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ABLE is funded
in part by:



February 24, 2019

To: Tom Gibbons, Toledo-Lucas County Plan Commission
From: Aisha Sleiman, Advocates for Basic Legal Equality (ABLE), as counsel
for the Broadway Corridor Coalition
Re: Appeal of decision on SPR-46-19

Dear Mr. Gibbons:

The Broadway Corridor Coalition (“BCC”) requests an appeal of SPR-49-19 pursuant to TMC 1111.0811, regarding the development of a Dollar General on South Ave. The BCC is a nonprofit community and neighborhood-based organization, representing the collective interests and voice of the Old South End. The BCC focuses on planning, organizing, directing and coordinating the economic revitalization activities, development and redevelopment of the South End, consisting of : commercial and business development, nuisance abatement, improvement of housing conditions, workforce and youth programs, community facilities, and development of open space.

While the BCC appreciates the Plan Commission’s rigorous application of TMC building standards, we remain opposed to the development of a Dollar General on South Avenue because it is antithetical to the adopted neighborhood plan for the Old South End. To that end, we request an appeal of the Plan Commission’s approval of SPR-49-19 to City Council.

TMC 1111.0811 allows “any person aggrieved by a final decision on a site plan application” to make an appeal to City Council. That appeal must be based on several factors, including “error or abuse of discretion by the Plan Commission” and how the decision “creates an inconsistency with the City’s Comprehensive Plan or this Zoning Code”. We believe the Plan Commission erred in their interpretation and application of the Old South End Master Plan, and the inconsistency the Dollar General creates with that Plan.

The BCC is an aggrieved party under the code and local law. Standing is not limited to adjacent property owners; indeed, Ohio law has found standing for anyone “complain[ing] of a harm that is unique to himself”. *Willoughby Hills v. C.C. Bar’s Sahara*, 64 Ohio St. 3d 24 (Ohio 1992) A person or organization has standing to appeal a decision by the Plan Commission if they can demonstrate that they have suffered a unique harm, not experienced by the city or community as a whole. *Neuendorff v. Gibbons*, L-17-1238 pg. 5-6 (2017). Furthermore, the Ohio Court of Appeals has ruled standing is present if a person or organization can show that they “have actively participated in the relevant hearing and demonstrated that he or she has been directly affected by the administration’s decision”. *Safest Neighborhood Assn. v. Athens Bd. of Zoning Appeals*, 2013-Ohio-5610.

The BCC has suffered a unique harm as a result of this decision. In 2017, the City adopted Ordinance O-226-17: “Approving and adopting the M-1-17 incorporation of the Old South End Neighborhood Plan as an amendment to the

Toledo 20/20 Comprehensive Plan for the City of Toledo, Ohio”.¹ That ordinance requires the City to “empower the Broadway Corridor Coalition (BCC) to be the identified voice of the Old South End”. The approval of this development, which violates the Old South End Neighborhood Plan (and by extension, the Toledo Comprehensive Plan), uniquely harms the BCC and the residents it represents. Not only does it make the Master Plan an afterthought in development decisions, but it will have significant impacts on the commercial and business development in the neighborhood, directly contradicting the Plan itself. As many in the City are aware, the residents of the Old South End, along with the Toledo Design Collective, worked many months on a Plan that would represent what the neighborhood residents want the future of one of Toledo’s oldest neighborhoods to look like. These combined factors demonstrate that the BCC, as the caretakers and voice of the Old South End Master Plan, have suffered a unique harm due to the approval of the Dollar General on South Avenue.

The BCC appeals this decision because we believe that the Plan Commission erred and approved a site plan that violates Toledo’s Comprehensive Plan, and as a result, violated TMC 1101.0400. First, the Master Plan explicitly contemplates commercial development along Broadway, not South Avenue. The plan states:

“Commercial zoning covers almost all of the length of Broadway. It is estimated that about half of that is identified as commercial land use. The rest is a variety of industrial, residential or social services. **It is preferable to have commercial activities concentrated in nodes with sufficient space to develop scale.**” [emphasis added]

The approval of a Dollar General on South Avenue clearly does not concentrate commercial activity on Broadway, and is antithetical to what the Plan contemplated for business and commercial development.

In addition, the proposed dollar store development is inconsistent with the C-6 overlay district and the planned commercial activity for the area. The recent update to the C-6 overlay district in the Old South End, in O-401-19 adopted in August of 2019, discusses the OSE Master Plan, and the further emphasizes that the commercial in the neighborhood is to be centered around the “Broadway Mile”, as detailed in the Master Plan.² The site of the planned dollar store development is not included in the commercial district, precisely because it is not part of the commercial development for the neighborhood. The ordinance further specifies:

“The Broadway Commercial Corridor District is located on Broadway Street commencing at Garland Street, running southerly to Prouty Street, capturing all of the residential, commercial, and industrial properties fronting along Broadway Street. Broadway Street is commonly referred to as the “Broadway Mile” since it is 1.3 miles in length. Surrounding land uses include the I-75 North/South Expressway and the Middle Grounds District located to the north, Danny Thomas Park to the south, **with most of the commercial uses centrally located at the intersection of Broadway Street and South Avenue.**” [emphasis added].

Furthermore, it is important to mention that the Dollar General is inconsistent with the Master Plan, as a whole. The Plan explains:

“The area at South and Broadway is another opportunity for a concentration of activities for an Urban Village. This area has the benefit of the new public library as well as a concentration of existing commercial uses and a future health clinic and credit union...**An additional point about the OSE is to develop specialized commercial and service resources to attract customers from outside the area**” [emphasis added].

¹ Available at: <https://toledo.legistar.com/LegislationDetail.aspx?ID=3054665&GUID=732F6BA4-0918-4C8E-9B14-E15BAA23F86B&Options=ID|Text|&Search=O-226-17>

² Available at: <https://toledo.legistar.com/LegislationDetail.aspx?ID=4088941&GUID=8C2BBA6E-A4BB-4198-AEA3-F78B0567C164&Options=ID|Text|&Search=O-401-19>

The proposed development does not offer specialized commercial and service resources that would attract customers from outside the area. On the contrary, dollar stores over-proliferate the market, providing exactly the same products and services everywhere. Dollar General also signals to other developers that a grocery store, with fresh food and produce, is impossible to maintain in the neighborhood, which will continue to lead to neighborhood disinvestment and grow the food desert crisis in Toledo.

