

BOROUGH OF MADISON  
HISTORIC PRESERVATION COMMISSION

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: IN THE MATTER OF: :  
: : : TRANSCRIPT  
: SAXON REAL ESTATE, : OF  
: 14 LINCOLN PLACE, : PROCEEDINGS  
: Block 2702, Lot 24 :  
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Tuesday, April 9, 2019  
Madison Borough Hall  
50 Kings Road  
Madison, New Jersey  
Commencing at 7:30 p.m.

BOARD MEMBERS PRESENT:

JANET FOSTER, Co-Chairwoman  
MARY ELLEN LENAHAN, Co-Chairwoman  
CARMINE TOTO  
JOHN SOLU  
CHRISTON KELLOGG  
KAREN JEISI  
DAVID LUBER, Alternate #1  
JILL RHODES, Alternate #2

ALSO PRESENT:

JOHN McMANUS, Engineer  
JOHN HATCH, Architect  
SUSAN BLICKSTEIN, AICP, Ph.D.  
LAURIE HAGERICH, Recording Secretary

MICHELE QUICK  
CERTIFIED COURT REPORTER

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1 A P P E A R A N C E S:

2  
3 VINCENT LOUGHLIN, ESQ.  
Counsel for the Board  
4  
5 DAY PITNEY, LLP  
One Jefferson Road  
Parsippany, New Jersey 07054  
6 By: PETER J. WOLFSON, ESQ.  
Counsel for the Applicant  
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1 CO-CHAIRWOMAN FOSTER: Okay, we are  
2 continuing our order of business, continuing our  
3 meeting that was opened on March the 12th, and we  
4 are at the point where we had testimony from the  
5 architect for the applicant about the design of the  
6 proposed building at 14 Lincoln Place. I believe we  
7 had gotten as far as hearing a very complete report  
8 from the architect, then there was discussion from  
9 the Board, there was not time for public comment  
10 after that because we reached the witching hour of  
11 11:00. I will add that, once again, I will close  
12 the meeting at 11:00 tonight because everybody has  
13 to get up and go to work in the morning, so we will  
14 try to be expedient in our business.

15 So, I turn it over to Mr. Wolfson from  
16 Saxon to carry us forward.

17 MR. WOLFSON: Thank you very much.  
18 Madam Co-Chairs, Commission members, Commission  
19 professionals, Peter Wolfson from Day Pitney, here  
20 on behalf of Saxon. And as you indicated, Co-Chair  
21 Foster, we were here on March 12, at which time you  
22 heard from Anthony Rinaldi, a principal with Saxon,  
23 our structural engineer, Wayne Hostetler, and then  
24 our architect, Jeff Gertler. At the end of that  
25 meeting, we had indicated that we had taken in a lot

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1 of information, commentary, suggestions, and that we  
2 were going to consider all of that and expected that  
3 we would be revising plans and submitting them, and  
4 we did that. We received back, following  
5 submission, some comments that perhaps there was not  
6 sufficient time for consideration of those revised  
7 plans, so as a result of that concern, we propose  
8 tonight not to discuss those plans but instead  
9 complete our discussion relative to the condition of  
10 the existing building in connection with the  
11 proposed demolition of that building.

12 CO-CHAIRWOMAN FOSTER: That seems  
13 acceptable and fair. May I add that the submission  
14 -- the re-submitted drawings are available for  
15 review in Sam Gordon's office here in the town  
16 upstairs on the second-floor in the Building  
17 Department, so those are open to the public to  
18 review during business hours.

19 Okay. Shall we begin with your expert  
20 or ours?

21 MR. LOUGHLIN: I have a housekeeping  
22 matter, if I might.

23 CO-CHAIRWOMAN FOSTER: Okay. Sorry.

24 MR. LOUGHLIN: This afternoon, I  
25 received a letter from Michele Donato representing

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1 Save Madison Theater, Inc., and she indicated she'd  
 2 be entering her participation in the hearings.  
 3 There was a letter that was addressed to me.  
 4 Mr. Wolfson, you received a copy of  
 5 that, sir?  
 6 MR. WOLFSON: I did.  
 7 MR. LOUGHLIN: And I forwarded it to  
 8 the Commission with an attachment. In addition to  
 9 indicating her intention to represent that  
 10 organization and participate in these hearings, Ms.  
 11 Donato also asked for another hearing at least to be  
 12 scheduled. I understand we'll address that at the  
 13 end of the evening as far as the scheduling because  
 14 it would appear that these proceedings have a  
 15 substantial likelihood of being continued beyond  
 16 this evening. So I just want to note that for the  
 17 record. Her letter can be addressed, I would say,  
 18 most appropriately, when the Commission has a better  
 19 feel for how far along we get this evening and then  
 20 address the letter's request to the Commission at  
 21 that time. Thank you.  
 22 Thank you, Mr. Wolfson.  
 23 MR. WOLFSON: Thank you.  
 24 CO-CHAIRWOMAN LENAHAN: Excuse me. Is  
 25 your mic on?

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1 MR. WOLFSON: I think so. I'll move  
 2 it a little closer.  
 3 Tonight's presentation, then, will  
 4 focus on the existing building's lack of historic  
 5 and architectural integrity. Next to me, seated, is  
 6 Robert Kornfeld, who is the applicant's historic  
 7 preservation architect. He's going to provide his  
 8 analysis of why the existing building is not  
 9 architecturally distinguished and how the building  
 10 has lost its historic integrity due to alterations  
 11 and decay over the decades.  
 12 R O B E R T J. K O R N F E L D, J R., Thornton  
 13 Tomasetti, 51 Madison Avenue, New York, New York  
 14 10010-1603, testified as follows (sworn later in the  
 15 proceedings):  
 16 DIRECT EXAMINATION BY MR. WOLFSON:  
 17 Q. Good evening, Mr. Kornfeld.  
 18 A. Good evening.  
 19 Q. Could you please provide the Commission  
 20 and the public with your name and the name of your  
 21 firm.  
 22 A. Robert J. Kornfeld, Jr. I'm a  
 23 principal with Thornton Tomasetti.  
 24 Q. Could you provide a background on your  
 25 education, experience and qualifications?

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1 A. Okay. I have a B.A. and a master of  
 2 architectural from Columbia University Graduate  
 3 School of Architecture in planning and preservation.  
 4 I'm a Registered Architect in New Jersey, New York,  
 5 Massachusetts, Connecticut and Tennessee. I'm a  
 6 member of the American Institute of Architects, a  
 7 director and former vice president of Historic  
 8 Districts Council, member of the Architectural  
 9 Review Board in Hastings-on-Hudson where I live.  
 10 I'm a former chair of the Landmarks Task Force of  
 11 the Bronx Borough President's Office from 1990s. I  
 12 researched and prepared a National Register  
 13 nomination for the Jerome Park Reservoir District,  
 14 which is in the northwest Bronx in New York. I'm  
 15 vice president and historian for the Friends of the  
 16 Old Croton Aqueduct and a member of the National  
 17 Trust For Historic Preservation.  
 18 Q. Can you please describe for the  
 19 Commission any prior work experience that makes you  
 20 uniquely qualified to discuss buildings located in a  
 21 historic district that are appropriate for  
 22 demolition rather than preservation?  
 23 A. At Thornton Tomasetti, I'm a lead  
 24 architect for historic preservation and building  
 25 envelope restoration services, which I've been

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1 engaged in for 30 years, along with, you know,  
 2 forensic investigation and restoration of historic  
 3 buildings.  
 4 Q. Other experience?  
 5 A. I've been engaged in a lot of  
 6 assessment and restoration projects over the years.  
 7 After the World Trade Center collapsed, when our  
 8 office was retained as the City's prime engineering  
 9 consultant, I prepared assessments in stabilization  
 10 and repair requirements for a number of heavily  
 11 damaged buildings including 90 West Street, 90  
 12 Church Street, world financial center towers, and  
 13 ended up being involved in the restoration as a  
 14 project manager at a number of the buildings.  
 15 My specialty is facade assessment and  
 16 restoration, which I've been involved in for 30  
 17 years and involved in dozens of projects involving  
 18 historic masonry buildings, ranging from individual  
 19 townhouses to highrise buildings like the Empire  
 20 State Building. I've also been engaged to preserve  
 21 buildings that are fire damaged or partially  
 22 collapsed, landmarks, also that are in very good  
 23 condition that just need some kind of pointing and  
 24 cleaning, so, you know, I'm not, you know, panicked  
 25 by the sight of, you know, a crack.

10

1 Q. And did you prepare any reports in  
 2 advance of tonight's meeting?  
 3 A. Yes, a historic preservation report  
 4 that was distributed to the Commission on February  
 5 11, 2019.  
 6 Q. What documents did you rely upon in  
 7 preparing your report?  
 8 A. The Madison Civic Commercial District  
 9 Design Guidelines, the Madison Borough National  
 10 Register of Historic Nomination Form from 1989.  
 11 Q. And did you conduct a site visit to  
 12 confirm your conclusions?  
 13 A. Yes, on Saturday, February 9, 2019.  
 14 Q. And you had access to the interior  
 15 building?  
 16 A. Yes. Yes, whenever I wanted to go.  
 17 Q. Before we get into your review of this  
 18 property specifically, can you please go through the  
 19 borough's national nomination and describe the  
 20 significance of a key building versus a contributing  
 21 building and the meaning of historic integrity.  
 22 A. This is, um, this is a map of the  
 23 district from the National Register nomination and I  
 24 just wanted to bring this up because there was some  
 25 discussion, especially among the members of the

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1 public, at the last meeting, that the buildings that  
 2 are outlined, the buildings that are outlined here,  
 3 and this is the theater, are all considered  
 4 contributing buildings. Ones that are key, which  
 5 have a K in them, indicates they have special  
 6 architectural and associative significance. Ones  
 7 that say "NR" means that they're individually listed  
 8 as National Register buildings. And ones -- ones  
 9 that are contributing, meaning it encompasses,  
 10 really, those buildings, you know, sort of less  
 11 distinguished buildings from 1970 to 1930, that, to  
 12 quote the nomination, "Give the district its  
 13 prevailing character." And there are other  
 14 buildings that detract from the district that are  
 15 called "noncontributing," meaning they are severely  
 16 altered or recently constructed as of time of the  
 17 nomination.  
 18 Q. Based on your review of the materials  
 19 and your site visit to the property, please  
 20 summarize your opinion on the lack of historical and  
 21 architectural significance of the building.  
 22 A. It's first worth noting that the  
 23 building was not identified as a key building in the  
 24 National Register nomination so that it was listed  
 25 in 1989 and listed in the National Register in '91.

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1 The building is indicated as a contributing building  
 2 and it's on the edge. It was noted in the report  
 3 that the ground floor had been extensively altered.  
 4 So this -- this is a slide showing on  
 5 the left the appearance of the building in 1927 and,  
 6 on the right, a recent view of the building, and,  
 7 you know, as pointed out in the different  
 8 consultants' reports, there were design features,  
 9 including the original movie theater design, that  
 10 are either in critical disrepair or are no longer  
 11 present in the existing building, including the  
 12 original concession stand, replacement of the  
 13 marquis sign and the interior split into four  
 14 theaters. Also, the ground floor was originally  
 15 glazed as storefront all the way across and there  
 16 were -- there was a theater entrance flanked by  
 17 retail stores. At some point, you know, outside the  
 18 period of significance, the ground floor was  
 19 extensively altered, it was in-filled with masonry  
 20 with the arches sort of, I mean, clearly, a non-  
 21 historic. And other walls of the building were  
 22 covered with a white cementitious coating, which is,  
 23 in effect, not just like painting the building.  
 24 It's really kind of an alteration of the appearance  
 25 of those walls.

13

1 So looking at the front facade of the  
 2 building, and it's hard to see the red outlines  
 3 here, but the only portion of the front facade that  
 4 is original is this -- is the second story, and when  
 5 you look at the image on the left of the aerial view  
 6 of the building, it's just this portion here  
 7 (indicating) and that's -- that's the only portion  
 8 of the building that has its original appearance and  
 9 the design architect estimated that was 4.5 percent  
 10 of the facade because the windows have also been  
 11 replaced and are non-historic. The original windows  
 12 are actually one over one.  
 13 So in this, you can see the remaining  
 14 portion of the building, the second story, here.  
 15 Actually, it does not have particular distinction in  
 16 design or proportions and it doesn't really reflect  
 17 the character of the building as a movie theater.  
 18 The only distinctive feature, really, is the piqued  
 19 parapet and the plaque in the upper portion in the  
 20 center.  
 21 So I'm going to talk now about the  
 22 condition of the walls and the interior of the  
 23 building. The original red brick, at some point,  
 24 you know, rather than re-pointing and doing proper  
 25 maintenance, someone put a cementitious coating on

1 the wall, which is re-coated with layers of coatings  
 2 and paint. The layers of coating and paint are  
 3 trapping moisture that can't breathe out and is  
 4 causing freeze-thaw damage and there are areas where  
 5 the brick is visible where it spalled off and taking  
 6 the coating with it. The areas that have spalled  
 7 have been patched in some places but does not really  
 8 -- that doesn't really restore the integrity of the  
 9 original brick masonry.

10 This is a close-up view of the brick in  
 11 one of the areas where it spalls and you can see how  
 12 the brick is extensively fractured, the mortar is  
 13 debonded, the mortar, it's probably harder than the  
 14 brick itself, I mean, the compressive strength is  
 15 probably higher than the brick because of the brick  
 16 damage, but in general, the wall is losing its  
 17 integrity at the granular level.

18 This is a, you know, larger-scale view.  
 19 You can see the, you know, what a widespread  
 20 condition it is in many parts of the wall, and there  
 21 are a number of areas where you see the brick is  
 22 spalled away and it's almost like a concave opening  
 23 and the mortar kind of stays there and one of the  
 24 problems that that causes is that, you know, my  
 25 first thought looking at the building was you could,

1 you know, remove the coating and then kind of  
 2 repoint the brick and restore it, but when it's like  
 3 that, if you, you know, you can't repoint brick  
 4 that's like that because the mortar is harder than  
 5 the brick. I think the brick will just be destroyed  
 6 be a grinder, even hand tools if it's re-pointed.

7 The issue of cracking was discussed by  
 8 the structural engineers, but in my opinion, the --  
 9 this -- the cracking is really extensive throughout  
 10 the building and it's -- and it's not just related  
 11 to a particular structural stress like -- like  
 12 foundation settlement. There may have been some  
 13 minor settlement here, but to me, it doesn't -- it  
 14 doesn't justify the amount of cracking movement in  
 15 the wall. It's excess of what I've seen in other  
 16 buildings. And I think the wall itself is really  
 17 losing its strength and coherence as a structure.

18 And when you see the interior, this is  
 19 the Terracotta backup block at one of the areas, and  
 20 it should be understood that the -- that this is a  
 21 composite wall, it's not a -- it's not a structural  
 22 backup wall with brick veneer. It's all acting  
 23 compositely, so that brick is structurally part of  
 24 the wall and the backup Terracotta block is not a  
 25 very robust material either and, you know, the face

1 brick, as I showed, is in terrible condition. So  
 2 basically what I'm saying is that there's really not  
 3 much there, you know, the wall is in poor condition  
 4 and, in addition, it leaks, like I said.

5 This is -- this is an area where you  
 6 see, you know, water penetration through the wall  
 7 and through the ceilings. This is the second floor  
 8 in the front of the building where plaster is  
 9 falling, and this is not a unique condition, I  
 10 didn't cherry pick the worst condition, they're  
 11 really terrible conditions all around.

12 This is another area where you can see  
 13 active moisture on the wall in the wood lathe behind  
 14 the plaster.

15 This is another area where you can see  
 16 the extensive moisture infiltration. This is in  
 17 that same front office area on the second floor.

18 Another area, this is at the front wall  
 19 on the left and this is one of the areas where the  
 20 front wall is separating from the side walls.

21 And this was my biggest surprise  
 22 visiting the building. I was expecting the roof to  
 23 be an aging roof in terrible condition, but in fact,  
 24 there's a roof that's several years old, I don't  
 25 know how old exactly. It's not one year old, it's

1 been there for several years, and it's, you know,  
 2 pretty well installed and it's unusual that so much  
 3 water is still existent beneath this roof, you know,  
 4 with plaster falling from the ceiling.

5 And this is in the second floor beneath  
 6 that roof. There are puddles on the floor, there  
 7 are water-damaged floorboards and extensive water  
 8 staining all around and -- and that water's also  
 9 leaking through to the ground floor. These are some  
 10 images from the lobby area of water damage and, you  
 11 know, the plaster itself is not a very good medium  
 12 for mold growth, but anywhere in the building that  
 13 there's, you know, someone has put in some Sheetrock  
 14 or anything that sustains mold well, it's just  
 15 blooming like crazy.

16 This is a view of the theater ceiling  
 17 and there's been persistent water infiltration onto  
 18 the plaster ceiling of the theater and there's an  
 19 acoustical suspended ceiling beneath that and it  
 20 appears that, you know, the plaster -- the original  
 21 plaster ceiling is most likely acoustical plaster  
 22 with asbestos fiber, which would have been the  
 23 thing, you know, an architect would have used for a  
 24 theater at that time and, you know, it's friable and  
 25 crumbling and pieces have fallen through, have

18

1 fallen through this suspended ceiling, on the floor  
 2 and on the seats.  
 3           The suspended ceiling -- sorry, I'm  
 4 just going to go back for one second -- there's also  
 5 fiberglass insulation on top of the suspended  
 6 ceiling, which is saturated in water, and that's all  
 7 part of its overloading the structure of the roof  
 8 frame because it's very heavy. That's part of  
 9 what's also pushing down collapsing these panels.  
 10           And I'll point out also that when the  
 11 acoustical suspended ceiling was put in, that a lot  
 12 of holes were punched in the plaster ceiling and,  
 13 you know, without being able to examine it in  
 14 detail, the plaster ceiling appears to be water  
 15 damaged to a point that it's not easily repairable.  
 16 When plaster is wet, to a certain extent, it kind of  
 17 loses its coherence.  
 18           So overall, moisture infiltration has  
 19 been occurring for decades, which has largely  
 20 distorted or compromised the interior finishes and  
 21 the exterior. And due to its diminished integrity  
 22 since the 1989 survey, the building could have been  
 23 classified as noncontributing if the district were  
 24 created today.  
 25           **Q.** Based on your experience, can you

19

1 please describe the difference in the structural  
 2 cracks and damage observed on this building as  
 3 opposed to ordinary cracks and brick that may be  
 4 visible in a single-family home?  
 5           **A.** That was a question that came up at  
 6 the previous hearing and I wanted to point out the  
 7 difference between, you know, a typical home, which  
 8 is a wood-frame structure that could have any type  
 9 of cladding. It could be shingle, it could be  
 10 clapboard or brick veneer, but none of those would  
 11 be load-bearing materials, and most new buildings  
 12 today are built with a structural backup wall and  
 13 then a cavity and then veneer, but this building is  
 14 a composite wall building where the brick and the  
 15 backup masonry act compositely.  
 16           **Q.** The HPC's consultant recommends  
 17 utilizing some of the historically and  
 18 architecturally significant portions of the  
 19 building. Has the applicant considered doing so?  
 20           **A.** Yes. I was informed by the applicant  
 21 that several items are proposed. The stone plaque  
 22 is proposed to be salvaged and installed, as was  
 23 shown on the elevation drawings, identifying the  
 24 building and original construction date.  
 25           The applicant proposes to utilize the

20

1 original ticket booth which was identified on the  
 2 National Register nomination as one of the most  
 3 unique features of the building.  
 4           The original chandeliers may also be  
 5 utilized.  
 6           The applicant is also willing to  
 7 install permanent material in the new building that  
 8 will include historic photos and a summary of the  
 9 building's history.  
 10           **Q.** Based on your conclusion, would you  
 11 find it to be a logical decision to demolish the  
 12 building and construct a new building?  
 13           **A.** Yes. As pointed out in the structural  
 14 report and testimony and in both of the HPC  
 15 consultants' reports, the building is in poor  
 16 condition and is not architecturally, you know,  
 17 significant at the level of the key buildings or at  
 18 the level that it was at the time of the  
 19 designation. And the configuration of the building  
 20 is not practically adaptable to a non-theater use.  
 21           **Q.** Did you review the memorandum prepared  
 22 by John Hatch, the HPC's consultant, dated March 5,  
 23 2019?  
 24           **A.** Yes.  
 25           **Q.** Are his findings consistent with yours?

