### BZA-19-05

## Appeal Zoning Administrator's Decision 125 W. Clinton St.

### **MEMORANDUM**

**TO:** Members of The Board of Zoning Appeals

FROM: Mark B. Spiess, Sr. Eng. Tech. / Zoning Admin.

**SUBJECT:** Appeal Zoning Administrator's Decision

**MEETING DATE:** Meeting Date @ 4:30 PM

**HEARING #:** BZA-19-05

#### **BACKGROUND:**

An application for public hearing has been filed by Dolgen Midwest, LLC (Dollar General) 100 Mission Ridge, Goodlettsville, TN 37072 The applicant is requesting an appeal to the Zoning Administrator's decision to deny a zoning permit in a C-1 General Commercial Zone. The appeal process is pursuant to code section 175.04 Appeals of the Codified Ordinances.

#### **RESEARCH AND FINDING**

Upon review of the zoning application, it was determined a Dollar General store falls under the definition of a "Grocery Store" as defined in code section 1101.01 Definitions.

**GROCERY STORES.** Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.

According to section 1145.01 Table of Permissible Uses, a grocery store is not permitted in a C-1 Zone. (See Attached)

"flood boundary and floodway map" prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the Zoning Department.

- (81) **FLOOR AREA (GROSS).** The total gross area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage. Floor area is synonymous with gross floor area.
  - (82) **FOOD PROCESSING.** The preparation, processing, or canning and packaging of food products.
- (83) **FRONTAGE.** All the property on one (1) side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street.
  - (84) FRONT LINE OF BUILDINGS. The line of the face of the building nearest the front lot line.
- (85) **FRONT LOT LINE.** That boundary of a lot which abuts a public street, or where no public street exists, abuts a private road. On a "through lot" both street lines are deemed to be front lot lines.
- (86) FRONT YARD. The area extending across the full width of the lot and lying between the front lot line and a line parallel thereto, and having a distance between them equal to the required front yard depth as prescribed for each zoning district. Front yards shall be measured by a line at right angles to the front lot line, or by the radial line in the case of a curved front lot line. On corner lots, the front yard shall be the yard which abuts on the narrowest street frontage on the lot.
- (87) **FUNCTIONAL EQUIVALENT FAMILY.** A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing non-transient domestic character and who are living and cooking as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.
- (88) **GRADE.** For buildings having walls adjoining one (1) street only. The elevation of the sidewalk at the center of the wall adjoining the street.
- A. For buildings having walls adjoining more than one (1) street. The average of the elevation of the sidewalk at the center of all walls adjoining the streets.
- B. For buildings having no wall adjoining the street -- the average level of the ground adjacent to the exterior walls of the building. Any wall approximately parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street.
  - C. Street grade the elevation of the pavement measured at the centerline intersection of two (2) streets.
- (89) **GROCERY STORES.** Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products, and which are substantially larger and carry a broader range of merchandise than convenience stores.
- (90) **GROUND FLOOR AREA.** The area of a building within its largest outside dimensions computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.
  - (91) **GSF.** Gross square feet.
- (92) **HEIGHT OF BUILDING.** The vertical distance measured from the ground level to the highest point of the roof for a flat roof; to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.
- (93) **HIGH-VOLUME TRAFFIC GENERATION.** Large amounts of traffic generated by an establishment as it relates to traffic flow in the immediate area.
- (94) **HISTORIC DESIGN REVIEW GUIDELINES:** The building construction and building rehabilitation criteria derived from local historical and architectural information and reflecting the Secretary of the Interior's standards for rehabilitation to be used by the Preservation Commission in considering certificate of appropriateness applications.
- (95) **HISTORIC RESOURCE:** A publicly or privately owned building of historic significance, eligible for listing or already listed on the National Register of Historic Places, thus deserving protection.
- (96) **HISTORIC SIGNIFICANCE:** Attributes of a building or district that possess integrity of location, setting, design, materials, workmanship, and association with:
  - A. Events that have made a significant contribution to the broad patterns of history, or
  - B. Persons significant in the past,
  - C. Architectural characteristics of a type, period, or method of construction, or
  - D. Have yielded or may be likely to yield information in prehistory or history.

(161) PRESERVATION COMMISSION. A Preservation Commission established pursuant to Chapter 181 of the Codified Ordinances having certain specified powers and duties. (162) PRESERVATION DISTRICT. Clearly identified area(s) designated on the Official Zone Map that

contain a significant concentration of historic resources.

(163) **PRINCIPAL BUILDING.** The primary building on a lot or a building that houses a principal use.