Finally, the BCC, in consultation with neighborhood residents, and with the help of The Toledo Design Collective, have developed alternative uses for the land and property that are consistent with the Master Plan.³ Those plans demonstrate what the use of the land on South Avenue could look like if it was truly consistent with the Master Plan.

We also strongly emphasize the importance of having an all-brick building, instead of what the current building is approved for. The steel approved for the back of the building will result in a deteriorated building and will only increase the blight in the neighborhood-blight that the BCC has fought hard to remove.

The BCC requests this appeal to the City Council, pursuant to TMC 1111.0811. The proposed Dollar General is violative of the Old South End Master Plan, and the Plan Commission erred in approving the application, under TMC 1101.0400.

Thank you for your time and cooperation.

Sincerely,
Aisha Sleiman, on behalf of the Broadway Corridor Coalition

³ Available at https://toledo.oh.gov/media/4587/ose-master-plan-final-report_final2.pdf



TOLEDO-LUCAS COUNTY PLAN COMMISSIONS

ONE GOVERNMENT CENTER, SUITE 1620, TOLEDO, OHIO 43604 PHONE 419-245-1200 FAX 419-936-3730

THOMAS C. GIBBONS, DIRECTOR



REF: SPR-46-19
DATE: March 2, 2020

TO: President Matt Cherry and Members of Council, City of Toledo
FROM: Toledo City Plan Commission, Thomas C. Gibbons, Secretary
SUBJECT: Site Plan Review for New Retail Store at 845-885 South Ave

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, February 13, 2020 at 1:00 P.M. The Plan Commission approved the application; the Broadway Corridor Coalition and Advocates for Basic Legal Equity appealed this decision on February 24, 2020.

GENERAL INFORMATION

Subject

Request	-	Minor Site Plan Review of New Retail Store
Location	-	845-885 South Ave
Applicant	-	Zaremba Group, LLC 14600 Detroit Ave, Suite 1500 Lakewood, OH 44107
Engineer	-	Wohlwend Engineering Group 4216 Karg Industrial Parkway Kent, OH 44240
Architect	-	GPD Group 520 South Main St, Suite 2531 Akron, OH 44311

Site Description

Zoning	-	CR / Regional Commercial
Area	-	± 1.02 acres
Frontage	-	± 315 feet along South Ave
Existing Use	-	Bowling Alley (Vacated)
Proposed Use	-	Retail Store

GENERAL INFORMATION (Cont'd)

Area Description

North	-	CR / Single-Family Residential
South	-	RD6 / Single-Family and Multi-Family Residential
East	-	CR / Single-Family and Multi-Family Residential
West	-	RD6 / Multi-Family Residential

Parcel History

Z-285-61	-	Zone Change from R-4 to C-3. Disapproved by Plan Commission on 09-28-1961
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Applicable Plans and Regulations

- Toledo Municipal Code, Part Eleven: Planning and Zoning Code
- Toledo 20/20 Comprehensive Plan
- Old South End Master Plan

STAFF ANALYSIS

The applicant is requesting a Minor Site Plan Review for a New Retail Store at 845-885 South Avenue. The ± 1.02 acre site is zoned CR / Regional Commercial and was the home of Lido Lanes, a bowling alley which has recently vacated the building. The developer, Zaremba Group LLC, is planning to demolish the existing structure to construct a new building at this location which will be leased to Dollar General. The site is surrounded by Single-Family and Multi-Family residential uses to the north, south, east, and west.

Retail Sales is a permitted use in the CR zoning district. Per TMC§1111.0802(A), a minor site plan review is required because the development contains less than 50,000 square feet of floor area and less than fifty-nine (59) parking spaces. Typically minor site plan reviews are reviewed administratively, however, this case is being forwarded to the Plan Commission at the Director's discretion, per TMC§1111.0807(A)(4).

The applicant is proposing to construct a retail building which is approximately 9030 sq. ft. and includes parking to the side and rear. The intended tenant of the retail building is Dollar General.

STAFF ANALYSIS (Cont'd)
Building Design

Staff has been in communication with the applicant and their design professionals throughout the process. The case was scheduled to be heard during the November, 2019 and then the December, 2019 Plan Commission hearings, but has been deferred at the applicant's discretion because the proposed building design was not up to the standards of TMC§1109.0200. The revised elevations, submitted on January 3, 2020, are compliant with these relevant requirements. The case was then deferred from the January 9, 2020 Plan Commission hearing because the required sign was never picked up and posted, per TMC§1111.0304.

Parking and Circulation

As listed in TMC§1107.0304 *Parking, Loading, and Access – Schedule B*, Retail Sales are required to provide one (1) parking space per three-hundred (300) square feet, plus one (1) bicycle parking slot per ten (10) parking spaces. Because the building is ± 9030 square feet, thirty-one (31) parking spaces and one (1) bike parking slot per ten (10) parking spaces are required. The site plan shows thirty-one (31) parking spaces and three (3) bike parking slots and is acceptable. Staff has been in communication with the applicant and would be supportive of fewer parking spaces because the site is designed to be walkable and is close to multiple TARTA stops.

Landscaping

The proposed site plan shows a Frontage Greenbelt of foundation plantings and seven canopy trees in front of the building, as well as four trees in front of the stormwater retention area. TMC§1108.0202(B) requires that a Frontage Greenbelt be at least fifteen (15) feet in width. In order to allow the building to be set closer to the sidewalk, a variance from this requirement is necessary. In allowing the building to be set closer to the street, staff is also supportive of reducing the number of trees within the Frontage Greenbelt by two.

Perimeter landscaping shows canopy trees and shrubs surrounding the parking lot along the south and southwest edges of the property. These features are acceptable as presented and will be an aesthetic asset for the site.

Per TMC§1108.0204, for each ten (10) parking spaces, the site shall provide two hundred (200) square feet of interior parking lot landscaping, as well as two (2) trees and six (6) shrubs. The site plan shows thirty-one (31) parking spaces with approximately three hundred (300) square feet of interior parking lot landscaping, two (2) trees and six (6) shrubs. To be compliant, the site shall provide six hundred and twenty (620) square feet of interior landscaping, seven (7) trees, and nineteen (19) shrubs. This is addressed in condition #32.