21

1           **A.** Well, in general, in general, yes. At  
 2 this point, I would only discuss the portions of the  
 3 report pertaining to the existing building.  
 4           We both found the existing building in  
 5 its current state had diminished integrity and  
 6 significance and the type is economically difficult  
 7 to sustain and that the existing conditions make any  
 8 rehabilitation or reconfiguration of the existing  
 9 building extremely difficult.  
 10           **MR. WOLFSON:** I have no more  
 11 questions.  
 12           **CO-CHAIRWOMAN FOSTER:** All right.  
 13 Questions from the Commission members for the  
 14 expert? Yes.  
 15           **MR. LUBER:** Yes. In your report, you  
 16 conclude that it is not economically feasible that  
 17 the capital costs necessary -- and I'm reading from  
 18 the report -- necessary to restore the building  
 19 combined with the future operating cost would  
 20 sustain this restoration and sustain the movie  
 21 theater.  
 22           As the economic feasibility of  
 23 restoration or rehabilitation is critical criterion  
 24 in Ordinance 3999 that would argue against  
 25 demolition, it's important that we understand the

22

1 financial assumptions you made that led to your  
 2 conclusion.

3 MR. KORNFELD: It was not based on a  
 4 numerical financial analysis; it was based on the  
 5 fact that the -- that the movie theater was not a  
 6 self-sustaining operation at the time that it went  
 7 out of business, when they were just paying rent and  
 8 electric and it doesn't make sense to me that a new  
 9 business of the same type could sustain a massive  
 10 reconstruction cost, because I would say what the  
 11 building requires to go back to the state that it  
 12 was in in 1989 or its original 19, you know, 25  
 13 configuration really would not get restoration, it  
 14 would be a practically, you know, seller to roof  
 15 reconstruction of the building.

16 CO-CHAIRWOMAN FOSTER: Any other  
 17 comments, David?

18 MR. LUBER: No.

19 CO-CHAIRWOMAN FOSTER: Okay.

20 CO-CHAIRWOMAN LENAHAN: Okay, Mr.  
 21 Kornfeld, you mentioned that the applicant was  
 22 willing to salvage some of the parts of the  
 23 building, including the, I guess the box in the  
 24 front, the chandeliers. What about the doors in the  
 25 front? Are they unique in any way?

23

1 MR. KORNFELD: I didn't examine them  
 2 closely. They looked to me like doors that were  
 3 installed, like, after the period of significance  
 4 and not the original doors, but, you know, I'm not  
 5 -- I'm not in a position to speak on behalf of the  
 6 applicant for what he will and won't do, you know,  
 7 that was what I was informed. That doesn't sound to  
 8 me like a deal breaker if they are examined and  
 9 found to be, you know, original doors, but I'm not  
 10 in a position to make a commitment.

11 MR. KELLOGG: I'd like to ask a  
 12 follow-up to Dave's question regarding the costs.  
 13 So it sounds like you did not do any calculations,  
 14 no numbers were --

15 MR. WOLFSON: If I might, it was  
 16 expressed -- discussion at the last session that  
 17 there not be discussion of dollars. That came from  
 18 your counsel.

19 MR. LOUGHLIN: No, I --

20 MR. LUBER: Well, just guessing --

21 MR. LOUGHLIN: I don't recall any such  
 22 discussion. It's a factor to be considered there's  
 23 no absolute -- I think the discussion was anything  
 24 is possible. There's nothing wrong with the  
 25 question about whether that was considered by this

24

1 gentleman. My remarks, as I recall it, is anything  
 2 is possible but there is no absolute expenditure  
 3 that would be fair to talk to the applicant about  
 4 but certainly financial considerations are relevant  
 5 to this inquiry. Thank you.

6 MR. WOLFSON: Okay, I'm sorry if I mis  
 7 --

8 MR. LOUGHLIN: That's okay.

9 MR. WOLFSON: -- stated what you said,  
 10 I was just reacting to the question regarding actual  
 11 dollars.

12 MR. LOUGHLIN: I understand.

13 MR. WOLFSON: Thank you.

14 MR. LOUGHLIN: Thank you.

15 MR. KELLOGG: Yeah, so what I was  
 16 trying to get at was your statement, Dave also spoke  
 17 to the building cannot be economically feasibly, you  
 18 know, rehabilitated, so it sounds like, from your  
 19 answer to Dave, that you did not run any numbers for  
 20 rehabilitation or any numbers for operating costs  
 21 for a new building.

22 MR. KORNFELD: Correct.

23 MR. KELLOGG: That is correct, okay.  
 24 Are you aware of how much of Madison's downtown,  
 25 that we all love, is a direct result of

25

1 philanthropy?

2 MR. KORNFELD: From reading the  
 3 National Register nomination, I understand that's  
 4 part of what the -- part of the history, yes.

5 MR. KELLOGG: Yes, a very strong part  
 6 of the history. This is one obvious source of  
 7 rehabilitation cost; is it not?

8 MR. KORNFELD: It's a source. Well,  
 9 it's a source of -- it's not a source of the cost,  
 10 it's a source of funds.

11 MR. KELLOGG: Yeah, source of funding  
 12 for the rehabilitation of costs.

13 As a preservation architect, are you  
 14 aware of the numerous sources -- I'm sure you are --  
 15 for preservation funding at the municipal, county,  
 16 state and federal levels?

17 MR. KORNFELD: I'm generally familiar.

18 MR. KELLOGG: So, obviously, another  
 19 good source for rehabilitation costs from those four  
 20 areas.

21 Would not a -- I mean, okay, so that's  
 22 -- that's the end of my question regarding cost.

23 On Page 4 of your report, you write  
 24 that an operating movie theater and -- okay, the  
 25 existing building was, at that time, an operating

26

1 movie theater and reasonably met the criteria for  
2 inclusion in the district. You, at that time, were  
3 referring to the application for status from the  
4 federal government for the commercial district, so  
5 you felt at that time that an operating theater  
6 meets that criteria, so I ask you, why would an  
7 operating theater reasonably meet the criteria for  
8 inclusion in a historic district?

9 MR. KORNFELD: Well, if they were  
10 looking at the integrity of the building, which they  
11 had determined, you know, that it had lost a  
12 substantial amount of its integrity, that would have  
13 been they -- I can't -- I can't read the, you know,  
14 between the lines the intent exactly of the people  
15 that wrote the nomination and what their judgment  
16 was, but their judgment was that they felt that it  
17 was contributing to the district despite having --  
18 despite having been altered substantially and my  
19 point is that 30 years later when the building is --  
20 has lost a tremendous amount of its material  
21 integrity and is no longer an operating building,  
22 that it might have been considered differently by  
23 the people making -- there's sort of a dividing line  
24 between contributing and noncontributing for  
25 buildings that were substantially altered.

27

1 MR. KELLOGG: So do you think that the  
2 use of an operating movie theater is also something  
3 that one would consider in designating the building  
4 as a unique or contributing site in a district?

5 MR. KORNFELD: Well, it's my general  
6 understanding that use is not regulated by  
7 preservation agencies in general and in that sense,  
8 I think it would not -- would not make a difference.

9 MR. KELLOGG: Well, but the use does  
10 come into effect when you talk about the character  
11 and story, a lot of the presentation talked about  
12 the story told in a district. So a movie theater  
13 tells stories just like a train station or a post  
14 office, so... I don't mean it literally, I mean a  
15 use, like a hospital or --

16 MR. KORNFELD: Right.

17 MR. KELLOGG: -- a single-family home,  
18 I mean use as a contributing element, it sounds  
19 like, from what you were saying, an operating movie  
20 theater could reasonably meet the criteria and I'm  
21 just wondering if it's partly because of its use and  
22 character as a unique building, a unique site, in  
23 that sense.

24 MR. KORNFELD: I'm not sure what to  
25 add --

28

1 MR. KELLOGG: Okay.

2 MR. KORNFELD: -- to what I said.

3 MR. KELLOGG: Okay. You also said due  
4 to a condition since 1989, a new building could be  
5 characterized or categorized as noncontributing if  
6 the district was created today. This is  
7 speculation.

8 MR. KORNFELD: Correct.

9 MR. KELLOGG: So, in the same spirit,  
10 I ask you, if the theater were to be rehabilitated  
11 by another owner, following the guidelines of the  
12 Secretary of the Interior, could it be considered a  
13 contributing or even significant building today?

14 MR. KORNFELD: Potentially.

15 Potentially, yes.

16 MR. KELLOGG: The building is now 94  
17 years old, 30 years since the district was formed.  
18 I would think this would confer some additional  
19 status on the building, the site, the use, the  
20 character, so potentially, yes, you said.

21 On the same page, you propose two  
22 reasons for demolition, the diminished integrity  
23 that you spoke of earlier and the fact that the  
24 building is vacant. As an architect, you must have  
25 worked on buildings with diminished integrity.

29

1 MR. KORNFELD: Yes, I have worked on  
2 buildings that, you know, had experienced fires,  
3 they were partially collapsed. I would say, for me,  
4 a building -- even a building that's heavily damaged  
5 where the basic fabric of the building is in good  
6 condition is easy to restore. I felt that this  
7 building has kind of gone past the tipping point to  
8 where so many of the materials and assemblies are in  
9 poor condition, they would have to be nearly  
10 entirely reconstructed.

11 MR. KELLOGG: Have you ever worked on  
12 a building that was vacant and needed that level of  
13 care?

14 MR. KORNFELD: Well, you need to, you  
15 know, sort of examine a building more closely to,  
16 you know, to understand exactly what's going on. I  
17 feel that the building is in very poor condition and  
18 I've never -- I've never worked on a building that  
19 was reconstructed, you know, the percentage of the  
20 fabric of the building being reconstructed as this  
21 would require.

22 MR. KELLOGG: Did you attend the  
23 Association of Preservation Technology symposium  
24 earlier this year on restoring rehabilitated  
25 historic theaters?



30

1 MR. KORNFELD: No.  
2 MR. KELLOGG: I did. It was an eye  
3 opener. Are you aware that there are hundreds of  
4 movie theaters, large and small, across the country  
5 that are being rehabilitated or restored?  
6 MR. KORNFELD: Yes, I've been involved  
7 in several projects of that type.  
8 MR. KELLOGG: So for anyone to claim  
9 that the model of a movie theater, a smaller theater  
10 in downtown is somehow a model needs to be  
11 jettisoned, the evidence seems to be on the  
12 contrary, we're seeing hundreds of theaters being  
13 rehabilitated all over the country in order to  
14 revive and sustain the character of the downtown  
15 district.  
16 MR. KORNFELD: Well, the -- you know,  
17 aside from the extent of reconstruction that would  
18 be required for this building, I think that the  
19 engineers and your own consultants have also pointed  
20 out the difficulty in this particular configuration  
21 of adapting a use without further altering the  
22 building extensively, with, you know, windows, fire  
23 exits. I'm saying if it was not a movie theater.  
24 MR. KELLOGG: Right. Did you know  
25 that the Lowe's movie theater where the symposium

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1 was earlier in the year was vacant for ten years  
2 from 1986 to 1996? It was slated for demolition in  
3 1987. During those ten years of vacancy, it  
4 suffered diminished integrity, and today it's still  
5 undergoing rehabilitation. So isn't it true that a  
6 building can take years or decades to be fully  
7 rehabilitated? It's in use, the theater is in use  
8 but it's also being rehabilitated as its being used.  
9 Is that a feasible approach?  
10 MR. KORNFELD: Well, I feel that  
11 you're, with all due respect, that you're speaking  
12 categorically of large-scale restoration, but I  
13 think, in very -- in very few, if any, of those  
14 buildings is there an extent of, you know,  
15 diminishment of the fabric of the buildings to the  
16 extent of this building.  
17 MR. KELLOGG: Okay.  
18 MR. KORNFELD: And I have seen ones  
19 like the -- I was a housing advocate for landmarking  
20 restoration of the Lowe's Paradise Theater in New  
21 York, which also had been abandoned for many years  
22 and was in poor condition in certain respects, but  
23 the basic fabric of the building was not that hard  
24 to restore. It might have looked visually bad to  
25 someone; I'm just saying that this -- the basic

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1 fabric of this building is in extremely poor  
2 condition, like the -- like the walls. I mean, I  
3 think if you're sort of completely replacing  
4 exterior walls and roofs, at some point, is it even  
5 the same building.  
6 MR. KELLOGG: Yes. That's a good  
7 question. The substantial rehabilitation of any old  
8 structure could be -- could result in that kind of,  
9 you know, restoration.  
10 So because we're considering  
11 demolition, I wanted to ask you, we look at  
12 demolition in Section 8, but 8 refers us right back  
13 to Section 4 where we are asked to evaluate the  
14 reasons why the building is originally designated as  
15 a contributing building in the district. So I  
16 wanted to ask you about a couple of those criteria  
17 for considering the building to be contributing.  
18 I'm wondering if you think the Lyons Theatre of 1925  
19 satisfies number 1, "The character, interest or  
20 value as part of the development, heritage or  
21 cultural characteristics of the Borough."  
22 MR. KORNFELD: Well, the -- I would --  
23 I would say that the National Register nomination  
24 was -- was based on the National Register criteria,  
25 which are four, and I understand that the Borough

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1 has an additional criteria beyond -- beyond that,  
2 which seems to me to be, you know, so broad that,  
3 really, anything the people like a lot could  
4 potentially be designated.  
5 MR. KELLOGG: Well, I mean, it is our  
6 ordinance and the preservation is typically like  
7 municipalities to have their own ordinances as plug-  
8 ons to the national standards. So let's look at  
9 something more distinctive, perhaps, number 4,  
10 which, again, is one of the criteria we have to  
11 consider when we're looking at demolition. Number 4  
12 is: Does the Lyons Theatre of 1925 embody the  
13 distinctive characteristics of the building type,  
14 period or method of construction, architecture or  
15 engineering? Now, that's not general, is it?  
16 MR. KORNFELD: No, that's one of the  
17 National Register criteria. I think that it does  
18 not in a distinguished way. As a contributing  
19 building, it was reasonable to include and it was  
20 included. I feel that it's lost a substantial  
21 amount of integrity since that time.  
22 MR. KELLOGG: Okay, I understand the  
23 integrity part, but it is an embodiment, is it not,  
24 of the distinctive characteristics of a movie  
25 theater and distinctively... Overall, the building

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1 does seem to be an embodiment of that type of  
 2 building.

3 MR. KORNFELD: Well, in the sense that  
 4 any building is an embodiment of the type that it  
 5 is --

6 MR. KELLOGG: Yeah, this is looking  
 7 for distinctive --

8 MR. KORNFELD: I don't think it is  
 9 a --

10 MR. WOLFSON: Excuse me, can you just  
 11 let him answer the questions? Thanks.

12 MR. KORNFELD: I wouldn't say that  
 13 it's a notable, you know, by itself, it's not a  
 14 notable example.

15 MR. KELLOGG: It's the only theater in  
 16 Madison that still remains.

17 MR. KORNFELD: There's an earlier  
 18 movie -- former movie theater on the other side of  
 19 the district that was --

20 MR. KELLOGG: Just the lobby is left.

21 CO-CHAIRWOMAN LENAHAN: Chris, are you  
 22 talking about the theater as it is now or as it was  
 23 in that picture, 1927?

24 MR. KELLOGG: I'm speaking about the  
 25 theater as it is now. It still is the building that

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1 it was in 1925. It's diminished but still is that  
 2 building and so you need to go into these criteria  
 3 when we discuss demolition, we're asked to look at  
 4 112-4, and under 112-4, the three items that I  
 5 thought were particularly relevant to this theater  
 6 and the reason why it was put in the district in the  
 7 first place was number 1 and 4, and the last one I  
 8 wanted to ask you about was number 7, where it  
 9 suggests that the -- in this case, is the theater in  
 10 a unique location or sync or physical characteristic  
 11 which would make a district or a site, which would  
 12 be this case, a site, an established or familiar  
 13 visual feature. So does the theater establish a  
 14 familiar visual feature?

15 MR. KORNFELD: Right, in its current  
 16 state, it does, you know, really not merit  
 17 individual designation and where it's greatly  
 18 diminished from its original condition or even the  
 19 condition at the time that it was found  
 20 contributing, then yes.

21 MR. KELLOGG: Okay. I also wanted to  
 22 ask you a couple other questions. I did not see any  
 23 reference in your report to urban planning aspects  
 24 of our district, its impact on the Lions theater  
 25 site. As I mentioned to Jeff last time, I'm sure

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1 you're aware that the station's passage below the  
 2 tracks is on an axis with the Lions theater. This  
 3 special location seems quite purposeful. Do you  
 4 think that this location is one of the factors that  
 5 led to this site being designated as "contributing"?

6 MR. KORNFELD: Well, the boundaries of  
 7 the designation clearly include the building across  
 8 from the station and it's the building that was  
 9 there at the time of the study and, you know, I  
 10 can't read into the conditions what the intent of  
 11 the builder of the theater or, you know, or the  
 12 people who wrote the designation were but clearly --

13 MR. KELLOGG: Yeah.

14 MR. KORNFELD: -- it's an important  
 15 location.

16 MR. KELLOGG: Yes, I guess that was my  
 17 question, was: If we ground our site in a slightly  
 18 wider context with the downtown district, it seems  
 19 to be strategically located and I would suspect that  
 20 might contribute or make it a more contributing  
 21 building if it's got a key location.

22 One other thing I wanted to ask you  
 23 about was the character of the district. One of the  
 24 things that Mr. Hatch provided was a reference on  
 25 districts, and in that reference, I quote, "The

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1 district is the resource, not its individual parts.  
 2 Designated historic districts are significant as a  
 3 collective whole and must be considered as such and  
 4 protected in their entirety. This is the primary  
 5 overarching principle."

6 So here we have -- my question for you  
 7 would be: We have a building that is a contributing  
 8 member, diminished, and this -- this quotation here  
 9 is suggesting that the district is really to be seen  
 10 in its entirety, so peeling off individual buildings  
 11 seems to be something which would be very hard to  
 12 justify. Mr. Hatch actually suggests that it would  
 13 be one of the worst things that could happen to a  
 14 historic district is having a building removed. Do  
 15 you agree with that?

16 MR. KORNFELD: As a general principle,  
 17 I would say yes. I think that in a case where a  
 18 building is in the condition of this building  
 19 physically and in terms of its appearance, I think  
 20 it's a different issue. I don't think it's a black-  
 21 and-white issue, but in my mind, the building has  
 22 substantially lost its integrity.