- (164) PRINCIPAL USE. The main use of land or buildings as distinguished from a subordinate or accessory use.
- (165) **PRINTING.** An establishment in which the principal business consists of duplicating and printing services using photography, blueprint, or offset printing equipment, including publishing, binding and engraving.
- (166) PRIVATE ROAD. A private drive or thoroughfare other than a street or alley permanently reserved in order to provide a means of access to a zoning lot.
  - (167) **PROPERTY LINES.** The lines bounding a zoning lot.
- (168) PUBLIC SERVICE FACILITY. Any building held, used, or controlled exclusively for public transportation systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police, and emergency systems or facilities, parks and recreation, electric utilities, gas utilities, cable facilities, or other public utilities.
- (169) **PUBLIC/PRIVATE UTILITY.** A person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under governmental regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water.
- (170) **PUBLISHING.** A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including, but not limited to, off-set printing, lithography, web offset, flexographic and screen process printing.
- (171) PURELY RESIDENTIAL STRUCTURES. For the sole purpose of Chapter 1138, dwellings used exclusively for residential purposes.
- (172) **REAR LOT LINE.** That boundary of a lot which is most distant from, and is most nearly parallel to, the front lot line.
- (173) **REAR YARD.** The space area extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof, other than the projections of uncovered steps, unenclosed balconies, or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.
- (174) **REASONABLE ACCOMMODATION USE.** Provisions for providing housing opportunities suited to the needs of persons entitled to housing accommodations under law.
- (175) **RECREATIONAL VEHICLES/ EQUIPMENT OUTDOOR SALES.** An establishment that sells or stores for sale, in the open, vehicles or equipment used or designed for recreation.
- (176) **RECYCLING CENTER**. Any place in which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition, and is owned, possessed, collected, accumulated, dismantled, or sorted, including, but not limited to, used or salvaged metals, paper, glass, plastic, rubber, and the associated processing equipment.
- (177) **REPAIR SERVICES, CONSUMER**. Provisions of repair services to individuals and households, but not to firms. Excludes vehicle sales and service uses. Typical uses include appliance repair shops, locksmiths, shoe and apparel repair and musical instrument repair.
- (178) **RESTAURANT CARRY-OUT ONLY.** A restaurant at which patrons are served from a counter and the food or beverage is served in disposable containers or wrappers for consumption off the premises.
- (179) **RESTAURANT DRIVE-IN.** A restaurant at which any patrons are served from a drive-by window or while within a motor vehicle or where food is consumed within the motor vehicle on the premises.
- (180) **RESTAURANT FAST FOOD.** A restaurant at which patrons are served from a counter and the food or beverage is served in disposable containers or wrappers for consumption on or off the premises.
- (181) RESTAURANT FULL SERVICE. An establishment maintained, operated, and/ or advertised or held out to the public as a place where food and beverages are served to the public on demand from a menu during stated business hours, served in and on reusable containers and dinnerware, to be consumed on the premises primarily inside the building at tables, booths, or counters, with chairs, benches or stools.
  - (182) **RESTAURANT OUTDOOR CAFÉ.** An outdoor service area as a part of a restaurant.
- (183) **RETAIL BUSINESS.** Businesses involved in the sale, lease or rent of new or used products to the general public. This excludes animal services, business equipment sales and services, construction sales and services, food

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and beverage retail sales, gasoline and fuel sales and vehicle sales and service. Typical uses include department stores, drug stores, apparel stores and furniture stores.