To: President Matt Cherry and Members of Council
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STAFF ANALYSIS (Cont'd)
Landscaping (Cont'd)

Per TMC§1108.0205, one (1) tree is required within the interior of the site for every one thousand (1000) square feet of building area. This does not include parking lot landscaping. The building is 9030 square feet; nine (9) trees are required to meet this condition. The proposed site plan shows five (5) trees. Four (4) additional trees are required. This is addressed in condition #32.

Per TMC§1108.0205, commercial uses require foundation plantings along all portions of a building that are visible from the public right-of-way. This is also addressed in condition #32.

Toledo 20/20 Plan

The Toledo 20/20 Plan designates this area for Neighborhood Commercial uses, and recommends an Urban Village centered around the intersection of Broadway and South Ave. The proposed use is in accordance with these recommendations.

Old South End Master Plan

The Old South End Master Plan recommends a gateway element along South Ave including landscaping, lighting, and an architectural component that draws its design inspiration from the history and character of the neighborhood. The proposed building design and site plan is in line with these objectives.

The Broadway Corridor Coalition (BCC) is the established neighborhood group in the Old South End, and the BCC facilitated the adoption of the Old South End Master Plan in 2017. On November 14th, 2019, the BCC, alongside Advocates for Basic Legal Equality (ABLE) submitted a letter in compliance with TMC§1111.0204 *Summary of Neighborhood Meeting* which requested that the Plan Commission deny application SPR-46-19. This request states that the proposal does not comply with the Old South End Master Plan and the proposal does not protect the health, safety, and general welfare of the citizens of Toledo.

On January 2nd, 2020, the BCC and ABLE submitted a second letter requesting that the Plan Commission recommend denial of SPR-46-19 because the proposed development is inconsistent with the adopted plans for commercial development in the Broadway-South area. "The Old South End Master Plan envisions Broadway being broken down into four nodes with the northern and southern ends maintaining the historic character, additional green space and preserving the residential neighborhoods. The two middle sections starting at Western Avenue to South Avenue is a large concentration of commercial uses and public space." The BCC argues that this proposal fails to preserve the residential neighborhoods and pulls development away from the planned Urban Village node at Broadway and South, leading to further abandonment and blight of the Broadway Corridor.

PLAN COMMISSION RECOMMENDATION

The Toledo Plan Commission approved SPR-46-19, a Minor Site Plan Review for New Retail Building at 845-885 South Ave, for the following reasons:

1. The plan complies with all standards of the Toledo Municipal Code, this Zoning Code and other adopted city policies;
2. The proposed use is allowed in the district in which it is located;
3. The site plan provides for safe, efficient and convenient movement of traffic within the site and on adjacent roadways; and
4. The plan provides for safe, efficient and convenient movement of pedestrians on the site.

Plan Commission approved the Minor Site Plan Review subject to the following **thirty-nine (39)** conditions.

The conditions of approval are as follows and are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

Division of Engineering Services

1. A pre-submittal meeting is not required, however one may be requested. Contact information is as follows:

Division of Engineering Services: ph. 419-245-1315, fax 419-936-2850

Right-of-Way and Inspection: Joe Warnka 419-245-1341

Roadway: Tim Grosjean 419-245-1344

Water: Andrea Kroma 419-936-2163

Stormwater Drainage: Lorie Haslinger 419-245-3221; Andy Stepnick 419-245-1338

Sanitary Sewers: Mike Elling 419-936-2276

2. All **existing substandard** sidewalk, drive approaches, curb, and pedestrian curb ramps within the public right-of-way abutting the site shall be replaced/upgraded to conform to current City of Toledo Construction Standards, Specifications, Toledo Municipal Code, and Americans with Disabilities Act Guidelines.
3. All **proposed** sidewalk, drive approaches, curb, and pedestrian curb ramps within the public right-of-way shall be constructed in accordance with the City of Toledo Construction Standards, Specifications, Toledo Municipal Code, and Americans with Disabilities Act guidelines.

PLAN COMMISSION RECOMMENDATION (Cont'd)
Division of Engineering Services

4. **All commercial drive approaches, (along with the sidewalk through the drive) shall be constructed with 8" thick concrete per City of Toledo Construction Standards and Specifications.** No curb shall be permitted in the right-of-way along either side of a drive approach. **No horizontal curb cutting will be permitted to create a curb drop/opening.** Existing drive approaches, including the curb drop, that will no longer be utilized shall be removed and restored with curb to match the adjacent curb.
5. Required permits for all approved work in the public right-of-way shall be obtained, before work begins, from One Stop Shop, (419) 245-1220.
6. Contact Joe Warnka at (419) 245-1341 for inspection of above mentioned items.
7. Water service is available subject to the Rules and Regulations of the Department of Public Utilities.
8. Plans for the water service lines shall be submitted to the Division of Engineering Services for review and approval. Plan design and submittal shall comply with the current version of the City of Toledo DPU Infrastructure Design and Construction Requirements.
9. The water meter setting detail, including meter bypass (if applicable) and backflow preventer, shall be submitted to the City of Toledo Backflow Prevention Coordinator, 401 S. Erie Street, Toledo, OH 43602 for review and approval.
10. All commercial properties are required to have approved backflow protection devices installed on the domestic water service and fire protection lines. Installation of the devices must be verified by the Division of Water Distribution and all devices must be registered with BSIonlinetracking.com @ 800-414-4990. Contact the Division of Water Distribution (419-936-2839) to verify the backflow prevention requirements for this site.
11. Contact the City of Toledo Fire Prevention Bureau (419-245-1263) to verify the fire protection requirements for this site.
12. Existing water service lines to structures removed from the site will be abandoned by the City of Toledo at the developer's expense.
13. New water service taps will be installed by City of Toledo at the developer's expense.