23 MR. KELLOGG: Thank you.

24 MR. WOLFSON: If I might just ask a  
 25 question.

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1 In the nomination for historic  
 2 district, the Lyons Madison Theater section, is  
 3 there any reference to its location as being a  
 4 factor?  
 5 MR. KORNFELD: No.  
 6 MR. WOLFSON: And I'd just like to  
 7 recall the testimony of Mr. Rinaldi where he  
 8 indicated that in the two years or so since they've  
 9 owned it, no group has come forward to try to do a  
 10 public enterprise in terms of alternate sources of  
 11 funding, so I just want to recall that testimony.  
 12 CO-CHAIRWOMAN FOSTER: Okay. I have a  
 13 couple questions, if I may, Mr. Kornfeld.  
 14 Can you clarify for us the difference  
 15 between "building condition" and "building  
 16 integrity"?  
 17 MR. KORNFELD: Well, "integrity" is a  
 18 term that the National Register uses for a number of  
 19 different things that contribute to a building's  
 20 significance. So I'm looking at it really in terms  
 21 of the, you know, the visual character of the  
 22 building and its physical integrity, and the  
 23 physical integrity of the building is very  
 24 significant. The building is in poor condition  
 25 beyond a certain point and, you know, no longer --

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1 and no longer has all of those qualities that made  
 2 it significant at the time that it was designated.  
 3 CO-CHAIRWOMAN FOSTER: Is it possible  
 4 for a building to be in poor condition and have good  
 5 integrity?  
 6 MR. KORNFELD: It's possible for a  
 7 building to have, you know, other types of  
 8 integrity.  
 9 CO-CHAIRWOMAN FOSTER: Other types.  
 10 MR. KORNFELD: I mean, integrity of  
 11 place --  
 12 CO-CHAIRWOMAN FOSTER: Okay.  
 13 MR. KORNFELD: -- integrity of  
 14 association, I mean, there are a number of different  
 15 categories. To me, the physical condition of this  
 16 building really outweighs a lot of other  
 17 considerations. You know, I know -- I think it's in  
 18 -- I think it's in worse condition than, you know,  
 19 than a lot of people think it is.  
 20 CO-CHAIRWOMAN FOSTER: And you  
 21 mentioned the surprising finding that the roof was  
 22 in -- appeared to be in other whole than you  
 23 expected, but you called out a lot of leakage  
 24 problems inside. Would you say that it is still  
 25 actively leaking; in other words, when you went to

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1 see it in February 2019, is it actively leaking  
 2 despite the fairly decent roof?  
 3 MR. KORNFELD: Yes, and despite all  
 4 the layers of the waterproofing on the exterior  
 5 walls, there are, you know, actively wet-looking  
 6 places on the wall where plaster is falling off.  
 7 There are puddles on the floor in the upstairs.  
 8 CO-CHAIRWOMAN FOSTER: Okay, so the  
 9 damage you saw is not just old damage that --  
 10 MR. KORNFELD: No.  
 11 CO-CHAIRWOMAN FOSTER: -- is sort of  
 12 held in place by a newer roof.  
 13 MR. KORNFELD: No, and it's not --  
 14 it's not -- it's not damage that's occurring due to  
 15 just current neglect; it is actually -- there's been  
 16 an effort made to maintain the building, but, you  
 17 know, the accumulation of decades of problems just  
 18 sort of kind of reached the tipping point.  
 19 CO-CHAIRWOMAN FOSTER: When you were  
 20 introduced by your attorney, one of his first  
 21 questions was your experience in when is demolition  
 22 appropriate for a historic building and you  
 23 qualified yourself very well but I'd just like to  
 24 ask you, from a 35,000-foot level, when is it  
 25 appropriate, is it appropriate, to demolish a

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1 building that is on the State National Register that  
 2 is covered by a municipal ordinance and has  
 3 residence with a community for its historic and  
 4 cultural associations?  
 5 MR. KORNFELD: I don't know an actual,  
 6 you know, written guideline or code that states  
 7 that. It's maybe more of a sense of having been  
 8 involved in preservation and building restoration  
 9 for many decades and it's just my reaction to this  
 10 building.  
 11 CO-CHAIRWOMAN FOSTER: So your  
 12 response to that is, in this case, physical  
 13 deterioration is the driver of appropriate  
 14 demolition.  
 15 MR. KORNFELD: Physical deterioration  
 16 along with the extensive amount of changes and non-  
 17 historic features of the building and the various  
 18 alterations.  
 19 CO-CHAIRWOMAN FOSTER: Yes.  
 20 CO-CHAIRWOMAN LENAHAHAN: Mr. Kornfeld,  
 21 I want to ask you, first thing, can your slides be  
 22 marked into evidence?  
 23 MR. WOLFSON: (Counsel nods.)  
 24 CO-CHAIRWOMAN LENAHAHAN: Great, thank  
 25 you. And I don't know if you can put back up the

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1 one where you had the movie theater of 1927.  
 2 Yeah. No, I think it's -- yeah,  
 3 that's it, that's it.  
 4 So you got regular storefronts on the  
 5 first floor and then the entrance to the movie and  
 6 storefront on the next floor. Excuse me, the other  
 7 side of the floor. Which seems to me -- I know  
 8 we're not talking about your new plans but similar  
 9 or something along the lines of your old plans, the  
 10 first floor.  
 11 MR. KORNFELD: Excuse me?  
 12 CO-CHAIRWOMAN LENAHAAN: Does that mean  
 13 "yes"?  
 14 MR. KORNFELD: I'm not sure of the  
 15 question.  
 16 CO-CHAIRWOMAN LENAHAAN: I'm looking at  
 17 the storefronts and I think he put storefronts on  
 18 the new proposed building.  
 19 MR. KORNFELD: Okay, I'm not the  
 20 design architect --  
 21 CO-CHAIRWOMAN LENAHAAN: Okay.  
 22 MR. KORNFELD: -- but --  
 23 CO-CHAIRWOMAN LENAHAAN: Okay. That's  
 24 fine. That's all. And as long as we have those  
 25 exhibits, I'm fine with that, thank you.

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1 MR. KORNFELD: That was a feature of  
 2 that design.  
 3 MR. LOUGHLIN: For the record, I think  
 4 we should, this evening, consider the presentation  
 5 made by Mr. Kornfeld as a single exhibit. I think  
 6 we're up to A-6. The video presentation.  
 7 MR. WOLFSON: Yeah, and we'll leave it  
 8 in some form of media that I don't understand but  
 9 somebody who understands that stuff will get it to  
 10 --  
 11 MR. LOUGHLIN: Thank you.  
 12 CO-CHAIRWOMAN FOSTER: We have people.  
 13 MR. WOLFSON: Oh, you have great  
 14 people.  
 15 CO-CHAIRWOMAN FOSTER: Did you have a  
 16 question, John?  
 17 MR. SOLU: Yes.  
 18 CO-CHAIRWOMAN FOSTER: Yes.  
 19 MR. SOLU: Mr. Kornfeld, you also, in  
 20 one of your earlier slides, indicated that because  
 21 of all the changes that have occurred since the  
 22 original construction of the building, that the only  
 23 part that was of historic significance that remains  
 24 was the area you circled in red or you outlined in  
 25 red.

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1 MR. KORNFELD: (Mr. Kornfeld nods.)  
 2 MR. SOLU: In your experience in  
 3 restoration projects, have you ever been involved in  
 4 a project whereby that element has been preserved  
 5 and restored?  
 6 MR. KORNFELD: Yes. You mean sort of  
 7 isolating a section of a building and supporting it  
 8 and building something behind it, something like  
 9 that?  
 10 MR. SOLU: Right.  
 11 MR. KORNFELD: Yes.  
 12 MR. SOLU: And does that do anything  
 13 to its historic significance?  
 14 MR. KORNFELD: Well, it takes away --  
 15 it takes away the, you know, the setting and a lot  
 16 of the associations. It's something that's done.  
 17 I've been involved in projects like that. I would  
 18 say the biggest drawback for this building of trying  
 19 to do that would be the condition of the masonry  
 20 wall, that there's really not enough meat to anchor  
 21 into. In those cases, you very often have a steel  
 22 frame that goes in front of, you know, and then you  
 23 sort of put anchors in the masonry to temporarily  
 24 support it, and I would be very skeptical of, you  
 25 know, anchoring this wall. I mean, it would be a

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1 kind of colossal effort to retain that one story,  
 2 which to me, doesn't really embody the character of  
 3 the whole building.  
 4 MR. SOLU: Okay.  
 5 CO-CHAIRWOMAN FOSTER: Are there any  
 6 other questions from the Board members?  
 7 (No response)  
 8 MR. LOUGHLIN: Before proceeding, Mr.  
 9 Kornfeld, I wasn't sure when we started as to the  
 10 last hearing, did we swear you at that time? I know  
 11 there was a lot of testimony.  
 12 MR. KORNFELD: No, I was not sworn.  
 13 MR. LOUGHLIN: Do you acknowledge this  
 14 evening that all your testimony and evidence and  
 15 proofs offered to the Board -- to the Commission,  
 16 rather, excuse me, in this proceeding were the truth  
 17 and nothing but the truth?  
 18 MR. KORNFELD: Yes.  
 19 MR. LOUGHLIN: And you reaffirm all  
 20 your opinion statements and evidence?  
 21 MR. KORNFELD: Yes.  
 22 MR. LOUGHLIN: Excuse me, I thought  
 23 you had been sworn at the prior hearing. Thank you,  
 24 sir.  
 25 CO-CHAIRWOMAN FOSTER: All right.

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1 Questions, questions from the public for Mr.  
 2 Kornfeld, not speeches, not opinions, questions. If  
 3 you'd like to introduce a question, please come to  
 4 the podium, please sign your name and address and  
 5 spare our stenographer the joy of trying to figure  
 6 out how to spell your name, and please try to  
 7 confine yourselves to three minutes or less because  
 8 there are lots of people who want to talk.  
 9           So if you'd like to ask questions of  
 10 Mr. Kornfeld, please step up and we can actually  
 11 make a line and start to sign in while other people  
 12 are talking.  
 13           MR. HATCH: Ms. Foster, can I ask one  
 14 question?  
 15           CO-CHAIRWOMAN FOSTER: Yes.  
 16           MR. HATCH: Can I ask one question?  
 17           CO-CHAIRWOMAN LENAHAN: Oh, yes.  
 18           CO-CHAIRWOMAN FOSTER: Yes. I'm  
 19 sorry, John.  
 20           MR. HATCH: That's all right. I just  
 21 -- you alluded to acoustic plaster and the  
 22 possibility of asbestos. Was the plaster tested?  
 23           MR. KORNFELD: No. Not to my  
 24 knowledge.  
 25           MR. HATCH: Okay.

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1           MR. WOLFSON: But I think you  
 2 indicated, based upon the vintage and architectural  
 3 and building material types of that era, that you  
 4 expected that it was and you have experience in  
 5 observing asbestos?  
 6           MR. KORNFELD: Yes.  
 7           CO-CHAIRWOMAN FOSTER: Okay. Public,  
 8 sign in and speak.  
 9           MR. PRATT: Rob Pratt, Chur (phonetic)  
 10 Avenue, trustee of the Save Madison Theater  
 11 organization.  
 12           You noted that the original concession  
 13 stand is no longer there, but it was typical in 1925  
 14 not to actually have a concession stand in the front  
 15 areas of stores, so is that a possibility?  
 16           CO-CHAIRWOMAN FOSTER: Make sure  
 17 you're speaking into the microphone.  
 18           MR. KORNFELD: Thank you.  
 19           MR. PRATT: And also, my understanding  
 20 was the facade where the stores were removed in '45,  
 21 so it's basically the facade that we're seeing in  
 22 the recent view is likely 75 years old?  
 23           MR. KORNFELD: Well, the -- I would  
 24 just point out that the period of significance of  
 25 the district ended in 1930, as far as the National

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1 Register nomination.  
 2           MR. PRATT: When it was nominated in  
 3 '89.  
 4           MR. KORNFELD: That they established a  
 5 period of significance for --  
 6           MR. PRATT: Okay.  
 7           MR. KORNFELD: -- what was considered  
 8 in the nomination.  
 9           MR. PRATT: Okay. And you note all  
 10 the water damage you see in the lobby from the  
 11 second floor and also the ceiling tiles collapsing.  
 12 Is there any reason why that's perhaps accelerated  
 13 in the past two years since, years ago, we were  
 14 seeing movies there?  
 15           MR. KORNFELD: I -- I have no  
 16 information about that.  
 17           MR. PRATT: Okay.  
 18           MR. KORNFELD: I mean, the -- the --  
 19 both portions of the building have roofs that are  
 20 relatively recent. I can only attribute that to  
 21 neglect, you know, it's not the current -- not the  
 22 current roofing.  
 23           MR. PRATT: Okay. Thank you.  
 24           MR. KORNFELD: I didn't have a chance  
 25 to respond to your -- your initial questions about

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1 configuration of the lobby.  
 2           MR. PRATT: Right.  
 3           MR. KORNFELD: That aside from the --  
 4 aside from the fact that there were the two retail  
 5 stores in the front, I have no information about  
 6 configuration of the lobby.  
 7           MR. PRATT: Okay. Thank you.  
 8           MR. KORNFELD: Sure.  
 9           MS. KOLAKOWSKI: Hi, Sandy Kolakowski,  
 10 K-O-L-A-K-O-W-S-K-I. I'm also a Board member of  
 11 Save Madison Theater.  
 12           Hi, Mr. Kornfeld. Did you have an  
 13 opportunity to review the engineering report also  
 14 commissioned by the developer?  
 15           MR. KORNFELD: Yes.  
 16           MS. KOLAKOWSKI: And is there a reason  
 17 why there's -- in general, you are so more negative  
 18 [sic] about the building than even the structural  
 19 engineer was?  
 20           MR. KORNFELD: I think his focus was  
 21 on the structural system in the sense of, you know,  
 22 piers supporting the roof trusses and, I mean, I  
 23 wouldn't call it a flattering report. He said that  
 24 the roof structure is inadequate and overloaded, but  
 25 in, you know, I guess -- you know, I've spent many

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1 years involved with masonry resolution and I'm more  
2 keyed into the condition of masonry and brick walls  
3 at the granular level, how the brick and the mortar  
4 are behaving. I think, you know, many engineers  
5 don't really look at masonry walls that way. They  
6 probably look at it as, you know, something that has  
7 a certain value. I'm just saying I think it does  
8 not have the value that you would expect of a  
9 masonry wall of that size, you know, that, like,  
10 thickness and composition.

11 MS. KOLAKOWSKI: You also say in here  
12 about the historic status, that since the theater is  
13 vacant and no longer operates as a theater, it has  
14 low feasibility of being rehabilitated as a movie  
15 theater. Can you tell me what you base that on?

16 MR. KORNFELD: Well, not so much that  
17 it stopped functioning -- well, I would point out  
18 one thing, that, you know, as it was operating, it  
19 was just operating. If you look at the buildings,  
20 it's clear that the systems are all inadequate and  
21 there are a lot of code issues with the building, so  
22 it wouldn't be that, you know, part of a  
23 rehabilitation would be to, you know, replace all of  
24 the kind of waterlogged ducts, the -- I'm not an  
25 electrical engineer, the wiring looks just obviously

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1 terrible, the panels, you know, it's sort of -- if  
2 you could make the building watertight, you couldn't  
3 just kind of turn the lights back on and have an  
4 operating business that requires a massive project.

5 MS. KOLAKOWSKI: But it was operating  
6 when your person in Spain who bought the theater --  
7 you know that, right?

8 MR. KORNFELD: Yes.

9 MS. KOLAKOWSKI: All four theaters  
10 were operating.

11 CO-CHAIRWOMAN FOSTER: I'm going to  
12 give you one more minute, Sandy.

13 MS. KOLAKOWSKI: Okay. You also say  
14 in your report, I believe, that size and scale  
15 concerning the proposed building?

16 CO-CHAIRWOMAN FOSTER: We're not going  
17 to discuss the proposed building, as we said at the  
18 start of the hearing. There are revisions to the  
19 drawing and they're available for review at the  
20 Borough building offices and we'll get back to that  
21 at a later meeting.

22 MS. KOLAKOWSKI: Okay, thank you.

23 CO-CHAIRWOMAN FOSTER: Thank you. Any  
24 other questions from the public regarding Mr.  
25 Kornfeld's testimony?

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1 MR. HANNA: Hi, I had a request. I'm  
2 not sure if it's possible to grant this, but at the  
3 last meeting --

4 MR. LOUGHLIN: Your name, please, sir?

5 MR. HANNA: My name's David Hanna, but  
6 I don't know if I should go on the record because  
7 I --

8 CO-CHAIRWOMAN FOSTER: I'm sorry,  
9 slower.

10 MR. HANNA: My name is David Hanna,  
11 H-A-N-N-A, I live on Central Avenue, but like I  
12 said, I don't know if I can go on the record because  
13 I don't know if I can ask the question that I want  
14 to ask because at the end of the last meeting, we  
15 weren't allowed to ask Mr. Gertler any questions, it  
16 ended.

17 MR. LOUGHLIN: His presentation is  
18 continuing, he'll be back.

19 MR. HANNA: Oh, so we can do it then?

20 MR. LOUGHLIN: Yes, sir.

21 CO-CHAIRWOMAN FOSTER: Yes.

22 MR. HANNA: Okay, thank you.

23 MR. LOUGHLIN: Thank you.

24 CO-CHAIRWOMAN FOSTER: Hop up, sign  
25 in. People from the back, you can make a line and

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1 sign in. Thank you.

2 MS. O'BRIEN: Hi, Dorothy O'Brien, 38  
3 Crestwood Drive.

4 In relation to what was still original  
5 to the building, I did not hear a mention concerning  
6 the restrooms. I believe from looking at it that  
7 the walls, you know, these are the ladies' room, you  
8 have the powder room section when you enter, and  
9 then the second section where the plumbing is. I  
10 can't comment on the men's room. Are those  
11 sections, at least those walls that break out, is  
12 that original to the building?

13 MR. KORNFELD: I have to say I -- I  
14 have to say I did not visit that portion of the  
15 building.

16 MS. O'BRIEN: Okay. And the theater  
17 manager office on the first floor between the lobby  
18 and going to the theater, would that section also be  
19 original?

20 MR. KORNFELD: You know, I never  
21 reviewed an original floor plan of the building and  
22 I don't know exactly which walls are original or not  
23 original, aside from certain ones that appear to be,  
24 like, the main, you know, lobby walls in certain  
25 areas.

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1 MS. O'BRIEN: Okay, because I was  
 2 going to next ask about the walls going to the first  
 3 theaters on the -- one and two on the floor.  
 4 MR. KORNFELD: I'm afraid I really --  
 5 I can't answer that question.  
 6 MS. O'BRIEN: Okay. And my other  
 7 question is concerning, again, the viability of the  
 8 theater making money. If, in fact, the prior tenant  
 9 was actually not -- was making a profit, you know,  
 10 we seem to be assuming that they were not, but  
 11 assuming that they were profitable, does that change  
 12 your valuation concerning viability of the theater  
 13 operating going forward?  
 14 MR. WOLFSON: If I might, I don't know  
 15 if you were here, there was testimony that the prior  
 16 operator closed down precipitously his own  
 17 operation.  
 18 MR. LOUGHLIN: No, this gentleman can  
 19 respond. If you can respond to that question, if  
 20 you know, Mr. Kornfeld.  
 21 MR. KORNFELD: I don't know anything  
 22 about the -- about the finances or operations of the  
 23 previous operator.  
 24 MS. O'BRIEN: Okay. That's it for my  
 25 questions. Thank you.

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1 CO-CHAIRWOMAN FOSTER: Thank you.  
 2 Next.  
 3 MR. WICKMAN: Hello, Larry Wickman, 33  
 4 Walnut Street.  
 5 Hello.  
 6 MR. KORNFELD: Hi.  
 7 MR. WICKMAN: Regarding the  
 8 application for the National Registry in 1989, at  
 9 the top of the form, there's five primary functions  
 10 listed or criteria, and under the recreation and  
 11 culture line, there was a single listing for movie  
 12 theaters, so there's only five clarifications for a  
 13 historic district and the movie theater is the only  
 14 one under the recreation and culture line. It's  
 15 right there on the top of the form. Losing the  
 16 theater would entirely strike that line from the  
 17 form for us. Is that true? It would have no --  
 18 nothing to enter under recreation and culture for  
 19 the historic district.  
 20 MR. KORNFELD: I believe that's  
 21 correct.  
 22 MR. WICKMAN: Okay. And on the form,  
 23 a period of significance is 1870 to 1936, and on the  
 24 form there, it says, "The small number of buildings  
 25 constructed since the district's era of significance

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1 ended means that the appearance of downtown has  
 2 remained remarkably unchanged since the first third  
 3 of the 20th century."  
 4 With the demolition of this building,  
 5 that will no longer be true. Is that a fair  
 6 statement?  
 7 MR. KORNFELD: I don't know what other  
 8 changes there have been in the district in that  
 9 period.  
 10 MR. WICKMAN: Okay. But then putting  
 11 up a building that is not unlike any other building,  
 12 an apartment building, that also would fly in the  
 13 face of remarkably unchanged for the historic  
 14 district, wouldn't it? The size of the proposed  
 15 building and the replacement for this building?  
 16 MR. KORNFELD: Well, it would be a  
 17 change.  
 18 MR. WICKMAN: Okay. Well, the form  
 19 specific -- I mean, the notes on the application  
 20 really stress that it's a remarkably unchanged  
 21 district and that's one of the qualifications why we  
 22 got this standard.  
 23 Another aspect is they say the R  
 24 historic district contains 59 buildings, 49 of which  
 25 are contributing resources, and the theater, along

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1 with the other key aspects of the key buildings, are  
 2 all part of that contribution. So there are 11 that  
 3 are -- they say most of these were built between  
 4 1870 and 1930, so a shorter period of time than the  
 5 actual 1936, "and give the district its prevailing  
 6 character." The theater was built in '25 so five  
 7 years, well within the frame of this prevailing  
 8 character and feature of the historic district. Is  
 9 that a fair statement?  
 10 MR. KORNFELD: Yes.  
 11 MR. WICKMAN: Okay, so as this  
 12 documentation goes on, it zones in on a really  
 13 critical area that we're talking about historic  
 14 for. 11 buildings in the district --  
 15 CO-CHAIRWOMAN FOSTER: I'm sorry, Mr.  
 16 Wickman, I'm trying to be fair to everybody.  
 17 MR. WICKMAN: Okay.  
 18 CO-CHAIRWOMAN FOSTER: Stop, stop,  
 19 stop, stop, so we can get other people there.  
 20 MR. WICKMAN: Okay, thank you.  
 21 CO-CHAIRWOMAN FOSTER: Thank you.  
 22 MS. FENNELLY: Good evening, Deborah  
 23 Fennelly, F-, as in Frank, E-N-N-E-L-L-Y, 88  
 24 Constitution Way, Convent Station. I'm also a  
 25 member of the Board of Directors of the Save Madison

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1 Theater, Incorporated.