- (184) ROAD. All ways used to provide motor vehicle access to (i) two (2) or more lots; or, (ii) two (2) or more distinct areas or buildings in developments. As used in this Planning and Zoning Code, may mean depending on the contexts used, either private or public road.
- (185) **ROOMING HOUSE.** A residential use, where meals are not provided to its residents, consisting of at least one (1) dwelling unit together with more than two (2) rooms that are rented or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A rooming house is distinguished from a tourist home in that the former is designed to be occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests. A rooming house is distinguished from a boarding house in that meals are not provided to its residents.
- (186) <u>SALVAGE YARD.</u> An establishment or place for the purpose of selling salvage motor vehicle parts and secondarily for the purpose of selling at retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal. For the purpose of this definition "salvage yard" also means junk yards and scrap metal processing facilities.
- (187) **SATELLITE ANTENNA.** A dish-shaped device greater than thirty-nine (39") inches in diameter designed to receive signals transmitted from orbiting satellites. Also, an antenna of any size greater than thirty-nine (39") inches in diameter, shape or description designed for the purpose of receiving microwave transmissions from satellites.
- (188) <u>SCRAP METAL PROCESSING FACILITIES.</u> Establishments or places having facilities processing iron, steel, or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes. For the purpose of this definition "scrap metal processing facilities" also means junk yards and salvage yards.
- (189) <u>SCREENING.</u> Acceptable things or material that adequately protects against injury or danger, or when the context demands, acceptable things or material that adequately shields the view from others.
- (190) **SECRETARY OF THE INTERIOR'S STANDARDS.** Ten standards first developed by the Department of the Interior to evaluate proposed treatments of historic properties and to ensure that work affecting a historic property would be consistent with the character of the building and the district in which it is located.
- (191) <u>SELF- SERVICE STORAGE</u>. A facility designed and used for the temporary storage of household goods or personal items which is placed on a site for the use of the occupants of a dwelling or building for a limited period of time.
  - (192) **SEMI-TRUCK VEHICLES.** Are truck tractors designed to pull a freight trailer.
- (193) **SERVICE STATION.** A building or premises used for the retail sale of fuel (stored only in underground tanks and to be dispensed from fixed equipment), lubricants, air, water and other commodities designed for motor vehicles, aircraft and boats. Such an operation includes space and facilities for selling, installing, or adjusting tires, batteries, parts and accessories within a completely enclosed building provided that such repair and installation are of minor auto repair nature and may include accessory convenience store merchandise primarily sold to patrons purchasing gasoline and/or services.
- (194) <u>SEXUALLY ORIENTED BUSINESS.</u> A business establishment providing entertainment or products of a sexual nature.
- (195) **SHOPPING CENTER**. A single piece of real estate containing more than three (3) commercial establishments and a total business space of more than three thousand two hundred (3,200) square feet planned, constructed and managed as a total entity with customer and employee parking provided on site.
  - (196) **SIDE LOT LINE**. Any boundary of a lot which is not a front lot line or a rear lot line.
- (197) **SIDE YARD.** The space area between the main buildings and the side line of the lot and extending from the required front yard building setback line to the required rear yard building setback line and being the minimum horizontal distance between a side lot line and the side of the main buildings, or any projections thereto.

(Ord. 042-13. Passed 10-21-13.)

(197.1) **SPECIALIZED ANIMAL RAISING** Shall be defined as the use of land and buildings for the raising and care of fur-bearing animals such as rabbits and domestic pets; and the stabling and care of horses, animal kennels, pigeon raising and raising of any other domestic animals or birds of a similar nature.

(Ord. 036-17. Passed 6-5-17.)

(198) **STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it shall be

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(h) More Specific Use Controls. Whenever a development could fall within more than one use classification in the Table of Permissible Uses, the use classification that most closely and most specifically describes the development controls.

	R		COM	INDUSTRIAL							
AGRICULTURAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
FARM MARKETS & STANDS					С			С	Р		
KENNELS								P		P	
PLANT CULTIVATION								С		P	
SPECIALIZED ANIMAL RAISING								С		P	

	R	ESID	ENTI	AL		COM	INDUSTRIAL				
RESIDENTIAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
ONE FAMILY DWELLING	P	P	P	Р							
TWO FAMILY DWELLING	P	P	Р	P							
MULTIPLE FAMILY DWELLING				P							
DAY CARE CENTERS				С			С	P			
APARTMENTS ABOVE 1ST FLOOR			Р	P	Р			Р			
BED & BREAKFAST			P	P	P						
FUNCTIONAL EQUIVALENT FAMILY	С	С	С	С							
HOME OCCUPATION	P			С	С						
REASONABLE ACCOMMODATION USE	C	С	С	С							
ASSISTED LIVING UNITS				P							
MANUFACTURED HOMES										P	

	R	ESID	ENTI	AL		COM	MEF	CIA	L	INDU	STRIAL
COMMERCIAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
AGRICULTURE, CONSTRUCTION, SEMI- TRUCK										D.	D
SALES/SERVICE									P	P	P
ANIMAL HOSPITAL/VETERINARY CLINIC							P	P			
AUTOMOTIVE OIL & LUBE SERVICE FACILITIES					1			P	P	С	
AUTOMOTIVE SALES OR LEASE FOR NEW & USED VEHICLES - OUTDOORS								Р	P		С
AUTO REPAIR									Р	С	
AUTO WASH							С	С	Р		
COMMERCIAL RECREATIONAL FACILITIES								P	P		
COMMERCIAL SCHOOL							P	P	P		
BANKS					P		P	P	P		
COMMERCIAL SEMI- TRUCK SALES/SERVICE									С	P	P
	RI	ESID	ENTI	AL	-	COM	MER	CIAI		INDUS	TRIAL
COMMERCIAL:	R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2
ENTERTAINMENT AND SPECTATOR SPORT FACILITIES								P	P	С	С
GROCERY STORES								P	P		
MESSAGE/RELAXATION ESTABLISHMENT									С	P	
MOTEL & HOTEL								Р	P	С	
NEIGHBORHOOD BUSINESS LESS THAN 10,000 SQ. FT.					P		P	P	P		
PERSONAL SERVICES					P		P	P	P		
OFFICE					Р		P	P	P		
PRINTING					P	_	P	P	P		
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RECREATIONAL VEHICLE/EQUIPMENT OUTDOOR SALES	1	Ì		1		С	P	C	P
RESTAURANT CARRY- OUT ONLY			P		С	P	P		
RESTAURANT DRIVE-IN						P	P	С	
RESTAURANT FAST FOOD			P		С	Р	P	С	