PLAN COMMISSION RECOMMENDATION (Cont'd)
Division of Engineering Services

14. Stormwater plans shall comply with the latest version of the City of Toledo's Infrastructure Design and Construction Requirements, which are available at <http://toledo.oh.gov/services/public-utilities/engineering-services/plan-review-process/>.
Submit the following for review & approval:
 - Engineering drawings and calculations compliant with the City of Toledo Infrastructure Design and Construction Requirements.
 - Detailed site grading plan
 - Plans and calculations for storm sewer service, stormwater detention and post-construction BMP's.
 - A Stormwater Pollution Prevention Plan, which shall include in its final form a list of responsible parties and their contact information,
 - A long-term maintenance plan and maintenance agreement for the proposed stormwater management area.
15. Whereas the detention area footprint is not supported by calculations at this time, should any future revisions for final stormwater compliance include changes to the site plan, it shall be necessary for the plan commission to undertake additional review and approval.
16. Drainage plans that incorporate low impact development solutions such as indicated on this proposal are eligible for a reduction in the property's stormwater utility fee through the Stormwater Credit Program, upon application to the program as explained at <http://toledo.oh.gov/services/public-utilities/engineering-services/stormwater-utility-credit-program/>
17. Sanitary sewer service for this development is available subject to the Rules and Regulations of the Department of Public Utilities.
18. A single sanitary sewer tap from this site shall be allowed into the public sanitary sewer system. Developer shall use existing sanitary tap, when available.
19. If there are any existing structures to be demolished at the site, the sanitary services to such structures will be killed by the City of Toledo at the developers cost.
20. Any previous kills that were not done at the right-of-way line shall be re-killed at the right-of-way to eliminate any active pipes on the property.

Fire Prevention Bureau

21. Approved Premises identification is required.

PLAN COMMISSION RECOMMENDATION (Cont'd)
Division of Transportation

22. Wheel stops are required at all parking spots along the sidewalk, property lines and abutting building locations per TMC 1107.
23. Bicycle parking required per TMC 1107. **This concern has been addressed by the provided site plan.**

Division of Sewer and Drainage Services

24. S&DS requires that all private sewer lines that are not being removed or properly abandoned (both storm and sanitary) be cleaned and inspected.
25. S&DS requires that the private sanitary lines (after they have been cleaned) that are not being removed or properly abandoned be televised from the building (or private cleanout) to where they connect with the public sewer system if this has not been done in the past two (2) years. An electronic copy (DVD/memory stick) shall be provided to S&DS demonstrating the lines cleaning and integrity.
26. Applicant shall maintain compliance with the City of Toledo's Stormwater regulations as specified in the Toledo Municipal Code. Special attention must be paid to all potential storm water impacts from modification of the site, including but not limited to long-term operation and maintenance of existing structural and non-structural Best Management Practices.
27. Applicant shall maintain compliance with Ohio EPA's General Stormwater NPDES permit programs.
28. Applicant is strongly encouraged to include multiple green infrastructure measures that can be included to minimize runoff and increase infiltration.
29. Applicant is strongly encouraged to plant native, low-maintenance and non-invasive trees, shrubs, and perennials.
30. Applicant shall maintain compliance with the City of Toledo and the State of Ohio's Air Quality Regulations applicable in the Toledo Municipal Code and the Ohio Administrative Code including, but not limited to the Asbestos and the Anti-Noise Laws.

Plan Commission

31. Staff supports a variance of TMC§1108.0200, allowing a frontage greenbelt to be fewer than 15 feet in width and to contain five (5) trees in front of the building as opposed to the seven (7) that are shown.

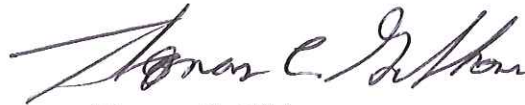
PLAN COMMISSION RECOMMENDATION (Cont'd)
Plan Commission (Cont'd)

32. A detailed site, lighting, fencing and four (4) copies of a landscaping plan (separate from building & site plans) shall be submitted to the Plan Director for review and approval. Such plan shall include:
- a. Per TMC§1108.0204, for each ten (10) parking spaces, the site shall provide two hundred (200) square feet of interior parking lot landscaping, as well as two (2) trees and six (6) shrubs. Staff is supportive of reducing the number of parking spaces to a minimum of twenty-eight (28) spaces to allow space for landscape peninsulas and meet this requirement.
 - b. Per TMC§1108.0203, a Type A buffer is required along the west side of the property. Staff is supportive of foundation plantings and a minimum of three (3) trees, with the understanding that additional trees may be planted here to help meet TMC§1108.0205.
 - c. Per TMC§1108.0205, one (1) tree is required within the interior of the site for every one thousand (1000) square feet of building area. This does not include parking lot landscaping. The building is 9030 square feet; nine additional (9) trees are required within the site to meet this condition.
 - d. Per TMC§1108.0202, a Frontage Greenbelt is required with at least one (1) tree for every thirty (30) feet of frontage. This would require eleven (11) trees. Because the frontage greenbelt is being narrowed by a reduced building setback, staff is requiring five (5) trees to the north of the building and four (4) trees to the north of the stormwater management area. **Shall be shown on a revised landscape plan.**
 - e. Canopy trees must be a minimum of 12' in overall height or a minimum caliper of 2 inches and evergreen trees must be a minimum of 5'.
 - f. Per TMC§1108.0204(B)(6), landscaped areas may not contain bare soil, aggregated stone or decorative rock. Any ground area must be covered with hardwood mulch, grass or other vegetative ground cover, unless approved as part of the stormwater treatment facility. **Shall be depicted on a landscape plan.**
 - g. Irrigation shall be required for projects over ½ acre in site area. Landscaped areas must be irrigated as necessary to maintain required plant materials in good and healthy condition.
33. Landscaping shall be installed and maintained indefinitely.
34. The separate parking area to the northwest of the site shall be split from the parcel and combined with the adjoining property to the west, or shall remain within the site.

PLAN COMMISSION RECOMMENDATION (Cont'd)
Plan Commission (Cont'd)

35. Projecting piers shall be provided along all elevations visible from the right-of-way to provide variation in massing, as shown in previously submitted elevations.
36. No new free-standing signs greater than forty-two inches (42") from grade are permitted – any proposed signage must meet the requirements of low-profile signs per Toledo Municipal Code Title Nine – Sign Code. Sign materials are encouraged to match primary building materials.
37. Minor adjustments to the site plan that do not violate the above conditions, or the Toledo Municipal Code, may be reviewed and approved by the Director of the Toledo City Plan Commission.
38. No permits shall be issued until arrangements satisfactory to the Director of the City of Toledo Plan Commission have been made for compliance with the conditions as set forth above.
39. Written testimony shall be obtained from the Department of Environmental Services stating their support of the proposed course of action for environmental remediation for the subject site.