2 Good evening, sir. I just wanted to,

3 if I could, ask a few more questions about the topic

4 of economic feasibility and the opinions that you've

5 given about maintaining and restoring the theater.

6 I was wondering if you are familiar with any other

7 buildings in this area that have been preserved and

8 restored, for instance, the Mayo Center in

9 Morristown.

10 MR. KORNFELD: I'm not familiar with

11 it.

12 MS. FENNELLY: You're not familiar

13 with it, okay. Are you familiar at all in your work

14 with the economic impact on a community of

15 preserving and restoring a building in terms of

16 income that it generates either by its use or, say,

17 even by the film industry using it if it's been

18 restored as a historic building?

19 MR. KORNFELD: That's somewhat of a

20 complex question but --

21 MS. FENNELLY: Well, do you have any

22 experience with --

23 MR. LOUGHLIN: Excuse me.

24 MR. WOLFSON: Let him answer.

25 MS. FENNELLY: Okay.

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1 MR. KORNFELD: I can't compare the

2 economic impact of restoring a building versus

3 building a new building, but certainly, you know,

4 the restoration of a derelict building is a positive

5 thing, but the construction of a new building is

6 also economically positive.

7 MS. FENNELLY: One other question.

8 Would you consider a derelict building a building

9 that, at the time that it was closed, had water

10 pouring in through the roof of the building during,

11 let's say, a rainstorm?

12 MR. KORNFELD: I don't understand the

13 question.

14 MS. FENNELLY: I'm just trying to

15 determine what you would consider a derelict

16 building because the center that I described, which

17 has now become one of the premier performing arts

18 centers in the State of New Jersey and it's on the

19 historic -- historic list of theaters in Morristown,

20 at the time that it closed, in, I think, about 1987,

21 had a roof that was leaking so poorly that they had

22 to use large garbage cans to catch the water. As I

23 said, now it is one of the premier centers of

24 performing in the State of New Jersey.

25 MR. WOLFSON: I would just ask that

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1 they be questions --

2 CO-CHAIRWOMAN FOSTER: Exactly.

3 MR. WOLFSON: -- not statements.

4 CO-CHAIRWOMAN FOSTER: I was going to

5 say, questions --

6 MS. FENNELLY: Okay.

7 CO-CHAIRWOMAN FOSTER: -- that could

8 be answered through their testimony.

9 MS. FENNELLY: I just wanted to ask

10 one other question. Are you at all familiar with

11 any other theaters in the State of New Jersey that

12 have been restored and are operating as internet

13 theaters in municipalities like Madison?

14 CO-CHAIRWOMAN FOSTER: I'll let Mr.

15 Kornfeld answer that.

16 MR. KORNFELD: I was involved with a

17 repair of the Wellmont theater in Montclair when

18 plaster fell from the ceiling and it was a very

19 different situation because the building was

20 fundamentally sound and not -- it was not a

21 tremendous challenge to repair it. I have never

22 seen a theater in the state of, I guess you could

23 say unsoundness of this building brought back to,

24 you know, to being an operating building in good

25 condition and I've worked on buildings that, you

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1 know, were in various states of poor condition.

2 MS. FENNELLY: I'm sorry but I just

3 wanted to ask, what -- could you describe the

4 aspects that make you come to the conclusion of

5 "fundamentally unsound"? Because now you've used a

6 term that I think we need to have defined.

7 MR. KORNFELD: Well, I pointed out the

8 problems with the masonry-bearing walls where I

9 believe that they would essentially have to be

10 entirely replaced and the structural engineers

11 pointed to problems with the floor structure, the

12 roof structure. I, you know, as I was saying, I see

13 it as being a reconstruction project more than a

14 resolution project.

15 MS. FENNELLY: Thank you.

16 CO-CHAIRWOMAN FOSTER: Thank you. Any

17 other questions? Question, questions.

18 MS. MICUCCI DeFONZO: Mary Jo Micucci

19 DeFonzo, Micucci is M-I-C-, as in Charles, U-C-C-I,

20 DeFonzo, D-E- capital F-, as in Frank, O-N-Z-, as in

21 zebra, O.

22 MR. LOUGHLIN: Have you signed in,

23 please?

24 MS. MICUCCI DeFONZO: I will.

25 MR. LOUGHLIN: Thank you.



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1 MS. MICUCCI DeFONZO: My address is 12  
 2 Washington Avenue, Summit.  
 3 My family has lived here and still owns  
 4 property on Lathrop Avenue for over a hundred years.  
 5 This dwelling was built eight years before my father  
 6 was born --  
 7 MR. LOUGHLIN: Pardon me.  
 8 MS. MICUCCI DeFONZO: -- in 1933.  
 9 MR. LOUGHLIN: Pardon me.  
 10 MS. MICUCCI DeFONZO: So my question  
 11 --  
 12 MR. LOUGHLIN: As the Commission's  
 13 attorney, if you're going to ask him a question  
 14 that's based on what you believe to be facts, you  
 15 have to be under oath.  
 16 M A R Y J O M I C U C C I D e F O N Z O , 12  
 17 Washington Avenue, Summit, New Jersey 07901, is  
 18 sworn.  
 19 MR. LOUGHLIN: Thank you.  
 20 MS. MICUCCI DeFONZO: My question is:  
 21 You said there was water damage, correct?  
 22 MR. KORNFELD: Yes.  
 23 MS. MICUCCI DeFONZO: What is the  
 24 source of that water? If the roof is pretty much  
 25 intact, then where is -- what's the source of the

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1 water, where's it coming from?  
 2 MR. KORNFELD: I didn't do an  
 3 investigation to determine that. It may be, to some  
 4 extent, water that's just embedded in the building.  
 5 My impression was that the building's very water  
 6 permeable kind of in all directions and there may be  
 7 some residual water.  
 8 MS. MICUCCI DeFONZO: So you don't  
 9 know if it's the plumbing, if it's from the walls,  
 10 if it's from the roof, you have no idea.  
 11 MR. KORNFELD: It's from the roof and  
 12 the walls.  
 13 MS. MICUCCI DeFONZO: But you said the  
 14 roof is intact, pretty much.  
 15 MR. KORNFELD: I did not trace the  
 16 source of water. Water is continuing to enter the  
 17 building despite its having a new roof.  
 18 MS. MICUCCI DeFONZO: Well, wouldn't  
 19 it make sense that you would want to know where the  
 20 water's coming from? I mean, to me, there should be  
 21 -- this is already on the New Jersey Historic  
 22 Registry, correct?  
 23 MR. LOUGHLIN: Excuse me. You're only  
 24 permitted at this stage of the hearing to ask him  
 25 questions.

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1 MS. MICUCCI DeFONZO: This building's  
 2 already on the New Jersey Historic Registry,  
 3 correct?  
 4 MR. KORNFELD: Yes.  
 5 MS. MICUCCI DeFONZO: So why is it not  
 6 that every effort possible is not being made to  
 7 restore this building to its original state?  
 8 MR. KORNFELD: I'm not sure that I --  
 9 that I see the connection.  
 10 MS. MICUCCI DeFONZO: Isn't that what  
 11 this whole meeting is about?  
 12 MR. KORNFELD: The, you know, the  
 13 building has an owner who had a tenant that went out  
 14 of business and he's planning what he feels is the  
 15 proper thing to do with his building.  
 16 MS. MICUCCI DeFONZO: Just saying,  
 17 this is what this whole meeting is about --  
 18 CO-CHAIRWOMAN FOSTER: Question.  
 19 MS. MICUCCI DeFONZO: -- isn't it, to  
 20 preserve this building?  
 21 CO-CHAIRWOMAN FOSTER: Questions.  
 22 Okay, thank you. Any other questions from the  
 23 public for Mr. Kornfeld?  
 24 (No response)  
 25 CO-CHAIRWOMAN FOSTER: Okay. Take a

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1 deep breath. Do we need a break? And I'm mostly  
 2 asking our stenographer?  
 3 COURT REPORTER: I'm okay.  
 4 CO-CHAIRWOMAN FOSTER: She's okay so  
 5 we're okay.  
 6 MR. LOUGHLIN: Question?  
 7 MS. O'BRIEN: Yeah, I forgot.  
 8 CO-CHAIRWOMAN FOSTER: Okay.  
 9 MS. O'BRIEN: Dorothy O'Brien, 38  
 10 Crestwood Drive again.  
 11 I've noticed that the building had  
 12 steam radiators. Is it possible that the water  
 13 leakage was from plumbing from the heat from the  
 14 radiators and the heat in the building.  
 15 MR. KORNFELD: No. I mean, some small  
 16 amount possibly in certain locations. The leaks I  
 17 was talking about were kind of like underneath the,  
 18 I think, broad areas of the roof where there was no  
 19 plumbing.  
 20 MS. O'BRIEN: Okay. Thank you.  
 21 MR. KILLIAN: My name is Ron Killian  
 22 from Chatham.  
 23 (Court reporter asks for spelling of last  
 24 name.)  
 25 MR. KILLIAN: K-I-L-L-I-A-N.

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1 COURT REPORTER: Thank you.  
2 Mr. Kornfeld, have you ever worked  
3 through a reconstructed building that has been  
4 sandblasted to remove veneer coatings and re-  
5 pointed?  
6 MR. KORNFELD: Yes.  
7 MR. KILLIAN: What would be so  
8 different in doing that with this building?  
9 MR. KORNFELD: Well, sandblasting, in  
10 general, is not -- is not done because it's an  
11 abrasive that very often harms buildings. There's  
12 certainly different ways of cleaning and removing  
13 different types of soiling or contaminants on  
14 buildings, including coatings. It was my -- it's my  
15 opinion that the brick is in such poor condition  
16 that you cannot remove the coating and repaint the  
17 brick without destroying a large percentage of the  
18 brick.  
19 MR. KILLIAN: My dad owned a  
20 construction company, he surfaced many buildings at  
21 Seton Hall University in South Orange, on campus,  
22 many churches and schools in New Jersey. If he were  
23 alive today, he would love to get his hands on  
24 restoring this building. Is there any problem that  
25 you would have with it?

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1 CO-CHAIRWOMAN FOSTER: Okay. Thank  
2 you. Last call, questions for Mr. Kornfeld.  
3 (No response)  
4 CO-CHAIRWOMAN FOSTER: Hearing none,  
5 then we will excuse Mr. Kornfeld for now. Thank you  
6 very much.  
7 CO-CHAIRWOMAN LENAHAN: Thank you.  
8 CO-CHAIRWOMAN FOSTER: And we'd like  
9 to open it up to John Hatch, who's the preservation  
10 consultant for the Commission.  
11 MR. LOUGHLIN: Mr. Hatch, do your  
12 thing. Are you comfortable there or would you  
13 rather move around?  
14 MR. HATCH: This is fine.  
15 MR. LOUGHLIN: You're fine. Mr.  
16 Hatch, you've been retained as the architect  
17 consultant to the Commission in these hearings; is  
18 that correct?  
19 MR. HATCH: That is correct.  
20 MR. LOUGHLIN: What is your training  
21 and experience that would qualify you to be a  
22 consultant to the Board in this application?  
23 MR. HATCH: I have an undergraduate  
24 degree from Princeton University, I have a Master of  
25 Architecture from the National Champions, University

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1 of Virginia.  
2 MR. WOLFSON: You look tired.  
3 MR. HATCH: I'm not tired.  
4 I also have a certificate in historic  
5 preservation from the University of Pennsylvania.  
6 I'm a Registered Architect in New Jersey,  
7 Pennsylvania and New York, Delaware. I have 30  
8 years of experience with Clarke Caton Hintz, an  
9 architecture planning and historic preservation firm  
10 in the City of Trenton. I'm a partner with the  
11 firm. I've served for 30 years on the City of  
12 Trenton's Landmark Commission, I have served on the  
13 Board of Preservation New Jersey, I've served as  
14 president of Preservation New Jersey, I've served  
15 for over ten years on the Board of the New Jersey  
16 Historic Trust. Anything else?  
17 MR. LOUGHLIN: That's quite a list.  
18 So you've had substantial working  
19 involvement for all the years, 30 or so, in the  
20 field of historic considerations and structures and  
21 valuations; is that correct?  
22 MR. HATCH: Yes, that's correct.  
23 MR. LOUGHLIN: You've been retained by  
24 the Commission here to make evaluations and  
25 recommendations; is that correct?

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1 MR. HATCH: Yes.  
2 MR. LOUGHLIN: Have you ever been  
3 retained by the Borough before on historic  
4 preservation or structures?  
5 MR. HATCH: Yes. We are -- Clarke  
6 Caton Hintz is doing some work on Hartley Dodge  
7 Memorial. We've done some design work on the east  
8 wing and they're doing some work right now planning  
9 for restoring the front plaza and the front steps.  
10 MR. LOUGHLIN: And that's ongoing?  
11 MR. HATCH: That's ongoing, yes.  
12 MR. LOUGHLIN: Thank you, Mr. Hatch.  
13 Mr. Hatch, when you were retained by  
14 the Commission to serve as a consultant in this  
15 case, did you have occasion to review the historic  
16 preservation ordinance of the Borough?  
17 MR. HATCH: I did, yes.  
18 MR. LOUGHLIN: Did you also have  
19 occasion to visit this property?  
20 MR. HATCH: I did, in February.  
21 MR. LOUGHLIN: And have you had  
22 occasion to see the consultant's reports offered by  
23 the applicant?  
24 MR. HATCH: Yes, I've reviewed them.  
25 MR. LOUGHLIN: And you were at the

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1 prior meeting?

2 MR. HATCH: I was at the prior

3 meeting, yes.

4 MR. LOUGHLIN: In the ordinance that

5 we have in the Borough for historic preservation and

6 the standards that apply to this particular

7 application or any other, which then historic

8 preservation factors are going to be considered, is

9 the ordinance fairly detailed as far as criteria?

10 MR. HATCH: Yes, the ordinance is

11 detailed. There are a number of criteria listed in

12 the ordinance.

13 MR. LOUGHLIN: Did you evaluate this

14 application?

15 MR. HATCH: I did, yes.

16 MR. LOUGHLIN: Did you subsequently

17 issue -- or I shouldn't say "subsequently." Did you

18 prepare a report in this matter?

19 MR. HATCH: I did, I submitted a

20 report on March 5.

21 MR. LOUGHLIN: And you've seen the

22 consultants' reports from the applicant; is that

23 correct?

24 MR. HATCH: Yes, and I refer to some

25 of them in my report.

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1 MR. LOUGHLIN: I appreciate that.

2 What I'd like you to do this evening as the

3 consultant to the Board for architecture and with a

4 particular interest, is that a fair summary,

5 sometimes we call that a substantial specialty or

6 co-specialty, in historic preservation and design.

7 Would you go through with the Board and the public

8 and the applicant's representatives this evening

9 your findings -- you're valuation and then your

10 findings as far as the ordinance requirements and

11 the criteria that the applicant would have to

12 satisfy for demolition to be approved or not

13 approved and what factors and considerations you've

14 offered to the Board in that regard. Feel free to

15 refer to your report.

16 MR. HATCH: Great. Thank you.

17 MR. LOUGHLIN: Mr. Hatch, as now

18 before with Mr. Kornfeld, your testimony will be

19 under oath.

20 J O H N H A T C H, Consultant to the Commission,

21 is sworn.

22 MR. LOUGHLIN: Thank you.

23 MR. HATCH: I'm going to -- I'm not

24 going to repeat things that have already been said

25 about the building --

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1 CO-CHAIRWOMAN FOSTER: Thank you.

2 MR. LOUGHLIN: Much appreciated. And

3 deal --

4 MR. HATCH: Thank you.

5 MR. LOUGHLIN: Deal with your own

6 words, don't feel confined to the report.

7 Obviously, everyone understands the major issues at

8 hand.

9 MR. HATCH: Sure.

10 MR. LOUGHLIN: Thank you.

11 MR. HATCH: I'm going to just respond

12 to a couple of things that were said earlier that

13 were specifically in Mr. Kornfeld's report.

14 In terms of integrity, I just want to

15 say that I have a little bit different understanding

16 from how you describe it. So I think you're talking

17 about structural integrity and I think certainly the

18 building over the course of its life has -- there's

19 been serious impact on the structural integrity and

20 maybe the material integrity of the building;

21 however, I don't think there have been significant

22 changes made to the building since it was placed on

23 the National Register so I think it can still be

24 considered to be a contributing structure in the

25 historic district even if the condition of the

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1 building has deteriorated somewhat. So I just want

2 to clarify that that is my position about integrity.

3 So my purpose is to give some context

4 for -- for the building and the districts and some

5 context from an outsider kind of how to think about

6 this a little bit.

7 The building, as has been stated

8 numerous times and the way it's listed in the

9 nomination, is that it's a vernacular building.

10 It's a contributing structure to the district, it is

11 not one of the significant structures in terms of

12 its architecture. It's pretty utilitarian, it's

13 even pretty utilitarian for a movie theater from

14 1925, particularly on the outside. So the most

15 important part of it is the front facade. The sides

16 and the back are completely utilitarian. They were

17 designed to be utilitarian. The exterior design is

18 really all about the front and how it faces onto the

19 street.

20 The interior, I wish there had been

21 photographs of the interior, I haven't seen any

22 original photographs of the interior. Its current

23 condition, as has been stated many times, it's been

24 altered to a large degree. It was originally one

25 large theater. It was divided, at some point, into

1 four theaters. The front lobby was -- the  
 2 configuration of the front lobby was altered, the  
 3 storefronts were altered, the arched windows were  
 4 put on the front. So it is -- it is different from  
 5 the original design. There are -- there is still  
 6 some evidence in the lobby, from my relatively quick  
 7 inspection of the building, you can see some  
 8 evidence of some marble paneling, you can see some  
 9 original plasters maybe, and the second floor of the  
 10 front part of the building actually feels relatively  
 11 original, even if it's not in great condition.

12 I'm certainly, you know, I can --  
 13 reading the structural reports, it's clear that  
 14 there are major structural issues. As someone who  
 15 has worked on buildings that were in extremely poor  
 16 condition, the reports -- so that's why I stated in  
 17 my report that I said that renovation of the bill of  
 18 lading would be expensive but not impossible. There  
 19 are clearly serious structural issues that would add  
 20 to the cost of renovating it.

21 The building, because -- so there's a  
 22 cost to renovating the building just given its  
 23 condition and then there's the cost associated with  
 24 what you're going to do with the building. The  
 25 easiest renovation is one that is going to keep the

1 original configuration of the building. You're  
 2 going to take advantage of the fact that it was a  
 3 movie theater with a sloped floor. So if you can do  
 4 that, that is going to reduce the cost of the  
 5 renovation at least somewhat. If you're not going  
 6 to do that, if a movie theater is not a viable use,  
 7 then maybe a second use would be as a performing  
 8 arts space. The sloped floor is designed for sight  
 9 lines from the audience to the stage, so that would  
 10 be another use that could potentially take  
 11 advantage. The problem with a performing arts  
 12 center reuse is that there are other spaces needed  
 13 to make it a performing arts venue viable. There  
 14 are all sorts of, you know, ideally, like a fly  
 15 space over the stage, which this does not have,  
 16 ideally, like, have a fair amount of backstage  
 17 space, you like to have green rooms and dressing  
 18 rooms and all that stuff, so to have that as a use  
 19 would require significant reconfiguration of the  
 20 building or additions so additional costs.