				R	ESII	DEN'	TIA	L		CON	4ME	RCL	\L	Т	I	NDUSTE	RIAL		
COMMERCIAL:	COMMERCIAL: R- 1								C-1	C-2	2 C				[-1	I-	2		
RESTAURANT OUTDOOR CAFÉ			1	$\top$	$\top$	P			P	F	+	_							
RESTAURANT FULL SERVICE				1		T	$\top$	$\forall$	P		T	P	F	1	С				
RETAIL BUSINESS: LESS THAN 60,000 GSI	7								Р		P	P	F						
RETAIL BUSINESS MORE THAN 60,000 GS	F											P	F						
SALE & STORAGE OF BUILDING MATERIA	ALS						$\top$	$\top$					T	$\top$	P	I	)		
SELF-SERVICE STORAGE						T	$\top$	$\forall$				$\top$	F	+	P	F	•		
SERVICE STATION							$\top$		Р			P	F	+					
SEXUALLY ORIENTED BUSINESS							T	$\top$		С	T		1	$\top$					
SHOPPING CENTER						T	T	$\forall$	С			P	F	$\top$					
HOSPITALITY FACILITIES							$\top$	$\neg$				P	P	+					
ROOMING HOUSE				C	С			ct	С				1	$\top$	_				
	R	ESID	ENTL	L		COM	ME	RC	CIAL IN					INDUSTRIAL					
COMMERCIAL:	R-1	R-2	R-3	R-	C- 1	C-2	C-3	3 0	C-4	C-5	I-1	I-2							
CEMETERY			С	С			С	T		$\neg$	$\neg$								
REPAIR SERVICES, CONSUMER					P		P		P	РР									
NURSERY/GREENHOUSE					T			T	1	P	С				(	2			
						RE	RESIDENTIAL COMMERCIAL INDUST						STRIAL						
INDUSTRIAL:						R- 1	R-2	R	-3 I	₹-4	C-1	C- 2	C- 3	C-	C-	I-1	I-2		
ARTIFICIAL LAKE, POND, OR RESERVOIR						C	С			C	C	C	C	С		C	C		
AUTO & METAL SALVAGE, JUNK YARDS													$\neg$			Р	С		
BORROW PITS						С	С	(		C	C	C	С	С	C	С	С		
FOOD PROCESSING															C	Р	P		
EXCAVATION, SAND, GRAVEL, CLAY, STONE & TOPSOIL FACILITIES																С	С		
LABORATORIES									$\top$		$\exists$	$\neg$	$\neg$			P	P		
MANUFACTURING, SALE/STORAGE BUILDING MATERIALS										1		$\neg$			С	Р	P		
MANUFACTURING- GENERAL					$\top$				1							С	P		
MANUFACTURING: LIGHT					$\top$	_										P	P		
OIL & GAS WELLS																С	P		
OUTSIDE STORAGE												$\neg$			T		P		

	RESIDENTIAL						COMMERCIAL					
R-1	R-2	R-3	R-4	C-1	C-2	C-3	C-4	C-5	I-1	I-2		
									P	P		
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									P	P		
								С	Р	P		
С	С	С	С						С	P		
		С	С				С					
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1102	CHOCOLATE (