Respectfully Submitted,



Thomas C. Gibbons
Secretary

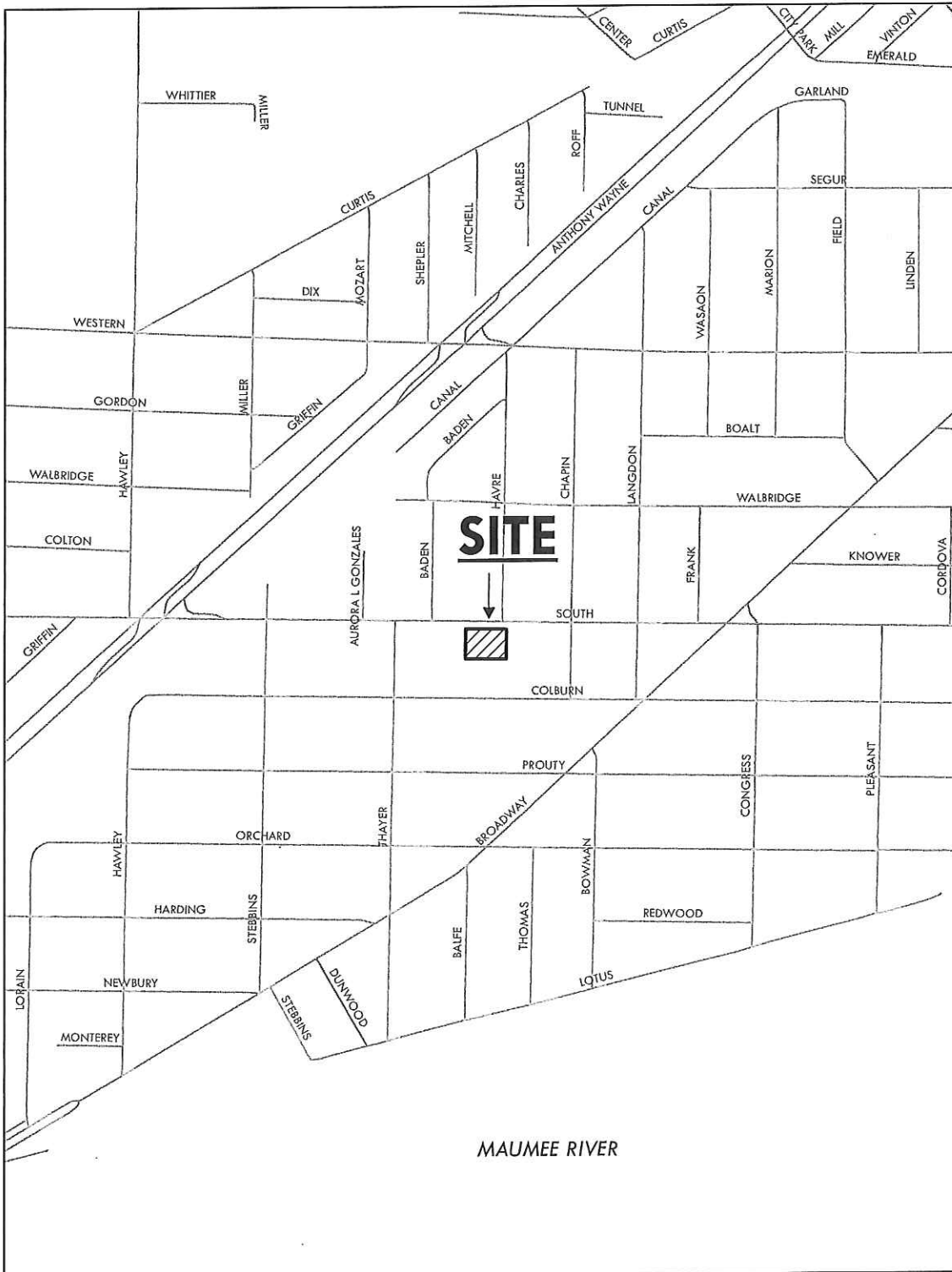
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Four (4) sketches follow

Cc: Zaremba Group, LLC; 14600 Detroit Ave, Suite 1500; Lakewood, OH 44107
Wohlwend Engineering Group; 4216 Karg Industrial Parkway; Kent, OH 44240
GPD Group; 520 South Main St, Suite 2531; Akron, OH 44311
Engineering Services
Sewer & Drainage
Environmental Services
Transportation
Fire Prevention
Lisa Cottrell, Administrator
Matt Lascheid, Associate Planner

GENERAL LOCATION

SPR-46-19
ID 12



ELEVATIONS

SPR-46-19
ID 12

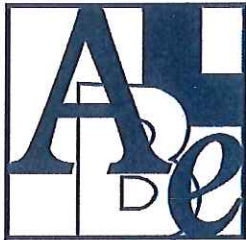


KEYED NOTES

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. FINISH GRADE SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
3. ALL MATERIALS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
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EXHIBIT PRICES

ITEM NO.	DESCRIPTION	UNIT	PRICE
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**Advocates for Basic
Legal Equality, Inc.**

TOLEDO OFFICE

525 Jefferson Avenue
Suite 300
Toledo, OH 43604

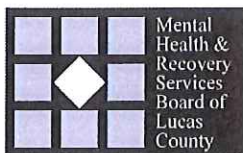
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February 24, 2019

To: Tom Gibbons, Toledo-Lucas County Plan Commission
From: Aisha Sleiman, Advocates for Basic Legal Equality (ABLE), as counsel
for the Broadway Corridor Coalition
Re: Appeal of decision on SPR-46-19

Dear Mr. Gibbons:

The Broadway Corridor Coalition (“BCC”) requests an appeal of SPR-49-19 pursuant to TMC 1111.0811, regarding the development of a Dollar General on South Ave. The BCC is a nonprofit community and neighborhood-based organization, representing the collective interests and voice of the Old South End. The BCC focuses on planning, organizing, directing and coordinating the economic revitalization activities, development and redevelopment of the South End, consisting of : commercial and business development, nuisance abatement, improvement of housing conditions, workforce and youth programs, community facilities, and development of open space.

While the BCC appreciates the Plan Commission’s rigorous application of TMC building standards, we remain opposed to the development of a Dollar General on South Avenue because it is antithetical to the adopted neighborhood plan for the Old South End. To that end, we request an appeal of the Plan Commission’s approval of SPR-49-19 to City Council.