21 Other adaptive reuse of the building,  
 22 completely changing its function, are, I think, more  
 23 problematic. Just, if you're going to put a retail  
 24 use or some other uses into the existing building,  
 25 that would be difficult and expensive because you

1 can't have a sloped floor in a retail use or in a  
 2 residential use.

3 So all of those impact how -- how you  
 4 think about what you can do with the building and it  
 5 as long-term viability.

6 The -- one of the -- now, specifically  
 7 getting to demolition. As I say in my report, I do  
 8 believe that demolition is the most drastic step  
 9 that you can take in a historic district without --  
 10 without -- there's no other comparison. By  
 11 definition, it has a major impact on the historic  
 12 district. So I'm going to just run through the  
 13 criteria and can give my thoughts about each of the  
 14 criteria that are listed in the historic  
 15 preservation ordinance, again, to give some context  
 16 with it.

17 So the first criteria has to do with a  
 18 historic architectural culture and aesthetic  
 19 significance of the building. So the Lyons Madison  
 20 Theatre, as we talked about, is -- I think it's a  
 21 contributing structure, it's clearly not a  
 22 significant structure, and it's relatively  
 23 utilitarian. So from an architectural and aesthetic  
 24 point of view, it doesn't have, from my point of  
 25 view, huge significance. And particularly since

1 it's been altered a lot since it was constructed.  
 2 Other than, I think it does have cultural  
 3 significance. It has played an important part in  
 4 Madison's downtown for many, many years as a movie  
 5 theater attracting visitors, serving the people of  
 6 Madison, and so I think that is its real  
 7 significance and gets to the crux of the issue why  
 8 it's such -- such an important discussion to have.

9 The second criteria is its current and  
 10 potential use for the uses that are permitted by  
 11 zoning. So I talked about that a little bit. It's  
 12 -- I'm just going to briefly recap. So its easiest  
 13 reuse would be as a movie theater if that were  
 14 economically viable. More difficult is a performing  
 15 arts space. The other permitted uses in the zone,  
 16 residential, commercial, retail, I think would be  
 17 very difficult to -- it would be very difficult to  
 18 rehabilitate the building for any of those other  
 19 uses.

20 I also made the point that I'm not an  
 21 expert on historic theaters or on movie theaters in  
 22 the country, but I have seen a number of movie  
 23 theaters -- viable movie theaters in downtown, and  
 24 in my experience, the ones that are most viable tend  
 25 to be, at this point in sort of our economic

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1 situation in the country, they tend to be niche  
 2 movie theaters, that they tend to be a little bit  
 3 smaller and focus on a particular audience and for a  
 4 particular kind of movie theater -- for a particular  
 5 kind of film type, and so the theaters that I  
 6 reference include Princeton Garden Theater, which  
 7 is, my understanding, it's heavily subsidized by  
 8 Princeton University; the county theater in  
 9 Doylestown; the showroom cinema in Asbury Park; and  
 10 the screen room in Newburyport, Massachusetts.

11 The third criterion is importance to  
 12 the municipality and the extent to which its  
 13 historical architectural value is such that its  
 14 removal would be detrimental to the public interest.

15 So again this goes -- I feel like it's  
 16 a little bit of a repeat of the earlier criterion  
 17 but it's -- so from an architectural point of view,  
 18 because it is relatively utilitarian, it is not like  
 19 losing one of the significant structures in the  
 20 Borough. Also, because it is on the edge of the  
 21 district, it's not part of a row, it is also -- that  
 22 impacts its -- how significant its loss is. If this  
 23 were a part of a commercial row, the middle one,  
 24 even if it was just a contributing structure, or  
 25 even for a noncontributing, taking it out of a

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1 middle of a historic row would be a very serious  
 2 loss. This is on the edge of the district and so  
 3 it's -- the loss compared to that situation is not  
 4 as great.

5 That being said, its most important  
 6 significance, I think, is cultural and the role that  
 7 it's played in Madison for so many decades and that  
 8 is, I think, the real -- the real loss for the  
 9 Borough.

10 The fourth criterion is the extent in  
 11 which it's of such old and unusual design that it  
 12 could not be reproduced. So at least on the  
 13 exterior, it is quite utilitarian so I think it  
 14 would actually be easier to reproduce and the sides  
 15 and the back of the building are so utilitarian, I  
 16 don't think you would want to reproduce them if you  
 17 were redoing it. But it does have a very nice  
 18 -- a nice front. The interior, I don't know how  
 19 elaborate the interior was and it's been altered so  
 20 much that I don't think you can say.

21 The fifth, the extent to which its  
 22 retention would increase property values, promote  
 23 business, attract visitors, attract new residents.  
 24 I think one of the compelling points I heard the  
 25 first evening was that there are people in Madison

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1 who -- the fact that there was an operating movie  
 2 theater was of significance to them, that when  
 3 there's -- there aren't that many towns that have a  
 4 functional, vibrant movie theater in the downtown  
 5 and when it -- when it is there, it is -- you make  
 6 note of it and it is an attraction both for the  
 7 people who live there, it's an attraction for people  
 8 thinking about moving to the town, and it's an  
 9 attraction for people to come into the town, but the  
 10 key is that it has to be operating and viable. If  
 11 it's not operating, it is -- it's the opposite of  
 12 all of those -- all of those things, particularly in  
 13 its location across from the, you know, one of the  
 14 main entrances of the train station, people are  
 15 coming in and out of that all the time. If it's not  
 16 up and running, it actually has the opposite effect  
 17 on the town.

18 The probable impact of removal upon the  
 19 ambiance of the district. Again, this is a bit of a  
 20 repeat of some of the other criterion -- criteria.  
 21 It's kind of a background building, it isn't highly  
 22 detailed, its storefronts are in-filled, so -- so  
 23 from that point of view, again, it's not one of the  
 24 significant structures. Now, its position -- I  
 25 should have talked about that a little bit before --

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1 its position across from the main entrance to the  
 2 train station is important, it's important to have a  
 3 building there, something significant, something  
 4 that's lively, and when the building was up and  
 5 running, it was a real positive for the district.

6 Now, if the building were to be -- I  
 7 think the worst possible situation here is if this  
 8 building were demolished -- leaving it vacant is not  
 9 great because, you know, it's kind of a dead point  
 10 in the district, but the worst possible thing that  
 11 could happen is if it were demolished and then  
 12 nothing were put back in its place so that's, I  
 13 think, the worst of all possible worlds.

14 The seventh criterion is structural  
 15 sound as an integrity of the building and the  
 16 economic feasibility of restoring or rehabilitating  
 17 the structure. So without -- so the building --  
 18 there's sort of a range of things that you could do.  
 19 If you had an operator who was interested in, you  
 20 know, sort of four medium size theaters in a, you  
 21 know, in a downtown, you could theoretically do --  
 22 get the building up and running, and I'm going to  
 23 say this, on the lower end of a broad range of costs  
 24 that you could spend on the building. The building  
 25 needs to, you know, it's been empty for a couple of

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1 years, it has had some additional water damage, and  
2 all of the systems need to be re-checked, there are  
3 -- everything needs to be refreshed, and -- so it's  
4 not an insignificant cost but it's on the lower end  
5 of quite a broad spectrum. To restore it or to  
6 change it significantly, it becomes really a major  
7 cost, and to put in a different use into the  
8 building, even one that is somewhat compatible, a  
9 performing arts space, that moves it to the upper  
10 end of that spectrum and so -- and in all of the  
11 cases, I think there are some valid structural  
12 issues that have been pointed out, issues that I  
13 think the building owners had lived with for many  
14 years, you know, you could kind of -- when you're  
15 just kind of going along and living with it day to  
16 day, you know, as cracks are getting bigger, you  
17 don't really notice because it's a very small  
18 increase day to day and it's not until 20 years  
19 later that "Oh, that really is a big crack and there  
20 might be some structural issues." So the structural  
21 issues, no matter what the function is, even if it  
22 is a movie theater operator that wants to use the  
23 same form movie theater without major  
24 reconfiguration, there are structural issues that  
25 have to be dealt with. So that is -- that is an

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1 important consideration.  
2           Number 8 was about moving the building,  
3 which I don't think is feasible so I'm not going to  
4 address it.  
5           And 9 was whether the applicant will  
6 remove and reuse certain important features. And so  
7 there are some of the features that the applicant  
8 has indicated that they would remove and reuse,  
9 including the line cedar plaque up in the gable and  
10 there may be other -- other, um, other items that  
11 are important, you know, the chandeliers, the ticket  
12 booths, that might be important to reuse.  
13           So... So it is a contributing  
14 structure in the historic district. It's not a  
15 significant structure but it's contributing and I  
16 think it is still contributing. It's not an  
17 elaborate or unusual design but it does contribute  
18 to the character of the historic district. It is  
19 located on the edge of the historic district, not in  
20 the midst or connected to other historic buildings.  
21 It's a building type that has become economically  
22 difficult to maintain, I'll say particularly in the  
23 downtown location, in that configuration. It's a  
24 building type that is difficult to convert to other  
25 uses for the reasons that I stated. So all of that

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1 makes it -- unless you can find a very compatible  
2 use, all of that makes it difficult to imagine a  
3 rehabilitation in its current form.  
4           I also have talked about possible  
5 mitigations but maybe I'll just stop there unless  
6 you'd like me to talk about them.  
7           MR. LOUGHLIN: Mitigation in  
8 relationship to the condition?  
9           MR. HATCH: If the building were to be  
10 demolished, I think it's important that there are  
11 mitigations that are put in place.  
12           MR. LOUGHLIN: Are you referring, as I  
13 would understand it, John, to conditions?  
14           MR. HATCH: I'm sorry, the what?  
15           MR. LOUGHLIN: Conditions for the  
16 Board to consider at that time?  
17           MR. HATCH: Yes.  
18           MR. LOUGHLIN: I think that'll be more  
19 appropriate to address in the last stage of these  
20 proceedings --  
21           MR. HATCH: Right.  
22           MR. LOUGHLIN: -- when the Board is  
23 considering the issue of demolition. I think it  
24 would be appropriate at that time, in Board  
25 discussion, prior to Board discussion, for you to

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1 make, shall we say, certain considerations for the  
2 consideration of the Board as to possible conditions  
3 in this case.  
4           MR. HATCH: Great.  
5           MR. LOUGHLIN: In a similar way, the  
6 elements of the design of the new structure, which  
7 are not being presented this evening to a  
8 conclusion, we'll return to later in the hearing for  
9 recommendations about design considerations and  
10 historic, shall we say, elements that you would  
11 recommend be considered in any new design of a  
12 replacement structure, if we reach that point, as I  
13 expect, in the later part of the hearing.  
14           MR. HATCH: Okay, makes sense. Thank  
15 you.  
16           MR. LOUGHLIN: Thank you, John.  
17           Counsel?  
18           MR. WOLFSON: No questions.  
19           CO-CHAIRWOMAN FOSTER: Okay.  
20 Questions from the Board? From the Commission on  
21 Mr. Hatch's comments? Go through our ordinance  
22 pretty much piece by piece. Mr. Luber.  
23           MR. LUBER: Yeah, I have a question.  
24 I'd like to poke a little bit on this relative  
25 amount of reconstruction or rehabilitation that will

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1 be required for the current use as a theater.  
2 In Mr. McManus's report, I'm just going  
3 to read the two paragraphs in his conclusion,  
4 "Virtually all structural components that make up  
5 the structure in its current condition would require  
6 extensive rebuilding, reinforcement or replacement.  
7 Many aspects of the current structure do not meet  
8 current Building Code requirements as to design  
9 loads, wind, et cetera. The issues with the  
10 exterior bearing walls would have to be addressed by  
11 introducing remedial structure systems, such as a  
12 network of steel columns and beams to replace or  
13 supplement structural capacity of the current site."  
14 That sounds like a lot to me. Do you  
15 agree with that assessment?  
16 MR. HATCH: I am not a structural  
17 engineer, so -- and I rely on structural engineers  
18 in my work. I haven't worked with Mr. Mick before,  
19 but I assume that what he's saying is correct. He  
20 has said also that he made calculations on the  
21 structural -- on the structural elements. You know,  
22 that being said, there are different ways to  
23 address, um, address structural issues like that and  
24 so, you know -- you know, if I were looking at the  
25 building and working on -- working on a project and

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1 trying to figure out how to reuse it, and if it was  
2 reusable, all of that would have caused me concern  
3 and then I would try to figure out if there are ways  
4 that you could cost effectively address those  
5 issues. But they are certainly cause for certain.  
6 MR. LUBER: Yeah, because I would  
7 assume a network of steel structure sounds like a  
8 lot to me. That sounds like you're ripping it apart  
9 and rebuilding it.  
10 MR. HATCH: Yeah, and -- yes, and if  
11 that were the case, I think it would not be feasible  
12 to reuse the building. You know, I've worked on  
13 buildings where the original steel structure was  
14 inadequate and we were able to do, you know,  
15 less-drastic adjustments that were expensive but  
16 didn't involve wholesale reconstruction, so really,  
17 it depends, so...  
18 MR. LUBER: Yeah, because as I recall,  
19 Community Theater, which was mentioned, that  
20 actually had an intact steel structure when they  
21 started rehabilitated.  
22 MR. HATCH: I don't know the history  
23 of that structure.  
24 CO-CHAIRWOMAN FOSTER: Other questions  
25 from the Board members? Mr. Solu?

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1 MR. SOLU: Yeah, John. You made  
2 reference to the fact that if the building could be  
3 restored to its current use or current viability,  
4 there was some comments that you made that there  
5 would be -- or there were comments made from the  
6 public with regard to procuring of public funds from  
7 state agencies or whatever. In your opinion of the  
8 manner of this structure and its current condition,  
9 is that a realistic option for a structure of this  
10 type?  
11 MR. HATCH: So there are two avenues  
12 for historic preservation funding. One is if a  
13 property is privately owned, you can -- and if you  
14 do work that meets the Secretary of Interior  
15 standards, you can get a federal historic tax credit  
16 that's worth 20 percent of the rehabilitation cost,  
17 so that's one avenue. And it is theoretically  
18 possible. The problem -- the issue here is that  
19 there have been so many alterations that it -- I'm  
20 just trying to think if you could go down that  
21 route. You know, there is evidence of what the  
22 original facade looked like so you could  
23 theoretically consider restoring the original  
24 facade. The interior there, there's not a whole lot  
25 of historic fabric. It would be an, you know, it

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1 would be an interesting discussion we would have to  
2 have to start with, like, can you go down that path,  
3 if there's enough sort of fabric to go down that  
4 path. And that also impacts the second route, which  
5 is if there were publicly owned, either by --  
6 publicly owned or by a not-for-profit, it could  
7 apply for capital funding, for instance, from the  
8 New Jersey Historic Trust, which now, once again, is  
9 having relatively large capital grants, up to  
10 \$750,000; those are matching grants. Again, it  
11 would depend on the work that's being proposed, but  
12 that could be a potential route, but it would have  
13 to be in public or not-for-profit ownership.  
14 MR. SOLU: Thank you.  
15 CO-CHAIRWOMAN FOSTER: This nuclear  
16 option that is before us on the -- in our historic  
17 district of the demolition possibility, it's  
18 certainly a concern, we should see whose job it is  
19 to oversee, protect our historic district. In the  
20 experience, has the 30 years of long-night meetings,  
21 I think you said at the Trenton Historic  
22 Preservation Commission and other agencies that  
23 you've worked on, does having a historic building in  
24 a district demolished lead to further demolition in  
25 the district, does it bind the Commission to approve

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1 all other demolition requests that come our way?  
 2 Does it -- what, in your experience, has this shown  
 3 in districts in New Jersey where you've been active?  
 4 MR. HATCH: It is a rare thing and --  
 5 but each application is viewed individually and on  
 6 its -- on its own merit, and when demolitions have  
 7 occurred, I have not -- you know, this is purely  
 8 anecdotal, but I have not seen that there has been  
 9 sort of a large-scale move toward demolition and the  
 10 -- so -- but I'm going to -- I'm going to make one  
 11 unsolicited comment just about the ordinance. I  
 12 think, in terms of demolition, the way your  
 13 ordinance is written is not great, so it's --  
 14 CO-CHAIRWOMAN FOSTER: Duly noted.  
 15 MR. HATCH: So... You have all the  
 16 right criteria, it's just sort of the end result,  
 17 it's just not written super well.  
 18 CO-CHAIRWOMAN FOSTER: But it's the  
 19 ordinance we're working on for this application.  
 20 MR. HATCH: It is the law, yes.  
 21 CO-CHAIRWOMAN FOSTER: Other questions  
 22 for Mr. Hatch?  
 23 MR. KELLOGG: I was pleased to see  
 24 that you began to look at a wider context of the  
 25 district to recognize surrounding linkages to the

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1 site. Would you agree with the National Register's  
 2 2004 definition of historic district as a final area  
 3 possessing a concentration, linkage or continuity of  
 4 sites, buildings and structures and an historic  
 5 district encompasses and blends together a mesh of  
 6 structures, streets and open space?  
 7 MR. HATCH: Yes, absolutely.  
 8 MR. KELLOGG: Since we're discussing  
 9 possible demolition, the first criteria under 112-8,  
 10 demolition, that you spoke to, refers us directly  
 11 back to the 112-4(b), and in that list of criteria,  
 12 I think you may have spoken to the first one,  
 13 character of interest or value to the Borough, but I  
 14 wanted to check in with you on item 4 on that list  
 15 of criteria. Does the 1925 Lyons Theatre provide or  
 16 embody distinctive characteristics of the type,  
 17 period or method of construction, architecture or  
 18 engineering?  
 19 MR. HATCH: So I'm going to answer  
 20 that in two ways. So in general in New Jersey or  
 21 even more in the region, probably not, it's probably  
 22 a relatively typical building and structurally,  
 23 probably pretty typical and it as overall design is  
 24 pretty typical. Now, that being said, for Madison,  
 25 it is, you know, it's one of the -- I don't know how

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1 many movie theaters there were originally but it's,  
 2 you know, it's -- it's the movie theater building in  
 3 Madison, so that makes it important and makes this a  
 4 really important discussion.  
 5 MR. KELLOGG: That's true. It does  
 6 embody, I think, distinctive type because it has,  
 7 you know --  
 8 MR. HATCH: One of the things that  
 9 you'd look at in terms of, you know, is it -- maybe  
 10 I'm adding something to what you've said. In terms  
 11 of rarity, I don't think it's a rare kind of design  
 12 and it's not -- as I said, it's pretty utilitarian,  
 13 but it's distinctive as a 1925 downtown movie  
 14 theater. It's distinctive.  
 15 MR. KELLOGG: And I think you pretty  
 16 well spoke to the issue of its unique location as  
 17 another criteria that sort of --  
 18 MR. HATCH: Yeah, it's an interesting  
 19 location, you know, as somebody who is not from  
 20 Madison, on the one hand, it kind of feels a bit out  
 21 of the way, like it's kind of a side street in a  
 22 way. On the other, and maybe it's just the street's  
 23 a little bit smaller than the other downtown  
 24 commercial streets and because it's right next to  
 25 the track, it just feels a little bit different. On

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1 the other hand, it's right across from the entrance  
 2 to the train station so that makes it a very -- that  
 3 site very important.  
 4 MR. KELLOGG: I took some issue with  
 5 your description of the location as obscure.  
 6 MR. HATCH: That's just me as an  
 7 outsider. I had trouble finding it the first time.  
 8 Sorry.  
 9 CO-CHAIRWOMAN FOSTER: And there's no  
 10 direct train from Trenton.  
 11 MR. HATCH: Right.  
 12 MR. KELLOGG: I mean, obscurity, I  
 13 think, is somewhat, maybe you would agree, make  
 14 urban contexts exciting, as you come around the  
 15 corner and you find something unexpected.  
 16 MR. HATCH: Yes. Yup. It's a very  
 17 nice street, it's a great street.  
 18 (Laughter)  
 19 MR. KELLOGG: The urban planning of  
 20 the town is unique, a lot of other towns don't quite  
 21 have it. We don't have a town green, we have this  
 22 intricate web of streets in there. Unlike other  
 23 towns, we have parallel streets of Main Street.  
 24 Those parallel streets allow for other types of flow  
 25 to parallel Main Street. Would you agree?



