Councilman Jim Shulman  
Councilman Freddie O'Connell  
Mr. Jim Forkum, Chairman Metro Historical Commission  
Mr. Clay Bailey, Vice Chairman, Metro Historical Commission

**From:** Emily Evans [mailto:Emily@emilynevans.com]

**Sent:** Wednesday, November 15, 2017 1:01 PM

**To:** Zeigler, Robin (Historical Commission)

**Cc:** Sloan, Doug (Planning)

**Subject:** Re: Letter from Lower Broad Property Owners Requesting Deferral of Broadway Design Guidelines

Robin,

To clarify one point - our group has no objection to the building height changes south of Broadway. We have not polled our members on the issue but our informal discussions seem to suggest we will be supportive of that change to the design guidelines.

Emily

**From:** Tony Giarratana [tony@giarratana.com]  
**Sent:** Tuesday, November 14, 2017 9:14 PM  
**To:** Walker, Tim (Historical Commission); Zeigler, Robin (Historical Commission)  
**Cc:** [freddie@readyforfreddie.com](mailto:freddie@readyforfreddie.com); Sloan, Doug (Planning)  
**Subject:** Broadway Historic Zoning Overlay

Tim and Robin,

I am writing you in support of the design guidelines update proposed for the Broadway Historic Zoning Overlay.

As a developer and investor around the Broadway Historic Zoning Overlay within downtown's Core and SoBro districts for over 30 years, I consider staff's recommendations to be appropriate and beneficial to the mission of preserving Nashville's historic district while at the same time updating policies to reflect current and future uses of historic structures.

The staff appears to advance guidelines that continue strong preservation policies while at the same time emphasizing economic vitality as a strategy to maintain optimum investment in historic structures for long-term preservation success. I hope that the Metro Historic Commission will adopt staff's recommendations to update the Metro Historic Zoning Overlay guidelines.

Additionally, I feel the parcels at NEC of 4th and Symphony and NWC of 1st and Shelby (Section III map showing areas of additional development) have development potential in excess of the not to exceed height of 220 feet and 18 stories. I hold no interest in these parcels, but encourage the Commission to allow the same height on these parcels as the parcel south of the Shelby Street Bridge.

Thank you for your consideration and for your service to the city.

Sincerely,  
Tony Giarratana  
Giarratana, LLC

cc: The Honorable Freddie O'Connell, Metro Council District 19  
Mr. Doug Sloan, Metro Planning Director

Sent via iPad  
[Tony@Giarratana.com](mailto:Tony@Giarratana.com)  
Cell: 615-512-0559

FIFTH THIRD CENTER  
424 Church Street #2900  
Nashville, TN 37219