TMC 1111.0811 allows “any person aggrieved by a final decision on a site plan application” to make an appeal to City Council. That appeal must be based on several factors, including “error or abuse of discretion by the Plan Commission” and how the decision “creates an inconsistency with the City’s Comprehensive Plan or this Zoning Code”. We believe the Plan Commission erred in their interpretation and application of the Old South End Master Plan, and the inconsistency the Dollar General creates with that Plan.

The BCC is an aggrieved party under the code and local law. Standing is not limited to adjacent property owners; indeed, Ohio law has found standing for anyone “complain[ing] of a harm that is unique to himself”. *Willoughby Hills v. C.C. Bar’s Sahara*, 64 Ohio St. 3d 24 (Ohio 1992) A person or organization has standing to appeal a decision by the Plan Commission if they can demonstrate that they have suffered a unique harm, not experienced by the city or community as a whole. *Neuendorff v. Gibbons*, L-17-1238 pg. 5-6 (2017). Furthermore, the Ohio Court of Appeals has ruled standing is present if a person or organization can show that they “have actively participated in the relevant hearing and demonstrated that he or she has been directly affected by the administration’s decision”. *Safest Neighborhood Assn. v. Athens Bd. of Zoning Appeals*, 2013-Ohio-5610.

The BCC has suffered a unique harm as a result of this decision. In 2017, the City adopted Ordinance O-226-17: “Approving and adopting the M-1-17 incorporation of the Old South End Neighborhood Plan as an amendment to the

The proposed development does not offer specialized commercial and service resources that would attract customers from outside the area. On the contrary, dollar stores over-proliferate the market, providing exactly the same products and services everywhere. Dollar General also signals to other developers that a grocery store, with fresh food and produce, is impossible to maintain in the neighborhood, which will continue to lead to neighborhood disinvestment and grow the food desert crisis in Toledo.

Finally, the BCC, in consultation with neighborhood residents, and with the help of The Toledo Design Collective, have developed alternative uses for the land and property that are consistent with the Master Plan. ³Those plans demonstrate what the use of the land on South Avenue could look like if it was truly consistent with the Master Plan.

We also strongly emphasize the importance of having an all-brick building, instead of what the current building is approved for. The steel approved for the back of the building will result in a deteriorated building and will only increase the blight in the neighborhood-blight that the BCC has fought hard to remove.

The BCC requests this appeal to the City Council, pursuant to TMC 1111.0811. The proposed Dollar General is violative of the Old South End Master Plan, and the Plan Commission erred in approving the application, under TMC 1101.0400.

Thank you for your time and cooperation.

Sincerely,
Aisha Sleiman, on behalf of the Broadway Corridor Coalition

³ Available at https://toledo.oh.gov/media/4587/ose-master-plan-final-report_final2.pdf



February 13th, 2020

Toledo- Lucas County Plan Commission
One Government Center, Suite #1620
Toledo, Ohio 43606

Dear Plan Commission-

I am writing you on the concern of the Dollar General proposal to build in the Old South End Neighborhood, at 865 South Ave Toledo Ohio 43609, formerly the Lido Lane property. This proposal deviates from 2017 Old South End Master Plan in the following regards:

- Page 52- Believe Center Gateway- Highlights this area as a major entrance into the OSE and "utilizing both sides of South Ave... expand recreational options and a reconfiguration of the existing parking lots to create enhanced pedestrian circulation and green space, between the three facilities"
 - The Believe Gateway welcome to the neighborhood, if approved, will be the side of a Dollar General, as opposed to a pedestrian friendly area between major stakeholders in the neighborhood.
 - It does not fit with the vision for that area to increase greenspace and services with the Mayores Senior Center, and the Believe Center.

The Broadway Corridor Coalition supports retail development, which has been demonstrated with the work with McDonalds, Taco Bell, and Little Caesars. All of which the developer and owners worked with the BCC to develop the best solution and location selection, but only if it fits in the OSE Master Plan. The Economic Development Committee and board of the Broadway Corridor Coalition worked with Little Caesars to have a mural added to the façade of the building, reinforcing the sign standards of the C-6 overlay and site improvements to match the neighborhood and the master plan, with Taco Bell we looked at the site plan, landscaping, and building materials to fit into the neighborhood, and with McDonalds we worked with them on the parking circulation to increase the drive-thru lane but still having it work with the expanded parking of the area as well as the façade improvements. The BCC wants to work with the retail developers to provide the best solution for the neighborhood, work inside the code regulations, and the master plan and we were successful with all three.

The plan states Retail Development is supported along Broadway and at the intersection of South/Broadway. This is why the Little Caesars site was located with the current retail development in the neighborhood.

- The plan goals (page 43) highlight "1. Neighborhood services... expand a full complement of "pro-family" services including: social services, education, retail, recreation, religious, arts and culture"
 - Retail is encouraged in the neighborhood in appropriate forms and locations.
- Page 54 "The intersection of Broadway and south is the current center of retail along the corridor"
 - This should be the location of retail in this Node along Broadway and the center of future commercial/ retail development.
 - Page 69 is the BCC priority Poll- number three is the Broadway and South Commercial Node- specifically new businesses and Better Pedestrian Environment.

bccsouthtoledo@gmail.com

PO Box 256, Toledo OH 43697



**Advocates for Basic
Legal Equality, Inc.**

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ABLE is funded
in part by:



Sent via email, Portable Document Format, to TCowen@zarembagroup.com and matthew.lascheid@toledo.oh.gov.

January 6, 2019

To: Tom Cowan & Zaremba Group L.L.C.
From: ABLE, as counsel for the Broadway Corridor Coalition
Re: Environmental Concerns regarding SPR-46-19

At the November 5th, 2019 neighborhood meeting regarding the development of 845 South Ave. (Lido Lanes) into a Dollar General, Zaremba Group representatives discussed efforts they will take in order to mitigate the impact of an environmental contamination on the property. The developer explained that, at the time, they did not have the budget to bring the property up to the requirements of the Toledo Municipal Code, because of how expensive the environmental remediation would be.

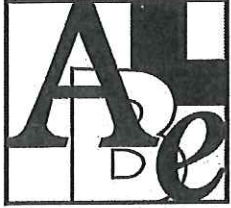
As the organization representing the residents of the immediate and surrounding neighborhood, it is imperative that BCC have access to any environmental studies or assessments done. To BCC's understanding, vapor intrusion is a concern on the site, which may require the use of a vapor barrier after the demolition of the existing structure. Vapor intrusion can become a serious health hazard to the neighborhood, and the neighborhood residents deserve to understand how significant of a threat it is to them and their families.¹Vapor intrusion is the migration of dangerous chemicals into the indoor or outdoor air of a structure. These vapors can cause a range of health problems, from mild headaches and mental health impacts, to lung cancer if the vapors develop into radon.