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1 MR. HATCH: Sure, yup.

2 MR. KELLOGG: Did you read the 1989

3 application for the National Register of Madison

4 Historic Commercial District?

5 MR. HATCH: I did not review it

6 exhaustively, I did go through it.

7 MR. KELLOGG: In that application,

8 there are four buildings identified as semi public.

9 The rest were public or private. The four buildings

10 that were identified as semi-public were St.

11 Vincent's, Reed Chapel, the train station and the

12 library.

13 Would you agree that the post office

14 and the movie theater could be added to the list of

15 semi public buildings?

16 MR. HATCH: Sure. What's the

17 significance of public buildings? Because the post

18 office seems like it could be, actually, public

19 but... And, you know, I think every movie theater

20 is a semi-public kind of function, sure. And it's

21 an important civic function.

22 MR. KELLOGG: Yeah, it's a little

23 vague --

24 MR. HATCH: Yeah.

25 MR. KELLOGG: -- the characterization.

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1 For some reason, that was entered into the

2 application and it made me realize that buildings

3 that are semi-public, or public, do provide, I think

4 -- I agree, do provide time-of-day activity where

5 the public engages each other, both in the building

6 and in the spaces outside on the street.

7 MR. HATCH: It's tough to know where

8 exactly to draw the line but --

9 MR. KELLOGG: It is. So to privatize

10 that site is to take it from the domain of this

11 somewhat vague description of a semi-public building

12 and to put it into the private domain so that it's

13 no longer part of the sort of street fabric,

14 perhaps. Would you agree? We'd lose a little

15 publicness by changing the use --

16 MR. HATCH: As you are bringing up

17 public and semi-public, I mean, retail, in a sense,

18 is kind of semi-public, maybe not quite as public as

19 a movie theater where you spend a lot of time and --

20 but anyway, it's an interesting --

21 MR. KELLOGG: Yeah.

22 MR. HATCH: -- interesting point.

23 MR. KELLOGG: I think that's another

24 reason why that location is particularly

25 significant.

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1 So determination of the view axis from

2 the station's passage leads right into the vaulted

3 marquis of the Lyons Theatre, as you've described.

4 Another reason why it's a significant application.

5 As a designer and a preservationist,

6 what would you consider to be most appropriate

7 termination of the axis at the gateway into the

8 downtown district? If you could pick anything you

9 wanted, what would be the best use for that site at

10 that termination of the axis?

11 MR. HATCH: You know, there are a

12 number of gateway sites, you know, for any town, so

13 this one is a gateway site because it's right across

14 from an entry to the railroad station. I, you know,

15 I think there are a number of functions that would

16 be appropriate. You know, a movie theater is an

17 interesting one because if you can attract people to

18 come to Madison to the movie theater by train, I

19 don't know how often it happened, but sort of an

20 interesting connection.

21 The other kind of functions that you

22 would want are ones that specifically serve people

23 who are at the train station, so a cafe or a

24 restaurant or a coffee shop, you know, those kind of

25 functions. You know, in a bigger town, you might

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1 want to have a hotel there. So there are a number

2 of functions that would be appropriate there.

3 Architecturally and urbanistically, you

4 want something that's going to address that axis,

5 that entry, so...

6 MR. KELLOGG: Thank you. You also

7 talked in your report about some mitigating factors

8 before they -- consider demolition, one being the fact

9 that it's on the edge of the district, and I've

10 talked about the row and the middle of a row being

11 taken out. In fact, I think that couldn't we also

12 see an excellent, well-designed infill building slip

13 right into an overall very neatly...

14 MR. HATCH: Sure. If there are, and,

15 you know, I've worked on them where buildings have

16 been demolished in a historic district at some point

17 in the past and I've designed infill buildings that

18 fit seamlessly into a row. I guess my point is, if

19 there is an existing row, taking a piece out of it

20 is a really -- it's damaging -- it's particularly

21 damaging.

22 MR. KELLOGG: Well, I think you might

23 -- you might use the -- I think if you're talking

24 about a row, sort of like a set of books in a row,

25 the end building might well be considered a bookend.

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1 So to characterize the end building as a mitigating  
 2 factor for allowing it to be demolished -- I'm not  
 3 saying entirely, but one mitigating factor, it seems  
 4 to me our entire district is an edge. There's  
 5 rarely a condition in the district where you aren't  
 6 on the edge already, so if edge is the criteria,  
 7 then the James' library, now the museum, could be  
 8 demolished based on that criteria, as could the  
 9 YMCA.

10 MR. HATCH: I see your point.

11 MR. KELLOGG: You mentioned vacancy as  
 12 another mitigating factor but I think --

13 MR. HATCH: Not vacancy, per se,  
 14 because I really do think there are many buildings  
 15 that are vacant that should not be demolished  
 16 because they are well prepared for a new use. So I  
 17 think vacancy should be considered in terms of the  
 18 potential for a new use.

19 MR. KELLOGG: And then the other --  
 20 the last mitigating factor was utilitarian design of  
 21 a building. As we discussed earlier, that building  
 22 is an entity of a historic district, has multiple  
 23 elements and sites and stories to tell. It's  
 24 really an ensemble of buildings contributing and  
 25 noncontributing, so I'm not sure that I find your

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1 argument --

2 MR. HATCH: You're absolutely right,  
 3 yup.

4 MR. KELLOGG: Okay.

5 MR. HATCH: I guess my point is, if  
 6 there were a significant building, I -- bear with  
 7 me -- I don't think there should be any  
 8 consideration of it.

9 MR. KELLOGG: Thank you.

10 MR. HATCH: Yup.

11 CO-CHAIRWOMAN FOSTER: Any other  
 12 questions from our Commission? Karen?

13 MS. JEISI: No.

14 CO-CHAIRWOMAN FOSTER: No? Anyone  
 15 else? Anyone else?  
 16 (No response)

17 CO-CHAIRWOMAN FOSTER: Okay.

18 MR. LOUGHLIN: Mr. Wolfson, anything?

19 MR. WOLFSON: No, I don't have any  
 20 questions. Thank you.

21 CO-CHAIRWOMAN FOSTER: Mr. Kornfeld,  
 22 anything? He asked you a question.

23 MR. KORNFELD: One question. I mean,  
 24 it's not a major point, but in terms of the edge  
 25 condition of the building, in one sense, it's an

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1 edge because it's the boundary of the district, but  
 2 it's also a mid-block building. Can you comment on  
 3 kind of that distinction?

4 MR. HATCH: I don't know if I can.

5 CO-CHAIRWOMAN FOSTER: That might --

6 MR. HATCH: I don't know -- do you  
 7 have a particular point in mind or...

8 MR. KORNFELD: No.

9 CO-CHAIRWOMAN FOSTER: Since neither  
 10 of you are in Madison, might I interject and say, as  
 11 one comes east on Lincoln Place and gets to the  
 12 train station and the theater, farther east, there  
 13 are only single-rise --

14 MR. HATCH: Yeah.

15 CO-CHAIRWOMAN FOSTER: -- what I would  
 16 call "taxpayer modern buildings" that were clearly  
 17 built outside of the period of significance for the  
 18 downtown district, so the edge was apparently  
 19 logically made where the old building stopped.

20 MR. HATCH: Right. Right. I don't  
 21 think I have anything intelligent to say about that.  
 22 Sorry.

23 CO-CHAIRWOMAN FOSTER: Something to  
 24 think about.

25 MR. WOLFSON: If I can just ask Mr.

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1 Kornfeld one question, and that is: Mr. Hatch made  
 2 a statement that he felt that it could be restored  
 3 to its prior four-theater configuration at a lower  
 4 end of the spectrum of cost. Do you have an opinion  
 5 in terms of that verbiage?

6 MR. KORNFELD: I would say that's the  
 7 one statement that I wouldn't agree with just in the  
 8 sense that I think there's a -- there's a high  
 9 baseline cost for restoring the building to an  
 10 operating use, whether it's -- I mean, I know in a  
 11 lot of cases, there's a building where you can to a  
 12 rehabilitation at a low cost or you could do kind of  
 13 a full restoration at a higher cost, but in my  
 14 opinion, this building, there's a very high baseline  
 15 cost for restoring it to a usable building at all.

16 MR. WOLFSON: Thank you.

17 MR. LOUGHLIN: Okay.

18 CO-CHAIRWOMAN FOSTER: All right,  
 19 thank you. And I believe we're ready to open to the  
 20 public. Once again, I put on my annoying timer for  
 21 three minutes so that everyone who wishes to speak  
 22 will get a chance, and it's a question. Right?

23 MR. WICKMAN: I stole the sign-in  
 24 sheet, sorry. It's back now.

25 CO-CHAIRWOMAN FOSTER: Thank you.

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1 MR. LOUGHLIN: Thank you.

2 MR. WICKMAN: You know --

3 (Court reporter asks for name.)

4 MR. WICKMAN: Larry Wickman, Walnut

5 Street.

6 COURT REPORTER: Thank you.

7 MR. WICKMAN: You had used the term

8 "utilitarian" for the design of the building and

9 specifically the battlements that are at the top of

10 the building there, the raised, I guess they're

11 called "battlements," some people call them that,

12 but you can see it from both sides.

13 MR. HATCH: The step.

14 MR. WICKMAN: The step -- the step

15 nature. Can you speak to that feature as far as

16 historic use of architecture goes? Because that

17 seems to be a unique feature of the building.

18 MR. HATCH: I don't know if it would

19 -- if it's unique. I mean, it's -- I think it's an

20 attractive feature. You're talking about for the

21 theater part of the building itself, behind --

22 MR. WICKMAN: Yeah, so.

23 MR. HATCH: -- the lobby? You can

24 kind of see the step-up.

25 MR. WICKMAN: I'm talking about the

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1 actual roof of the building and the step design in

2 the back quarter of the building.

3 MR. HATCH: The high roof.

4 MR. WICKMAN: The high roof, yes.

5 MR. HATCH: I mean, I think it's

6 attractive, I don't think it's necessarily unique,

7 so -- I mean, when I say "utilitarian," I'm not

8 saying that it's not an attractive building, but I

9 think it's pretty simple, the stepping is actually

10 -- is probably easier to do than to have the brick

11 wall slope, step up.

12 MR. WICKMAN: Okay.

13 MR. HATCH: So it was both utilitarian

14 and kind of an attractive feature.

15 MR. WICKMAN: Okay. To me, it seems

16 to be a feature you see in a lot of older buildings

17 along country roads and stuff, especially theaters,

18 a lot of them have this type of setting. But the

19 one thing I do want to say is, the spires in town

20 and the cupolas and all, from the setback from the

21 town to go to Main Street, you get a full vista of

22 the town, the historic district, especially the

23 features of the roof and the new building could very

24 well block that out --

25 MR. WOLFSON: Could we have questions,

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1 please?

2 MR. WICKMAN: -- from historic

3 building.

4 MR. LOUGHLIN: We're not talking, sir,

5 at this stage about the building.

6 MR. WICKMAN: Okay.

7 MR. LOUGHLIN: That'll come later.

8 MR. WICKMAN: So Dodge Field is a mile

9 away from here, over here the baseball field on the

10 other side of town, and in the picture on there, you

11 can see the raised roof, so --

12 MR. WOLFSON: Can we have questions,

13 please?

14 MR. WICKMAN: -- it is a theater and

15 you can see it from a historic district.

16 CO-CHAIRWOMAN FOSTER: That's a good

17 point.

18 MR. WICKMAN: Excuse me?

19 CO-CHAIRWOMAN FOSTER: A question

20 about his testimony is what we're looking for right

21 now.

22 MR. WICKMAN: Yeah, I'm going to. I'm

23 just saying, from architectural, it's a unique

24 aspect of the historic district. It can be seen

25 just like the cupolas in town from quite a distance

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1 away.

2 Would you say the loss of this feature

3 could impact the historic district?

4 MR. HATCH: I think the demolition of

5 a contributing building in a historic district is,

6 by its definition, an encroachment and has a

7 negative impact on a historic district.

8 MR. WICKMAN: Okay. Thank you very

9 much.

10 CO-CHAIRWOMAN FOSTER: Thank you.

11 Other questions on the testimony?

12 MR. HANNA: Hi.

13 MR. HATCH: Hi.

14 MR. HANNA: My name is David Hanna, I

15 live at 87 Central Avenue here in Madison.

16 (Court reporter asks Mr. Hanna to repeat his

17 last name.)

18 MR. HANNA: Hanna, H-A-N-N-A.

19 COURT REPORTER: Thank you.

20 MR. HANNA: I have a question. Why do

21 you think, when they designed this building in the

22 first place, they didn't have a third floor even

23 though the -- you know, the stepped part --

24 MR. HATCH: On the --

25 MR. HANNA: Yeah. Were they thinking

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1 about the very thing we're discussing right now,  
 2 about the sight lines coming out of the train  
 3 station? Because the train station was built in  
 4 1916. Correct?  
 5 MR. HATCH: I could look it up. It  
 6 probably --  
 7 MR. HANNA: I think it was 1960, so it  
 8 predates and, thus, in other words, this discussion  
 9 about sight lines and what you would see coming out  
 10 of there, but do you think that had any bearing on  
 11 their decision? I know it's conjecture but --  
 12 MR. HATCH: Yeah, it's pure  
 13 speculation but I would say not. I would say this  
 14 was purely -- this was designed, you know, to be a  
 15 -- what they considered to be the most financially  
 16 viable downtown movie theater -- sorry, this thing  
 17 seems to be going in and out -- and so they just --  
 18 they designed it so that it had the uses that they  
 19 thought made sense for the building and I don't  
 20 think -- you know, I think they lined it up quite  
 21 purposefully and with the entry, but in terms of  
 22 other aspects, I think it was a financial decision.  
 23 MR. HANNA: Thank you.  
 24 CO-CHAIRWOMAN FOSTER: Please remember  
 25 to sign in.

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1 MS. WALLACE: Okay.  
 2 (Ms. Wallace signs in.)  
 3 MS. WALLACE: Okay. My name is Nancy  
 4 Wallace, I live at 28 Maple Avenue. That's loud.  
 5 Getting back to a point that Janet  
 6 made, and I think you did answer it but I didn't get  
 7 the full thing. My main concern, one of my main  
 8 concerns about demolition of a building in a  
 9 historic district, what kind of precedent does that  
 10 set? I think you did answer it, you said not  
 11 necessarily, but I -- I think I have to disagree  
 12 with that. I mean, you take a building --  
 13 MR. WOLFSON: Question.  
 14 MR. LOUGHLIN: Ma'am, ma'am --  
 15 MS. WALLACE: Well, my question is,  
 16 you had answered Janet, she had asked you about  
 17 that, are we going to be bound in the future to  
 18 other buildings in the historic district. Is that  
 19 -- is that what you --  
 20 CO-CHAIRWOMAN FOSTER: That's the  
 21 question, yes.  
 22 MS. WALLACE: No, but that is what  
 23 your question --  
 24 CO-CHAIRWOMAN FOSTER: Yes, that was  
 25 my question.

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1 MS. WALLACE: Did you answer that,  
 2 that that's not necessarily [sic]?  
 3 MR. HATCH: Right, so --  
 4 CO-CHAIRWOMAN FOSTER: Let him answer.  
 5 MR. HATCH: Yeah, so the way I  
 6 answered, so my anecdotal experience, that that is  
 7 not the case, that demolition is always considered  
 8 to be a drastic move in a historic district and that  
 9 one demolition doesn't set a precedence for another.  
 10 That being said, I'll just clarify my  
 11 point about the ordinance. So setting a precedence  
 12 is -- is not the issue here, I think your ordinance  
 13 is the issue, so...  
 14 MS. WALLACE: Okay. Well, thank you.  
 15 I just wanted to clarify that because that's a  
 16 concern that I think a lot of people have and thank  
 17 you for clarifying that --  
 18 MR. HATCH: Sure.  
 19 MS. WALLACE: -- and ordering them to  
 20 --  
 21 CO-CHAIRWOMAN FOSTER: Thank you.  
 22 MS. WALLACE: -- fix it.  
 23 MR. HATCH: Although, unfortunately,  
 24 the issue is you can't fix the ordinance, it's going  
 25 to have to be the Borough Council.

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1 MS. WALLACE: Yeah.  
 2 CO-CHAIRWOMAN FOSTER: We can fix it  
 3 eventually.  
 4 MS. WALLACE: Okay. Thank you.  
 5 MR. WOLFSON: Just for clarity of the  
 6 record, can I ask Mr. Hatch if the reference that  
 7 he's making is to the fact that a property owner, no  
 8 matter what happens in the process, has the right to  
 9 demolish the building?  
 10 MR. HATCH: Yes.  
 11 MR. WOLFSON: Thank you.  
 12 UNIDENTIFIED MEMBER OF THE PUBLIC:  
 13 Can you say that again? What was that question?  
 14 CO-CHAIRWOMAN FOSTER: I think some  
 15 people in the audience are interested in your  
 16 answer, it wasn't clearly broadcast. Could you just  
 17 repeat --  
 18 MR. WOLFSON: My question?  
 19 CO-CHAIRWOMAN FOSTER: Your question,  
 20 yes.  
 21 MR. WOLFSON: My question was: Is the  
 22 problem that Mr. Hatch was referring to with the  
 23 ordinance the fact that no matter what happens in  
 24 the process, the property owner has the right to  
 25 demolish the building?

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1 MR. HATCH: And my answer was yes, I  
 2 consider that to be a problem with the ordinance.  
 3 CO-CHAIRWOMAN FOSTER: Yes. I think  
 4 Mr. Loughlin explained that at the start of our  
 5 meeting last tame, that the Madison ordinance, all  
 6 preservation ordinances are local, if I may speak.  
 7 Ours allows discussion on potential conditions on a  
 8 demolition. We can vote against it or for it, but  
 9 ultimately, an applicant has a right to -- a  
 10 property right to demolish what is on the property  
 11 after -- after consideration, so that is -- that is  
 12 the law, that is what we're working within, and  
 13 we're trying very hard to make it as informative --  
 14 as informed a decision as possible.  
 15 Are there other questions of Mr. Hatch  
 16 from the public?  
 17 MS. KOLAKOWSKI: Hi. Sandy  
 18 Kolakowski, Park Avenue, Madison.  
 19 Mr. Hatch, you did talk about a number  
 20 of viable movie theaters, and in your report, when  
 21 you talked about them, you made some conjecture that  
 22 these venues are smaller, all smaller than that  
 23 Lyons Madison, and one of the theaters that you  
 24 talked about was the County Theater, which has been  
 25 in a survey that our group did quite a while ago.