LATE CANDY

NON-CHOCOLATE CANDY 1103

1104 SINGLE SERVE

1107 **NUTS** 

1109 NON-CARBONATED WHSE

1110 **CHRISTMAS CANDY** 

1111 SALTY SNACKS-DROPSHIP

**SWEET GOODS-DROPSHIP** 1112

1113 **CRACKERS** 

1120 **NON-CARBONATED DROPSHIP** 

1121 **DSD WATER** 

1122 SALTY SNACK REGIONAL DS

1125 **COOKIES PRIVATE BRAND** 

1126 **NON-CHOC CANDY PRIV BRAND** 

1127 **CRACKERS PRIVATE BRAND** 

1136 **VALENTINES CANDY** 

1137 **EASTER CANDY** 

1138 HALLOWEEN CANDY

1153 CARBONATED DRINK-DROPSHIP

1156 WATER

1159 **DRINK MIX** 

1188 **HISPANIC** 

1190 **SALTY SNACKS** 

1191 COOKIES

1192 **CARBONATED BEVERAGES** 

1194 CANDY/SNACK/BEV \$1

1114 **SPIRITS** 

1115 **BEER** 

1116 WINE

1129 NON ALCOHOLIC MIXER

1134 **ALCOHOL OTHER** 

1139 **READY TO EAT MEALS** 

1158 **BREADS** 

1160 **REFRIGERATED JUICE** 

1161 DAIRY-FLUID MILK

**DAIRY-CULTURED** 1162

1163 **EGGS** 

1164 REFRIG BISCUITS/BAKERY

1165 MARGARINE/BUTTER

1166 **CHEESE** 

1167 **SALADS** 

1168 **DESSERTS** 

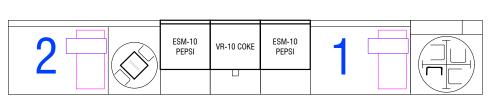
1169 **SWEET GOODS** 

1170 FRESH PRODUCE

1171 **LUNCH MEAT** 

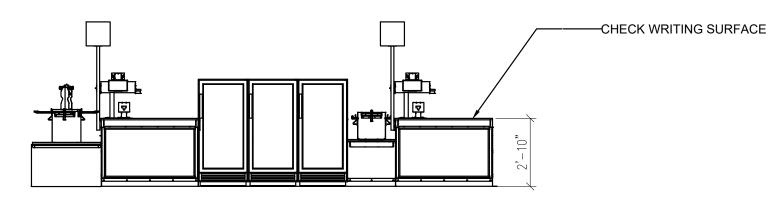
- 1172 HOT DOGS
- 1173 BACON/SAUSAGE
- 1174 LUNCH KITS
- 1175 FRESH MEAT
- 1176 FRESH POULTRY
- 1177 FROZEN MEAT
- 1178 FROZEN POULTRY
- 1179 SEAFOOD
- 1182 ICE
- 1183 FROZEN PREP MEALS
- 1184 FROZEN POTATOES&VEGETABLE
- 1185 FROZEN JUICE
- 1186 FROZEN DESSERTS
- 1187 ICE CREAM
- 1189 PIZZA
- 1198 FLOWERS/PLANTS
- 1199 PICK 5
- 1250 HOT COFFEE
- 1251 FOUNTAIN DRINKS
- 1252 ICEE
- 1108 GLOBAL FOODS
- 1123 TEA-COCOA-MISC
- 1130 COOKING OIL & SHORTENING
- 1131 SUGAR
- 1132 VEGETABLES
- 1133 CANNED SEA FOOD
- 1135 DRY SOUPS
- 1140 BAKING
- 1141 CANNED MEAT
- 1142 CEREAL
- 1143 COFFEE/CREAMER
- 1144 CONDIMENTS
- 1145 RICE/DRY BEANS
- 1146 FRUITS
- 1147 JUICE
- 1148 PASTA
- 1149 PEANUT BUTTER & JELLY
- 1150 PICKLES RELISH OLIVES
- 1151 PREPARED FOODS
- 1152 PUDDING & GELATIN
- 1154 CANNED SOUP
- 1155 SPICES & SALT
- 1180 ISOTONICS
- 1181 BABY FOOD
- 1196 FOOD \$1
- 1197 JUICE PRIVATE BRAND





NOTE: FRONT CHECKOUT COUNTER TO BE PROVIDED BY DOLLAR GENERAL AND INSTALLED AT DOLLAR GENERAL'S DIRECTION. COUNTERS SHALL INCLUDE A PORTION OF AT LEAST 36" IN LENGTH WHICH IS NO MORE THEN 34" ABOVE THE FINISH FLOOR. COUNTERS SHALL BE ON AN ACCESSIBLE ROUTE.

### A - SERVICE COUNTER PLAN



**B - ELEVATION** 



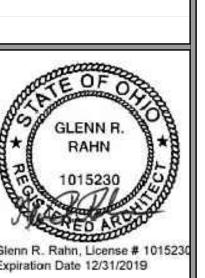




7580 48th Street, S.E. Grand Rapids, Mi. 49512 P. 616.634.2253 Glenn@rdc-llc.com

> LLAR GENERAL CLINTON ST

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### ArcGIS Web Map