The neighborhood residents must be informed, in detail, of the environmental hazards associated with the site and the development. BCC requests any environmental assessments done on the property, particularly any Phase I or Phase II Environmental Site Assessments.

Thank you for your time and consideration.

Sincerely,
Aisha Sleiman, on behalf of the Broadway Corridor Coalition.

¹ Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor Sources to Indoor Air, U.S. Environmental Protection Agency, Office of Solid Waste and Emergency Response, available at <https://www.epa.gov/sites/production/files/2015-09/documents/oswer-vapor-intrusion-technical-guide-final.pdf> (June 2015)



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ABLE is funded
in part by:



Sent via email, Portable Document Format, to matthew.lascheid@toledo.oh.gov.

November 14, 2019

To: Mathew Lascheid, Plan Commission
From: ABLE, as counsel for the Broadway Corridor Coalition
Re: SPR-46-19

The Broadway Corridor Coalition respectfully requests that the Plan Commission deny application SPR-46-19, to redevelop 845 South Ave into a Dollar General. The Broadway Corridor Coalition is the designated “One Voice” of the Old South End Neighborhood. *See* O-226-17. At several neighborhood meetings, the BCC board, its members, community leaders and a consensus of all local residents expressed firm opposition to the proposal. The proposal clearly runs contrary to the Old South End Neighborhood Plan as formally adopted at O-226-17.

BCC provides this report pursuant to TMC 1111.0204(B) to identify issues raised and left unresolved by the applicant. At the neighborhood meeting, on November 6, 2019, local residents raised many issues that directly relate to the approval criteria at TMC 1111.0809 and should result in denial of the application.

1. Violation of TMC 1111.0809(A): The proposal does not comply with the Old South End Master Plan as adopted in O-226-17.

Under TMC 1111.0809, approval must be denied where the application does not “comply with all standards of the Toledo Municipal Code, this Zoning Code and other adopted City policies.” The City formally adopted the Old South End Master Plan (“the Plan”) in Ordinance 226-17. The present site plan application violates the adopted Ordinance as detailed in **Exhibit A**.

The Plan as well as the City Code, call for architectural and neighborhood continuity. Local residents expressed concern that the new Dollar General sits in stark contrast to the rest of the neighborhood. TMC §1109.0205(B) requires that “building design shall contribute to the uniqueness of established neighborhoods by harmonizing design elements of the adjacent architecture”.¹ The current proposal does not use an appropriate building material as compared to other facilities in the area, nor does it conform to the overall neighborhood architecture.

2. Violation of 1111.0809(A): The proposal does not protect the health, safety, and general welfare of the citizens of Toledo as required at 1101.0400.

TMC 1101.0400 demands implementation of the Zoning Code in a manner that is both consistent with “adopted plans”—such as the Old South End Neighborhood Plan—and “in a manner that protects the health, safety, and general welfare of the citizens of Toledo.” *See* TMC 1101.0400. This provision is incorporated into the approval criteria

¹ These standards apply to commercial developments including this proposal. *See* TMC 1109.0202.

Exhibit A
Violations of O-226-17

O-226-17: Approving and adopting the M-1-17 incorporation of the Old South End Neighborhood Plan as an amendment to the Toledo 20/20 Comprehensive Plan for the City of Toledo, Ohio.

The ordinance requires the City to:

Empower the Broadway Corridor Coalition (BCC) to be the identified voice of the Old South End.

The BCC is strongly opposed to this development, and the City is required to take BCC's opposition into serious consideration.

The ordinance additionally states:

The Old South End should strive to protect and expand a full compliment of "pro-family" services including: social services, education, retail, recreation, religious, art and culture. The majority of these services should be focused at the four (4) nodes on Broadway Street and along parts of South Streets.

The Dollar General is not a social service. It does not provide any education. It is not a recreation space. It is not a religious, art or cultural center. The retail activity that it does provide is not pro-family and does not serve the youth who live in the neighborhood, which is what the local residents want, and what the Masterplan envisions for the neighborhood. When pressed on this question during the neighborhood meeting, Dollar General developers had nothing to say in response. They even refused to commit to a literacy program in the area (which they argued is part of their larger community outreach effort).

Exhibit C
Labor and Living Wage

Finally, Dollar General typically does not pay its employees a living wage. Access to living wage jobs is especially important in this low-income area. The following table displays the living wage in Toledo, Ohio according to the Massachusetts Institute for Technology.

	1 ADULT				2 ADULTS (1 WORKING)				2 ADULTS (BOTH WORKING)			
	0 Children	1 Child	2 Children	3 Children	0 Children	1 Child	2 Children	3 Children	0 Children	1 Child	2 Children	3 Children
Living Wage	\$10.35	\$22.29	\$26.59	\$33.20	\$17.30	\$20.63	\$23.21	\$25.83	\$8.65	\$12.30	\$14.64	\$17.00
Poverty Wage	\$5.84	\$7.91	\$9.99	\$12.07	\$7.91	\$9.99	\$12.07	\$14.14	\$3.96	\$5.00	\$6.03	\$7.07
Minimum Wage	\$8.30	\$8.30	\$8.30	\$8.30	\$8.30	\$8.30	\$8.30	\$8.30	\$8.30	\$8.30	\$8.30	\$8.30

At the neighborhood meeting with Dollar General on November 6th, Dollar General did not indicate how much it would pay their employees, only indicating that they would be hiring three individuals. The residents expressed their concern with the lack of living wage jobs at a commercial development in this area, and the company's record on living wage and unpaid wages. Dollar General did not commit to pay their workers a living wage.

In addition, Dollar General has paid out over \$45,700,000 dollars in employment and labor law violations, including \$9.1 million in wage violations.⁷

⁷ *Good Jobs First*, Violation Tracker, available at <https://violationtracker.goodjobsfirst.org/parent/dollar-general>

P U B L I C H E A R I N G

CASE NO. SPR-46-19

REQUEST: MINOR SITE PLAN REVIEW FOR RETAIL STORE

AT 845-885 SOUTH AVE.