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1 Would it surprise you to know that  
 2 they're in the middle of -- first of all, they had  
 3 two screens and seating capacity of 377 --  
 4 MR. WOLFSON: Excuse me, to the extent  
 5 that she's going to testify, this is a time for  
 6 questions.  
 7 MR. LOUGHLIN: Were you sworn before?  
 8 MS. KOLAKOWSKI: No.  
 9 S A N D Y K O L A K O W S K I, Park Avenue,  
 10 Madison, is sworn.  
 11 MR. LOUGHLIN: You're somewhat  
 12 constrained, ma'am --  
 13 MS. KOLAKOWSKI: Okay.  
 14 MR. LOUGHLIN: Just let me make --  
 15 maybe this will be helpful. You're not permitted to  
 16 testify --  
 17 MS. KOLAKOWSKI: Okay.  
 18 MR. LOUGHLIN: -- you're permitted to  
 19 ask him is he aware of certain situations that would  
 20 pertain to his testimony and follow up with  
 21 questions --  
 22 MS. KOLAKOWSKI: Okay.  
 23 MR. LOUGHLIN: -- that relate to what  
 24 he has said, as opposed to what you perhaps would  
 25 like to argue at the Board at a later -- the

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1 Commission at a later point. Thank you.  
 2 MS. KOLAKOWSKI: All right.  
 3 Well, speaking of this county theater,  
 4 would it surprise you to know that they're in the  
 5 middle of a \$4 million capital campaign to add a  
 6 180-seat screen theater?  
 7 MR. HATCH: Am I surprised?  
 8 MS. KOLAKOWSKI: (Ms. Kolakowski  
 9 nods.)  
 10 MR. HATCH: No, because I am aware of  
 11 it.  
 12 MS. KOLAKOWSKI: Then isn't it a  
 13 little bit unclear to say that a smaller venue would  
 14 be unsuccessful?  
 15 MR. HATCH: So --  
 16 MS. KOLAKOWSKI: I guess --  
 17 MR. HATCH: I'm going to say it two  
 18 ways. So I think it's still smaller, even with the  
 19 expansion. The county theater is a really special  
 20 situation and has been around for a long time and  
 21 has been very successful at raising funds and in  
 22 promoting itself. So I think it is a premier  
 23 example of how a downtown has preserved a theater  
 24 and is now, because of its long-time efforts, is now  
 25 able to -- to do fundraising to expand it. I don't

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1 know if it raised the amount -- the full amount of  
 2 money yet so I don't know when construction is  
 3 starting, but I know that that is in the works.  
 4 It isn't a niche movie theater, it is  
 5 -- it shows -- it tends to show -- I haven't been  
 6 there in a while, I used to go there regularly --  
 7 independent films, so it's a very particular kind of  
 8 a theater.  
 9 MS. KOLAKOWSKI: Right, but those  
 10 kinds of theaters exist all across the country, I  
 11 think, again, that are expanding at this time  
 12 because of the success of local venues.  
 13 MR. HATCH: I can't speak to that. I  
 14 know that there are some around the country and  
 15 perhaps some are expanding, so...  
 16 MS. KOLAKOWSKI: Well, I guess, would  
 17 it surprise you to know that, you know, in our  
 18 conversations with the county theater, when we  
 19 described our theater, the comment was "We would  
 20 have given our eye teeth for that venue"?  
 21 MR. HATCH: I couldn't say. I  
 22 couldn't say.  
 23 MS. KOLAKOWSKI: Right, but they were  
 24 pleased, I mean, that kind of setup is probably more  
 25 economically viable than what they started with.

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1 MR. WOLFSON: I just have to object.

2 CO-CHAIRWOMAN FOSTER: Any other

3 questions?

4 MR. WOLFSON: To the statement.

5 CO-CHAIRWOMAN FOSTER: Any other

6 questions?

7 MS. KOLAKOWSKI: I'm sorry, I have a

8 minute left?

9 CO-CHAIRWOMAN FOSTER: I gave you

10 extra time, Sandy, so move on.

11 MS. KOLAKOWSKI: Okay, just one more.

12 CO-CHAIRWOMAN FOSTER: Question.

13 MS. KOLAKOWSKI: Question. Would you

14 consider the corridor that we're sitting in now,

15 going through to the train station and going across

16 to the movie theater, to be a significant corridor

17 for a historic district?

18 MR. HATCH: Yeah, I do think it's an

19 important corridor, it's an important axis and it's,

20 you know, on one end of the axis is Hartley Dodge

21 Memorial and the other is what was the movie

22 theater, so I think it's an important -- you know, I

23 said before, I think it's a very important site.

24 MS. KOLAKOWSKI: So anything that

25 could be done to preserve it should be done.

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1 MR. HATCH: You're putting words in my

2 mouth but -- I mean, I've said --

3 MS. KOLAKOWSKI: Shouldn't anything

4 that could be done be done to preserve it then?

5 MR. LOUGHLIN: I think we're getting

6 beyond the question phase again into the statements.

7 MS. KOLAKOWSKI: Thank you.

8 CO-CHAIRWOMAN FOSTER: Are there other

9 questions -- questions, questions -- from the

10 public, regarding Mr. Hatch and his testimony to the

11 Board? And please sign in and then state your name

12 so that our cheerful, hard-working stenographer can

13 catch up.

14 (Mr. Morris signs in.)

15 MR. MORRIS: I, too, want to be

16 cheerful.

17 CO-CHAIRWOMAN FOSTER: Thank you.

18 MR. MORRIS: My name is John Morris,

19 that's M-O-R-R-I-S, for the record. I live at 27

20 Bever (phonetic) Court in Madison. I'm also the

21 president of Madison Chamber of Commerce and have

22 been for a number of years but I'm speaking as a

23 private citizen tonight.

24 My question, sir: In New Jersey, do

25 you know of any new theaters that have broken ground

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1 in the last year?

2 MR. HATCH: New theaters. I don't,

3 but I don't have exhaustive knowledge of the

4 industry but I don't.

5 MR. MORRIS: But in any of your

6 travels, have you maybe seen an inkling of new

7 ground being built? I don't know myself, I don't

8 pay much attention. The reason why I ask is

9 because, obviously, Netflix and delivery systems

10 have completely changed, buying habits have

11 completely changed, so I'm just wondering if you

12 have any firsthand knowledge.

13 MR. HATCH: No, I don't have any

14 firsthand knowledge of any that have broken ground

15 in the last year. I am working on the planning of a

16 downtown location of small, independent -- potential

17 small, independent movie theater, but that's really

18 in the planning stage, and as I said, they fit the

19 model of that kind of niche theater that I've been

20 talking about.

21 MR. MORRIS: Thank you. Another

22 question, please. Do you know of any other

23 buildings that are -- theater buildings that are in

24 a similar state of disrepair as Madison's that are

25 being brought back to life now, whether through

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1 nonprofit or private funding?

2 MR. HATCH: I don't, but I -- not in

3 my personal knowledge, no. I did go to that

4 symposium, though, so...

5 MR. MORRIS: I'm just asking just a

6 general -- so the community's educated about the

7 general state of affairs as far as theater goes --

8 MR. HATCH: Right.

9 MR. MORRIS: -- whether they're funded

10 privately, nonprofit bases, and what the appetite

11 is, actually, for a new theater or a rehabilitated

12 theater, that's what I'm thinking.

13 CO-CHAIRWOMAN FOSTER: Okay, questions

14 that relate to --

15 MR. MORRIS: Thank you.

16 CO-CHAIRWOMAN FOSTER: -- Mr. Hatch's

17 area of expertise are helpful, seeing what he's had

18 for dinner last night and not what he's having

19 tomorrow. So questions of Mr. Hatch's testimony

20 from the public, anyone else?

21 MR. WICKMAN: Can I ask in response to

22 that?

23 CO-CHAIRWOMAN FOSTER: If it's a

24 question and relevant to his testimony.

25 MR. WICKMAN: Yes. Larry Wickman,

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1 Walnut Street.

2 Working off of that specific line of

3 questioning about how there's not a lot of theaters

4 being built from the ground up anymore, the more

5 they come down make ours that much more precious or

6 rare --

7 CO-CHAIRWOMAN FOSTER: Question.

8 MR. WICKMAN: In the context --

9 CO-CHAIRWOMAN FOSTER: Question.

10 MR. WICKMAN: The more that come down

11 makes ours more historical or rare. Is that a fair

12 assessment?

13 MR. HATCH: I think it's -- it's a

14 possible assessment, so --

15 MR. WICKMAN: Yeah.

16 MR. HATCH: I mean, it partly depends,

17 I guess, on the region, on what's present in the

18 region and competition and things like that, so...

19 MR. WICKMAN: On the original

20 registration form, this theater was the only thing

21 listed for our arts and culture. Do you see

22 anything in our current historic district that's

23 arts or culture based like this?

24 MR. HATCH: I think -- I mean, you

25 have a museum. Yeah?

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1 MR. WICKMAN: Right, but I mean

2 something for mass audiences.

3 MR. HATCH: Like a performance space

4 or something like that?

5 MR. WICKMAN: Yes.

6 MR. HATCH: Not that I know of in the

7 district, so...

8 MR. WICKMAN: Okay. So our historic

9 district is void of that type of activity, I'm

10 assuming.

11 CO-CHAIRWOMAN FOSTER: Well, you're

12 assuming and he doesn't know.

13 MR. WICKMAN: Okay.

14 CO-CHAIRWOMAN FOSTER: That's not

15 really a question on --

16 MR. WICKMAN: It's a statement. Okay.

17 There's a theater in Phoenixville,

18 Pennsylvania, which is an hour north, called the

19 Colonial Theater. That theater not only restored

20 itself --

21 MR. WOLFSON: Can we have a question,

22 please?

23 MR. LOUGHLIN: I'm sorry.

24 MR. WICKMAN: I have a question.

25 MR. LOUGHLIN: It's like jeopardy, you

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1 have to make it a question, not a statement of what

2 you --

3 MR. WICKMAN: Got it.

4 MR. WOLFSON: And a relevant question,

5 too.

6 MR. WICKMAN: Yes, relevant.

7 MR. LOUGHLIN: To his testimony.

8 MR. WICKMAN: Okay. So they kept

9 their theater and they also just bought the deserted

10 bank building next door. A theater can reestablish

11 a historic zone and actually build upon it, so this

12 is an old theater that is not niche --

13 CO-CHAIRWOMAN FOSTER: They're

14 comments.

15 MR. WOLFSON: You know, we are so far

16 astray from a factual basis and anything else, so

17 can we --

18 MR. LOUGHLIN: We got it.

19 MR. WOLFSON: -- stick to Mr. Hatch's

20 testimony, please?

21 MR. WICKMAN: Okay, you got it. Thank

22 you, Mr. Hatch.

23 CO-CHAIRWOMAN FOSTER: Questions of

24 Mr. Hatch, right?

25 MR. WICKMAN: Right. And I will sign

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1 the sheet, which was not here when I was not up.

2 CO-CHAIRWOMAN FOSTER: That's because

3 of that mystery.

4 MS. FENNELLY: It's okay. Deborah

5 Fennelly, F-E-N-N-E-L-L-Y, 88 Constitution Way,

6 Convent Station. Sorry, I can't talk and write.

7 (Ms. Fennelly signs in.)

8 Mr. Hatch, I'm just going to ask you

9 one question. Are you at all familiar with the town

10 of Metuchen in Middlesex County?

11 MR. HATCH: You know, I am, in kind of

12 a general way. I have not been through the town in

13 quite some time, so...

14 MS. FENNELLY: I was wondering if

15 you're aware that very recently, the town of

16 Metuchen purchased the Forum Theater, which, as I

17 drove by it yesterday, is very different looking

18 from our theater but I actually think it's much less

19 attractive and actually not as old.

20 MR. WOLFSON: Can we --

21 CO-CHAIRWOMAN FOSTER: Question.

22 MR. WOLFSON: -- please have a

23 question?

24 MS. FENNELLY: I'm sorry.

25 MR. HATCH: To answer your question,

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1 I'm not familiar with it.

2 MS. FENNELLY: Okay. So may I ask you

3 just a follow-up question? So it may be that there

4 are other theaters in New Jersey that are being

5 restored --

6 MR. WOLFSON: But that is so

7 speculative --

8 MS. FENNELLY: -- you said that you're

9 not familiar.

10 MR. WOLFSON: That is so speculative

11 and irrelevant to the testimony.

12 MR. HATCH: Yes, I acknowledge that.

13 MS. FENNELLY: This is not a regular

14 trial, it's a hearing.

15 MR. WOLFSON: I know, but we have to

16 have some --

17 MS. FENNELLY: Thank you, I'm done.

18 MR. WOLFSON: -- some connection to --

19 MS. FENNELLY: Thank you.

20 MR. WOLFSON: -- reality here.

21 MS. FENNELLY: I'm done.

22 MR. LOUGHLIN: Okay, folks, folks.

23 MS. TOMASZEWSKI: Hi. Melanie

24 Tomaszewski, 46 Dean Street. My name is really long

25 so take your time with the stenographer.

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1 (Ms. Fennelly signs in.)

2 (Court reporter asks for spelling of last

3 name.)

4 MS. TOMASZEWSKI: T-O-M-A-S-Z-, as in

5 zebra, E-W-S-K-I.

6 Straight questions: Are you familiar

7 with the Darress theater in Boonton, New Jersey?

8 MR. HATCH: No.

9 MS. TOMASZEWSKI: Okay. Are you aware

10 it's been for sale for four years?

11 MR. HATCH: No, I'm not aware of that.

12 MS. TOMASZEWSKI: It is the type of

13 theater that has the screen in the middle. Do you

14 know what that's called, because I don't. It's the

15 last one in New Jersey --

16 MR. HATCH: Okay.

17 MS. TOMASZEWSKI: -- and New York.

18 MR. HATCH: No.

19 MS. TOMASZEWSKI: It's -- I'm going to

20 make a statement, I'm sorry. Do you think \$900,000

21 is fair --

22 MR. LOUGHLIN: Woah, woah, woah, woah.

23 MS. TOMASZEWSKI: Yeah.

24 MR. LOUGHLIN: You're asking him about

25 a theater he's not familiar with.

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1 MS. TOMASZEWSKI: Oh, okay.

2 MR. LOUGHLIN: He didn't mention

3 money, which is not part of his testimony.

4 MS. TOMASZEWSKI: So do you think, if

5 there was a theater --

6 MR. LOUGHLIN: Excuse me, let's not

7 talk about buying or selling theaters elsewhere,

8 okay?

9 MS. TOMASZEWSKI: Okay, sure.

10 MR. LOUGHLIN: Thank you.

11 MS. TOMASZEWSKI: If we were -- if

12 there was a town that had this as a theater that

13 George Burns performed in, over a hundred years ago,

14 and it's the theater where you walk in and the

15 screen is beyond you --

16 MEMBER OF THE PUBLIC: Reverse

17 projection.

18 MS. TOMASZEWSKI: Thank you. Pretty

19 rare, and a town like Boonton would be hurting for,

20 you know, people to come in, wouldn't somebody want

21 to renovate that type of theater?

22 MR. HATCH: It's very speculative but,

23 I mean, it sounds like --

24 MS. TOMASZEWSKI: It sounds like a

25 pretty cool deal for a town, and it's been sitting

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1 for 40 years.

2 MR. HATCH: Okay.

3 MR. LOUGHLIN: Okay.

4 MS. TOMASZEWSKI: Okay, I'm done.

5 CO-CHAIRWOMAN FOSTER: Questions from

6 the public. Are there any other questions for Mr.

7 Hatch?

8 (No response)

9 CO-CHAIRWOMAN FOSTER: Okay. If

10 you're coming, you can line up so we can be

11 efficient about this.

12 MR. LAYTON: Which --

13 CO-CHAIRWOMAN FOSTER: Sign in and

14 tell us your name.

15 MR. LAYTON: Richard Layton, 45 Green

16 Avenue.

17 CO-CHAIRWOMAN FOSTER: Thank you.

18 MR. LAYTON: You said earlier that you

19 find that niche theaters can bring people into a

20 particular town? You think that's...

21 MR. HATCH: That's been my experience

22 with some of these theaters. I mean, a good example

23 of that is the screen room in Newburyport,

24 Massachusetts. That's the one I'm most familiar

25 with.



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1 MR. LAYTON: I'm not familiar with any  
 2 of the theaters that you mentioned and I'm a very  
 3 recent transplant here, a few months, and I found  
 4 that when I looked around at various potential towns  
 5 to relocate to, that I did look at the various niche  
 6 theaters. That was attractive to me. And I can't  
 7 believe --

8 CO-CHAIRWOMAN FOSTER: So we need a  
 9 question of Mr. Hatch's testimony, not --

10 MR. HATCH: I answered your first  
 11 question.

12 MR. LAYTON: Okay. The town of  
 13 Madison, the closest movie theater is in Summit,  
 14 which is a niche theater. There seems to be an  
 15 audience in that type of thing here. Do you think,  
 16 therefore, that a theater in Madison could support  
 17 niche programming, provide house programming, that  
 18 type of programming, rather than the multiplex  
 19 theaters?

20 MR. WOLFSON: Respectfully, that's  
 21 outside of his area of expertise.

22 MR. LOUGHLIN: I think we're getting  
 23 into a statement.

24 MR. LAYTON: Okay.

25 MR. LOUGHLIN: You have to confine

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1 yourself, if you can, sir, to Mr. Hatch's testimony.  
 2 MR. LAYTON: Okay.

3 MR. LOUGHLIN: Not to talk about other  
 4 communities unless it's relevant to what he said.

5 MR. LAYTON: Okay.

6 MR. HATCH: I'm not a movie theater  
 7 consultant, sorry.

8 MR. LAYTON: Okay.

9 CO-CHAIRWOMAN FOSTER: Okay.

10 MS. KINGMAN: Nancy Kingman, 38  
 11 Longview Avenue.

12 MS. BLICKSTEIN: You have to speak  
 13 into the mic. Here, let me help you.

14 MS. KINGMAN: Nancy Kingman, 38  
 15 Longview Avenue.  
 16 (Court reporter asks for spelling of last  
 17 name.)

18 MS. KINGMAN: K-I-N-G-M-A-N. My  
 19 question is, everybody keeps referring to the  
 20 building as ordinary, not unique in any way, but my  
 21 question is: It was -- if you look around, is there  
 22 any question as far as rarity? In other words, this  
 23 ordinary 1927 building was very typical of its time,  
 24 but if you look around now in our surrounding times  
 25 or surrounding area, there aren't many of these

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1 movie theaters left and I'm wondering, should there  
 2 be some criteria that includes its uniqueness as  
 3 something unique that exists now that still exists,  
 4 where it doesn't exist in other towns? If you look  
 5 at Summit, they used to have one, Morristown is now  
 6 the Mayo, and Madison. One other question --

7 MR. HATCH: So let me just answer your  
 8 question first.

9 MS. KINGMAN: Okay.

10 MR. HATCH: So you're talking about --  
 11 so even if it wasn't, at the time it was built, a  
 12 unique or fancy or unusual building, just, you know,  
 13 over time, downtown movie theaters have been  
 14 demolished, and I think that that is -- that's a  
 15 valid concern. It's a valid concern, so...

16 MS. KINGMAN: I mean, if something is  
 17 ordinary of another era, and Madison's sort of  
 18 unique because it has a small-time feeling, it  
 19 hasn't changed that much, doesn't that make it  
 20 unique, this theater?

21 MR. HATCH: It --

22 MS. KINGMAN: Compared to other areas.

23 MR. HATCH: I mean, I think it has to  
 24 be the importance of the building and it's certainly  
 25 one of the considerations.

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1 MS. KINGMAN: I mean, if it was the  
 2 only one left in the surrounding 500 miles, would  
 3 that make it important?

4 MR. HATCH: Well, that certainly  
 5 would, but I know that there are other ones within  
 6 500 miles, so...

7 MS. KINGMAN: Okay, a hundred?

8 MR. HATCH: Even a hundred.

9 MS. KINGMAN: But if things -- I mean  
 10 the movie theaters -- new movie theaters now,  
 11 they're usually built in strip malls or things like  
 12 that, right?

13 MR. HATCH: Yes, that's correct, so --

14 MS. KINGMAN: You're not going to have  
 15 another building like this.

16 MR. HATCH: Built like that, that's  
 17 correct.

18 MS. KINGMAN: And it's representative  
 19 of the town that it's in, in terms of --

20 MR. HATCH: Yeah, I've already --

21 MS. KINGMAN: Okay.

22 MR. HATCH: Yes, I think that's --

23 MS. KINGMAN: Okay.

24 MR. HATCH: That's part of what I've  
 25 addressed in my report.

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1 MS. KINGMAN: Okay. And then one  
 2 other question. We talked about how --  
 3 (Timer goes off.)  
 4 CO-CHAIRWOMAN FOSTER: I'm sorry.  
 5 MS. KINGMAN: Just one thing. Could  
 6 anybody look at the ceiling, please? I mean, has  
 7 this been covered --  
 8 MR. LOUGHLIN: Now we're in  
 9 statements.  
 10 MS. KINGMAN: It's a question.  
 11 MR. LOUGHLIN: I didn't hear a  
 12 question. Go ahead.  
 13 MS. KINGMAN: I said: Could anybody  
 14 look at the ceiling of this theater?  
 15 MR. LOUGHLIN: We're asking him.  
 16 MS. KINGMAN: Yes I know but --  
 17 MR. LOUGHLIN: You're asking if he  
 18 looked at the ceiling, that's the question.  
 19 MS. KINGMAN: Oh. Could anybody look  
 20 at the ceiling before they decide to demolish it?  
 21 MR. HATCH: Sure, that's possible.  
 22 MS. KINGMAN: Because I think that  
 23 could be a very unique feature. It might not be in  
 24 good shape but you have to look at it to find out.  
 25 Okay.

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1 CO-CHAIRWOMAN FOSTER: Thank you.  
 2 MR. WOLFSON: Just for the record,  
 3 there's numerous observations in all of the reports  
 4 that are in the record regarding the ceiling and all  
 5 the other elements of the building.  
 6 CO-CHAIRWOMAN FOSTER: Okay, the  
 7 gentleman behind you was actually up here first.  
 8 MS. COREA: Oh, I'm sorry. I'm going  
 9 to be very, very quick and it is a pertinent  
 10 question. My name's Carol Corea and I'm from East  
 11 Hanover.  
 12 (Court reporter asks for spelling of last  
 13 name.)  
 14 MR. LOUGHLIN: Did you sign in?  
 15 MS. COREA: Yes, I will.  
 16 MR. LOUGHLIN: Okay.  
 17 MS. COREA: Very quick question. Now  
 18 I completely forgot what my question was. I'm  
 19 sorry, let me sign in.  
 20 (Ms. Corea signs in.)  
 21 MS. COREA: I'm sorry, I completely  
 22 lost my train of thought. If I think of it, I'll --  
 23 CO-CHAIRWOMAN FOSTER: Why don't you  
 24 let the gentleman in the plaid step in like he was  
 25 intending to. Thank you.

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1 MR. MEHARG: Dan Meharg, it's  
 2 M-E-H-A-R-G, and I live at 37 Greenwood Avenue, and  
 3 I was hoping that you could speak a little bit more  
 4 about the uniqueness of coming out of the train  
 5 station, so if you worked in New York City all day  
 6 long and you're tired and you get to the train  
 7 station --  
 8 CO-CHAIRWOMAN FOSTER: Question.  
 9 MR. MEHARG: I'm talking about the  
 10 uniqueness of this situation. You see that marquis  
 11 right there with movie theater and what you can  
 12 watch, the entertainment value for commuters from  
 13 Madison who use Madison as a station. It's a big --  
 14 it's a unique draw, is it not, that you get to see  
 15 what entertainment is available after a long day of  
 16 work?  
 17 MR. HATCH: I would think that that's  
 18 part of the reason why it was put there to begin  
 19 with. So when it was fully up and running and the  
 20 marquis was going and all the lights were on and the  
 21 people were going in and out, it probably was a nice  
 22 thing to have at that location, sure.  
 23 MR. MEHARG: And do you see that as a  
 24 unique feature?  
 25 MR. HATCH: As a unique feature. I

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1 think -- you know, there are many -- train stations  
 2 -- development around train stations were often  
 3 designed to try to take advantage of that travel, so  
 4 I can't say that I've seen a movie theater in that  
 5 exact position but kind of urbanistically, that  
 6 makes sense because you want to take advantage of  
 7 the travel.  
 8 MR. MEHARG: So how many movie  
 9 theaters in New Jersey still have that feature?  
 10 MR. HATCH: Which feature?  
 11 MR. MEHARG: That you can see what  
 12 movies are available as you get off the train as you  
 13 come into the arches.  
 14 MR. HATCH: I have no idea. Probably  
 15 not many.  
 16 MR. MEHARG: So is that super  
 17 important to consider then?  
 18 MR. HATCH: I would say it is -- it's  
 19 what makes that particular site important is that  
 20 it's on axis, it's one of the entrances to the train  
 21 station. So it is an important site in Madison and  
 22 that's why -- yeah.  
 23 MR. MEHARG: Yeah, I was just going to  
 24 say the egress, the leaving on the train, isn't that  
 25 the -- you referred to it as an entrance, but isn't

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1 the exit off the train --

2 MR. HATCH: Sure.

3 MR. MEHARG: -- and seeing the theater

4 super important?

5 MR. HATCH: Yup.

6 MR. MEHARG: All right, thank you.

7 Thank you.

8 MR. HATCH: Did you remember your

9 question?

10 MS. COREA: I'm sorry. I'm sorry,

11 it's been a long day.

12 CO-CHAIRWOMAN FOSTER: It has, it's

13 been a long meeting, so that's why we're -- if

14 anyone has any further questions, be articulate,

15 don't repeat what other people are saying, and --

16 MS. COREA: Oh, I do know what --

17 CO-CHAIRWOMAN FOSTER: All right. Ms.

18 Corea.

19 MS. COREA: Very quickly. Are your

20 reports available to the public to see, are they

21 somewhere available online or somewhere that --

22 CO-CHAIRWOMAN FOSTER: Yeah. They

23 don't get them online --

24 MS. COREA: Okay.

25 CO-CHAIRWOMAN FOSTER: -- but you go

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1 to Fran Gordon's office, second floor of the Hartley

2 Dodge, the Building Department, she has all the

3 reports from all our witnesses --

4 MS. COREA: Okay.

5 CO-CHAIRWOMAN FOSTER: -- from John

6 Hatch, the original developer's plans, the

7 supplemental developer's plans, and she's there from

8 8 to 5 every day.

9 MS. COREA: Okay, great. Thank you.

10 CO-CHAIRWOMAN FOSTER: Okay.

11 MR. LOUGHLIN: It would appear we're

12 talking about rescheduling at this point.

13 CO-CHAIRWOMAN FOSTER: It would appear

14 that we're talking about winding this up for

15 tonight. Thank you all for your attention and

16 patience. I think we need to continue and return to

17 --

18 MS. BLICKSTEIN: I have one.

19 CO-CHAIRWOMAN FOSTER: Oh, I'm sorry.

20 MS. BLICKSTEIN: Just procedural.

21 CO-CHAIRWOMAN FOSTER: Okay.

22 MS. BLICKSTEIN: I think this has

23 already been addressed but I believe we'll need

24 another letter, a voluntary extension from the

25 applicant --

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1 MR. WOLFSON: Yes, so --

2 MS. BLICKSTEIN: -- time-wise.

3 MR. WOLFSON: -- Mr. Loughlin raised

4 that with me on a telephone call and we'll grant

5 that, depending on what the --

6 MS. BLICKSTEIN: Okay.

7 MR. WOLFSON: -- the extension date

8 is.

9 MS. BLICKSTEIN: Okay. Thank you.

10 MR. WOLFSON: So if I can offer a

11 couple of dates that our team is all available in

12 terms of the people that would need to be here. The

13 22nd and 23rd of April.

14 CO-CHAIRWOMAN FOSTER: Yes. April

15 22nd or 3rd, yes. Is that it?

16 MR. WOLFSON: We have fall-back dates,

17 but if we can make one --

18 CO-CHAIRWOMAN FOSTER: These are your

19 preferences.

20 MR. WOLFSON: Yes.

21 CO-CHAIRWOMAN FOSTER: Okay. How do I

22 do this, poll ourselves right now and find out do we

23 have a quorum on those nights? And do we have

24 space, is the other question.

25 MS. BLICKSTEIN: It may be that the

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1 best we can do is come up with a few options because

2 then we need to go through Fran to find out whether

3 we have space in this building --

4 MR. WOLFSON: Okay.

5 CO-CHAIRWOMAN FOSTER: -- or whether

6 we have to adjourn to another building.

7 MS. BLICKSTEIN: Correct.

8 CO-CHAIRWOMAN FOSTER: And that being

9 the two days after Easter, that might be more of a

10 challenge for that other space.

11 Okay, so we'll talk to the town about

12 those two ideal dates. Do you have one more less

13 than ideal date that might work just to throw it in

14 the mix right now?

15 MR. WOLFSON: Yeah, the 6th or the 7th

16 of May.

17 CO-CHAIRWOMAN FOSTER: May 6th or --

18 MS. BLICKSTEIN: 7th is a Planning

19 Board hearing in this room.

20 MR. WOLFSON: Okay.

21 CO-CHAIRWOMAN FOSTER: May 6th. Okay,

22 let's try all those and send a note to our Board,

23 our Commission, and see if we're -- if we can land

24 on a date, and meanwhile, we'll talk to the town and

25 we'll get back to you, or Mr. Loughlin, ASAP.

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1 MR. WOLFSON: Okay. Will you post --

2 MR. LOUGHLIN: You have to publish.

3 MR. WOLFSON: What's that?

4 CO-CHAIRWOMAN FOSTER: You have to

5 publish.

6 MR. WOLFSON: Right. Thank you.

7 MR. LOUGHLIN: So we'll have to come

8 to a conclusion real quick.

9 MR. WOLFSON: Thank you.

10 MR. LOUGHLIN: So we stipulate this

11 evening, Mr. Wolfson, because the extension must be

12 granted --

13 MR. WOLFSON: We'll grant an extension

14 to --

15 MR. LOUGHLIN: -- you'll grant an

16 extension beyond this meeting through those proposed

17 meeting dates?

18 MR. WOLFSON: Yes, sir.

19 MR. LOUGHLIN: That's why I was

20 shaking my head.

21 MR. WOLFSON: Yes, sir.

22 MR. LOUGHLIN: Thank you.

23 I am going to communicate with the

24 attorney, who has registered an interest in these

25 proceedings. Ms. Donato, as I mentioned to the

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1 Board, I received correspondence from her earlier

2 today, so I will respond to her as soon as we have a

3 date agreed to. Is that acceptable?

4 CO-CHAIRWOMAN FOSTER: (Co-Chairwoman

5 Foster nods.)

6 MR. LOUGHLIN: Thank you. And of

7 course, Mr. Wolfson, you'll get copies of all

8 communications.

9 MR. WOLFSON: Thank you, I appreciate

10 that.

11 CO-CHAIRWOMAN FOSTER: Okay.

12 MR. WOLFSON: And thanks to the entire

13 group here tonight for your continuing patience --

14 CO-CHAIRWOMAN FOSTER: Likewise.

15 MR. WOLFSON: -- and attention, we

16 appreciate it.

17 CO-CHAIRWOMAN FOSTER: Thank you,

18 everyone, for coming.

19 MS. KOLAKOWSKI: Are there comments or

20 public comment period?

21 MR. LOUGHLIN: Not this evening. The

22 hearing will follow as we announced it in the

23 beginning. It follows the format of public meetings

24 under the Municipal Land Use Law. The application

25 is presented by the applicant and the witnesses

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1 testify, they're questioned. At the end of the

2 presentation, there'll be an opportunity for

3 statements or other items in evidence to be offered

4 to the Board. That's the established procedure, not

5 to have comments during the course of the

6 proceedings. We announced that before and that

7 remains the procedure the Board will follow.

8 MS. KOLAKOWSKI: Right.

9 MR. LOUGHLIN: Thank you for your

10 understanding.

11 MS. KOLAKOWSKI: Mr. Loughlin, can the

12 NRDC --

13 MR. LOUGHLIN: I'm sorry, I didn't

14 hear you.

15 MS. KOLAKOWSKI: NRDC are here, as I

16 notified you earlier. Can they provide a witness?

17 I e-mailed you earlier.

18 MR. LOUGHLIN: Are you talking about

19 -- I can't comment on who's going to testify.

20 MS. KOLAKOWSKI: No.

21 MR. LOUGHLIN: If you --

22 MS. KOLAKOWSKI: Tonight.

23 MR. LOUGHLIN: I'm sorry?

24 MS. KOLAKOWSKI: During the day today,

25 I notified you that NRDC would be putting comment in

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1 tonight.

2 MR. LOUGHLIN: Okay.

3 MS. KOLAKOWSKI: Can they do that?

4 They have an expert witness.

5 MR. LOUGHLIN: Comments this evening,

6 no. And as far as a presentation of proofs, if

7 you're saying -- ma'am, will you rise and come

8 forward, please?

9 MS. KOLAKOWSKI: Me?

10 MR. LOUGHLIN: Yes, please.

11 MS. KOLAKOWSKI: I'm not going to be

12 the one testifying but yes, I will.

13 MR. LOUGHLIN: I understand, but we

14 have rules of procedure.

15 Who is appearing and what they're going

16 to do has to be explained to the Board. Ms. Donato

17 has registered an interest in coming forward to

18 represent the Save Our Theater group. You sent an

19 e-mail that says representatives of...

20 MS. KOLAKOWSKI: National Resources

21 Defense Council.

22 MR. LOUGHLIN: Who intend to come into

23 this hearing, is that your advice to the Board?

24 MS. KOLAKOWSKI: My understanding is,

25 is that they wanted to provide testimony.

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1 MR. LOUGHLIN: Okay. Well, they can  
2 provide testimony based on what they're going to  
3 produce. They'd have to indicate what their  
4 interest is in the proceeding and what they intend  
5 to offer. Just as we share reports at proceedings,  
6 you can't just say "I may show up" or "I may have  
7 something to say." There will be an opportunity for  
8 that to be done. I would suggest that whoever is  
9 going to come in to either make a presentation  
10 through evidence or proofs or expertise, register  
11 that, in writing, with either the secretary of the  
12 Board, drop it off at Ms. Ortman's (phonetic) or  
13 communicate with me so we know who's going to come  
14 in and what they're going to say. That's how we're  
15 operating.

16 MS. KOLAKOWSKI: I thought I did that  
17 this morning.

18 MR. LOUGHLIN: No, you indicated there  
19 are representatives who may be present. That's the  
20 order of march for the hearing, and this morning, in  
21 fairness to the applicant, everyone has to  
22 understand the order of, shall we say, proceedings,  
23 what's going to happen, who's going to participate,  
24 and what the interest is. To simply say a  
25 representative of an organization may come in and

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1 make statements is not sufficient to present a case.  
2 If you wish to present a case into evidence, you're  
3 permitted to do so, but you should go on notice with  
4 the Commission and say who's going to come in and  
5 what they intend to say. Okay?

6 MS. KOLAKOWSKI: Right, I understand  
7 that, but if you recall the transfer of the e-mails,  
8 Ray Codey wrote to you and said that that would  
9 happen and then I wrote to you and told you that was  
10 going to happen and you never -- you said you  
11 received it.

12 MR. LOUGHLIN: I received it today; is  
13 that correct?

14 MS. KOLAKOWSKI: Yes.

15 MR. LOUGHLIN: Today. So I'm saying  
16 to you, please, the way we're going to proceed is,  
17 again, I request that whoever it is that you believe  
18 is going to come forward and offer comments or  
19 evidence, that if that's going to represent you --

20 MS. KOLAKOWSKI: Not representing us.

21 MR. LOUGHLIN: Okay, well, I don't  
22 know who they represent or what their interest is in  
23 the proceeding, but they should register with the  
24 Commission if they intend to present evidence or  
25 proofs. If they want to make comments, they can

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1 make comments at the end of the proceeding.

2 MS. KOLAKOWSKI: Comment period.

3 MR. LOUGHLIN: Okay? Thank you.

4 MR. WOLFSON: And Madam Chair, we're  
5 going to be interested to --

6 MR. LOUGHLIN: And I think that's been  
7 pretty clear, folks, from the beginning. It's not  
8 that anything is different from when we started.  
9 That's the way all land use hearings proceed. And  
10 people have the right to present their viewpoint,  
11 statements or arguments or evidence, but it has to  
12 come at the right time. Thank you.

13 MR. WOLFSON: We appreciate that.  
14 We're going to want to understand the group. I went  
15 on the website, I didn't understand the connection  
16 to historic preservation, but there are questions of  
17 standing and relevance too, so if those  
18 representatives can comply with the suggestion, that  
19 will help us to --

20 CO-CHAIRWOMAN FOSTER: Well, absolutely  
21 --

22 MR. WOLFSON: Thank you.

23 CO-CHAIRWOMAN FOSTER: -- and with  
24 time so we can all read it and digest it --

25 MR. WOLFSON: Thank you.

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1 CO-CHAIRWOMAN FOSTER: -- and  
2 understand what is happening.

3 MR. LOUGHLIN: I think the Commission  
4 is committed to conducting fair hearings on notice  
5 and for all viewpoints to be properly heard and  
6 considered, but we have to follow certain procedures  
7 as to how the hearings will proceed so that everyone  
8 has an opportunity to fairly participate and that  
9 all points of view that people want to come forward,  
10 they have the opportunity to do so, but it's at the  
11 right time, so that's why anyone who has any formal  
12 position should register that in writing other than  
13 the appearance, offer comments or an opinion to the  
14 Board at the later stage of these hearings. We  
15 appreciate everyone's cooperation. It's a little  
16 bit unusual proceeding for the Commission to conduct  
17 these type of hearings, so thanks again.

18 CO-CHAIRWOMAN FOSTER: So we've  
19 concluded -- we've heard our structural engineers  
20 from both sides, we've heard our preservation  
21 advisors from both sides, we've heard the initial  
22 application from the developer; I think it's time to  
23 come back to Mr. Gertler and the refinement of his  
24 design. When we meet again on one of those happy  
25 days, maybe April 22nd, and go through the

1 revisions, at that point after he presents these  
 2 revised designs, there'll be time again for public  
 3 questions of Mr. Gertler on his testimony from the  
 4 meeting we haven't even heard yet. Please rewind  
 5 two months and make us all try to remember what  
 6 happened because that -- that was then and this is  
 7 now. We're going to move forward with that design  
 8 and it'll be questions for Mr. Gertler, then I  
 9 believe we will have the applicant's summation of  
 10 their position on this, closing remarks, and then we  
 11 open it to public comment, and then I don't have to  
 12 tell you it's a question, it can be a comment, but  
 13 depending on how many hundreds of people want to  
 14 comment, I'm going to be really strict about three  
 15 minutes because if a hundred people show up and want  
 16 to comment, then it's hours and hours and hours, so  
 17 we're going to have to encourage people to be clear,  
 18 brief and to the point so that we just don't want  
 19 to, you know, be upset because we're sitting till  
 20 all hours. Clear enough?  
 21 MR. WOLFSON: Yeah, I just have one  
 22 other point --  
 23 CO-CHAIRWOMAN FOSTER: Yes.  
 24 MR. WOLFSON: -- just talking to the  
 25 client. I just have a concern that, because we

1 further public notice, that this -- unless that  
 2 happens, this application will be continued at the  
 3 regular May meeting of the Commission, which is --  
 4 May 14th?  
 5 CO-CHAIRWOMAN FOSTER: Yes.  
 6 MR. LOUGHLIN: -- May 14th at 7:30  
 7 p.m. So watch the website and the, you know, keep  
 8 in touch with the Commission office as to following  
 9 the next date, but that's the official continuation  
 10 date this evening unless it's re-noticed for a  
 11 different time. But again, please monitor the  
 12 Borough's website. Thank you.  
 13 CO-CHAIRWOMAN FOSTER: Okay.  
 14 MR. WOLFSON: Thank you.  
 15 CO-CHAIRWOMAN FOSTER: I believe we  
 16 are adjourned.  
 17 (Hearing adjourned at 10:23 p.m.)  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 don't know the availability of the room and the  
 2 availability of everybody, that we really are  
 3 leaving without a specific date, so our suggestion  
 4 would be if one of these interim dates can't work,  
 5 then we would do it on your regular May 14th date.  
 6 CO-CHAIRWOMAN FOSTER: May 14th.  
 7 That's a fall-back but you'd like to go sooner.  
 8 MR. WOLFSON: We would, but I think --  
 9 CO-CHAIRWOMAN FOSTER: Understood.  
 10 MR. WOLFSON: I think if we let the  
 11 public know that if we can't get a regular date,  
 12 which will be noticed in accordance with the law --  
 13 CO-CHAIRWOMAN FOSTER: Right.  
 14 MR. WOLFSON: -- that would be a fall-  
 15 back, because theoretically, everybody will be  
 16 available on that date.  
 17 MR. LOUGHLIN: That's may 14th?  
 18 CO-CHAIRWOMAN FOSTER: Right, the  
 19 second Tuesday is the regularly scheduled meeting,  
 20 but we'll see if we can do something in between.  
 21 MR. WOLFSON: Thank you.  
 22 MR. LOUGHLIN: Did everyone hear that?  
 23 The applicant is indicating if there is not a  
 24 further hearing date arranged according to the April  
 25 dates or first week in May, which will require

C E R T I F I C A T E

I, MICHELE QUICK, a Certified Court Reporter, Registered Merit Reporter, Certified Realtime Reporter of the State of New Jersey, authorized to administer oaths pursuant to R.S. 41:2-1, do hereby state that the foregoing is a true and accurate verbatim transcript of my stenographic notes of the within proceedings, to the best of my ability.

*Michele Quick*

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