APPLICANT: NAME ZAREMSA GROUP, LLC

ADDRESS ~~14600~~ 14600 DETROIT AVE, SUITE 1500

CAREWOOD, OH 44107

DATE: _____ TIME: 2.00 P.M.

PLACE: Council Chamber, 1st Floor, One Government Center
Jackson & Erie Streets, Toledo, Ohio

FOR FURTHER INFORMATION, CONTACT

The Toledo-Lucas County Plan Commissions

Phone: (419) 245-1200 FAX: (419) 936-3730

TMC 1111.0304

Tom Cowen - (216) 226-4168

Report of Neighborhood Meeting on SPR-46-19: Broadway Corridor Coalition

The Broadway Corridor Coalition respectfully requests that the Plan Commission recommend denial of SPR-46-19, to redevelop 845 South Ave into a Dollar General. At several community meetings, the BCC board, its members, community leaders and a consensus of all local residents have expressed firm opposition to the proposal. The community opposes the zone change for a number of reasons directly related to the criteria for approval described at TMC 1111.0606.

This report is provided pursuant to TMC 1111.0204(B) to identify issues raised and left unresolved by the applicant. A neighborhood meeting pursuant to 1111.0204 occurred on November 6, 2019. Local residents raised many issues which directly relate to the approval criteria at TMC 1111.0606. The applicant did not resolve any of the issues raised. In fact, the applicant has failed to file any report in violation of TMC 1111.0204 which specifically mandates that the applicant “shall submit to the Planning Director a written report summarizing the neighborhood meeting and issues raised and resolved or unresolved.”

Below, the issues raised at the November 6th meeting are organized into three categories as related to violations of the approval criteria at TMC 1111.0606.

1. Violation of TMC 1111.0606(A): The proposal is inconsistent with the Old South End Master Plan

The proposal for zone change to erect a Dollar General is inconsistent with the Old South End Master Plan. The Plan discusses the history of the Old South End, as one of the most diverse neighborhoods in Toledo. The area has suffered from discrimination, harmful urban renewal policies, and destruction of its local culture and businesses. In addition, City Council adopted the Old South End Masterplan, in Ordinance O-226-17. This site plan violates the adopted Ordinance, see Exhibit A. As a consequence, the Old South End Master Plan demands that the City carefully consider the potential impact of any new business development on this neighborhood.

The Plan as well as the City Code, call for architectural and neighborhood continuity. Local residents expressed concern that the new Dollar General sits in stark contrast to the rest of the neighborhood. TMC §1109.0205(B) requires that “building design shall contribute to the uniqueness of established neighborhoods by harmonizing design elements of the adjacent architecture”. The current proposal does not use the right building material, nor conform to the overall neighborhood architecture. Dollar General is also unwilling to take steps to conform with the overall neighborhood, by not agreeing to change their building material to brick nor to add in murals and community led art on their structure, because they prefer a “neat” and “clean” design. The site plan is inconsistent with the required elevations, landscaping, urban walkable atmosphere, architecture designs and new business or services that the Old South End Master Plan envisions for the neighborhood.

2. Violation of 1111.0606(A): The proposal does not protect the health, safety, and general welfare of the citizens of Toledo.

Under TMC 1111.0606, the Plan Commission must consider the “stated purpose of this Zoning Code” at 1101.0400, which provides:

Exhibit A: Violations of O-226-17

O-226-17: Approving and adopting the M-1-17 incorporation of the Old South End Neighborhood Plan as an amendment to the Toledo 20/20 Comprehensive Plan for the City of Toledo, Ohio.

The ordinance requires the City to:

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The BCC is strongly opposed to this development, and the City is required to take BCC's opposition into serious consideration.

The ordinance additionally states:

The Old South End should strive to protect and expand a full compliment of "pro-family" services including: social services, education, retail, recreation, religious, art and culture. The majority of these services should be focused at the four (4) nodes on Broadway Street and along parts of South Streets.

The Dollar General is not a social service. It does not provide any education. It is not a recreation space. It is not a religious, art or cultural center. The retail activity that it does provide is not pro-family and does not serve the youth who live in the neighborhood, which is what the local residents want, and what the Masterplan envisions for the neighborhood. When pressed on this question during the neighborhood meeting, Dollar General developers had nothing to say in response. They even refused to commit to a literacy program in the area (which they argued is part of their larger community outreach effort).

where that change would very likely result in increased sales of products that could be harmful to the surrounding community. The area surrounding the proposed development is saturated with convenience stores that sell alcohol. This area is near multiple churches as well as community centers like the Believe Center and Danny Thomas Park. Additional alcohol distribution in this area would have a particularly negative impact.

Exhibit C

Labor and Living Wage

Finally, Dollar General typically does not pay its employees a living wage. Access to living wage jobs is especially important in this low-income area. The following table displays the living wage in Toledo, Ohio according to the Massachusetts Institute for Technology.

Hourly Wages	1 Adult	1 Adult 1 Child	1 Adult 2 Children	1 Adult 3 Children	2 Adults (One Working)	2 Adults (One Working) 1 Child	2 Adults (One Working) 2 Children	2 Adults (One Working) 3 Children	2 Adults	2 Adults 1 Child	2 Adults 2 Children	2 Adults 3 Children
Living Wage	\$9.03	\$19.70	\$23.94	\$30.31	\$15.19	\$18.43	\$20.92	\$23.06	\$7.59	\$10.90	\$13.27	\$15.46
Poverty Wage	\$5.00	\$7.00	\$9.00	\$11.00	\$7.00	\$9.00	\$11.00	\$13.00	\$3.00	\$4.00	\$5.00	\$6.00
Minimum Wage	\$7.95	\$7.95	\$7.95	\$7.95	\$7.95	\$7.95	\$7.95	\$7.95	\$7.95	\$7.95	\$7.95	\$7.95

At the neighborhood meeting with Dollar General on November 6th, Dollar General did not indicate how much it would pay their employees, only indicating that they would be hiring three individuals. The residents expressed their concern with the lack of living wage jobs at a commercial development in this area, and the company's record on living wage and unpaid wages.

In addition, Dollar General has paid out over \$45,700,000 dollars in employment and labor law violations, including \$9.1 million in wage violations.⁶

⁶ *Good Jobs First*, Violation Tracker, available at <https://violationtracker.goodjobsfirst.org/parent/dollar-general>