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June 24, 2019

BY EMAIL TRANSMISSION ONLY

Janet Foster, Co-Chair
Mary Ellen Lenahan, Co-Chair and
Members of the Madison Historic Preservation Commission
Hartley Dodge Memorial Building
50 Kings Road
Madison, NJ 07940

Re: Madison Historic Preservation Commission/Madison Movie
Development, LLC Application to demolish the Madison
Theater and for site plan approval and variances

Dear Ms. Foster & Ms. Lenahan:

After the decision of the Historic Preservation Commission, my client conducted a request for public records and obtained forty-two pages of documents between June 12, 2018 and June 12, 2019.

Lisa Ellis, a Borough employee ex-officio member of the Downtown Development Commission and the Director of Business Development for Madison exchanged several emails with Anthony Rinaldi, a principal of the Saxum Group, the applicant before the Commission. Architect Jeffrey Gertler participated in some of these emails regarding the Theater. The attached emails that are summarized in this letter reveal that the applicant misrepresented important facts to the Commission regarding efforts to market the property for Theater use.

June 24, 2019

It appears that Ms. Ellis was actively involved in the development of the property. In her email of July 9, 2018, she wrote to Mr. Rinaldi and stated that the developer should "have an internal meeting first, so that Ray and the mayor understand what exactly you would like the strategy with Grieco would be [sic]."

On July 9, Mr. Rinaldi replied "just to clear the air - **we are not marketing the building for sale whatsoever. If we ever do sell it, it will be to Bollywood as we have an agreement with them** but this would only happen if we don't make progress on the development. So to reiterate , the only option we are entertaining is developing this site ourselves if we can get these issues resolved and real support or selling to Bollywood . **I have zero interest in selling to anyone else.**" (emphasis supplied)

In another email of February 4, 2019, Ms. Ellis again wrote to Mr. Rinaldi and to Mr. Gertler, the architect. Referring to her discussion with Ray Codey, she relayed that "he feels very strongly that it is essential for the volunteer boards to hear the message from multiple source. [sic]"

In another email from Ms. Ellis undated, she refers to a statement dated February 9, 2019 that was circulated by Tom Haralampoudis to Madison residents. Mr. Codey commented that he "feels it has a tone of threat and racism."

Ms. Ellis redrafted the message to read:

"The only group that has approached Saxum with a credible offer to purchase the facility and operate a theater has been several individuals associated with a Hindi Movie theater operator . . . While Saxum has strongly considered the option of selling the building to this group, Saxum believes its current plan is the best alternative for the site, the town, the local economy and Saxum's investment partners."

In another email dated February 12, 2019 to undisclosed recipients, Mr. Haralampoudis stated "I have been led to believe there will be a large number of theater demolition protestors ... Please try to attend but if you cannot, we need you to send a brief message of support for this design to our borough DDC

June 24, 2019

official Lisa Ellis so she can relay to the HPC before tonight's meeting, advising that Madison is ready for a change and we endorse this Gertler design ..." (emphasis supplied)

These untoward words reveal that improper pressure was exerted on the Commission. These emails also clearly show that the developer had no intention of marketing this property and had rejected one offer for use of the theater.

Case law in New Jersey permits a municipal agency considering applications to revoke the decision in the event of misrepresentation. We bring these emails to your attention since they reveal blatant misrepresentations about marketing the property were presented to the Commission as evidenced in these emails.

In addition to the misrepresentations, it is apparent that interference with the independent jurisdiction of the Commission occurred. In addition, the challenge to the participation of Mr. Kellogg was partially based on his intelligent questioning of the applicant's witnesses regarding reasonable efforts to use the theater for a theater use and also on the fact that his wife signed a petition to Borough Council in favor of saving the theater. We have learned that the wife of another Commission member also signed the petition but his participation was not questioned, underscoring the selective nature of the challenge.

Given the last minute disqualification of one member and the unexplained resignation of another board member, serious concerns regarding interference with the independent action of the Commission cannot be avoided. This perception is worsened by the failure to notify me in advance of the proposed disqualification and challenge to participation. Our courts have looked with disfavor on board actions that are not independently reached.

For these reasons, we ask the Commission to reconsider its decision.

We also request that a copy of the draft resolution and information regarding the date on which the resolution is proposed for memorialization. There were several different versions of the mandatory conditions that are quite important to

Janet Foster, Co-Chair

June 24, 2019

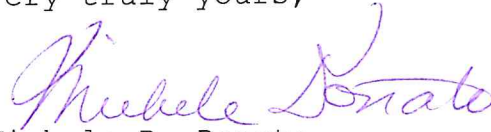
Mary Ellen Lenahan, Co-Chair and

Members of the Madison Historic Preservation Commission

Page 4

accurately reflect the decision of the Commission. Thank you for the opportunity to present this information.

Very truly yours,



Michele R. Donato

MRD:dp

Encs.

cc: Jonathan Testa, Esq.

(by email transmission only)

Peter Wolfson, Esq.

(by email transmission only)

John Hatch, Architect

(by email transmission only)

Save Madison Theatre, Inc.

Attention: Sandy Kolakowski

(by email transmission only)

William Killeen, P.E.

(by email transmission only)

Ms. Nancy L. Zerbe

(by email transmission only)

Email #2

Subject: Meeting?

Date: 2018-06-24 13:28:59

From: Lisa.Ellis.Business.Development@rosenet.org

To/Cc: jgertler@gwarch.com; arinaldi@saxumre.com

Anthony and Jeff,

After we spoke I relayed our conversation to Ray, Jim and the Mayor. If you have time Tuesday or Thursday afternoon to come in to talk and strategize just let me know and I will set something up.

Lisa Ellis

Director of Business Development

Borough of Madison

Madison Downtown

Development Commission

Cell: 201-400-2349 (talk or text)

Sent from my iPhone

Email #6

Subject: RE: Nice acquisition!

Date: 2018-07-09 10:53:45

From: Lisa.Ellis.Business.Development@rosenet.org

To/Cc: arinaldi@saxumre.com

Anthony,

Sorry for the confusion, a broker reached out to Dick and Kevin Codey saying that you were trying to sell 14 Lincoln, not 340 Main. I would love for you to acquire and develop 340 Main though...it is an eyesore! That was where I was going with that.

Peter and Ray spoke but Ray told him that he had heard that 14 Lincoln was for sale and I think that short-circuited the conversation about the meeting with Grieco. It might be better to have an internal meeting first, so that Ray and the Mayor understand what exactly you would like the strategy with Grieco would be.

Ray is away this week but we could schedule something for the following week.

Just let me know!

Thanks,

Lisa

From: Anthony Rinaldi [mailto:arinaldi@saxumre.com]

Sent: Monday, July 09, 2018 10:02 AM

To: Lisa Ellis Business Development Madison NJ <Lisa.Ellis.Business.Development@rosenet.org>

Subject: RE: Nice acquisition!

Hey Lisa,

I hope you had a great 4th of July.

Thanks for reaching out. It was good to get that acquisition done.

I am not sure who reached out on 340 Main St. We do not have any brokers representing us as I am a broker of record, however maybe someone from my firm reached out in the past, it wouldn't have been recently though. On the other hand, it could have been a random broker who pretends to rep us even though they don't, it's usually just an effort for them to kick up new deals / activity.

In regards to setting up a meeting with the town, let me get back to you. My understanding was my attorney was speaking with Ray last week and was going to see if Ray could facilitate a meeting with Greico. I will keep you posted.

Thanks,

Anthony

Anthony M. Rinaldi

Managing Principal

Saxum Real Estate

339 Jefferson Road

Parsippany, NJ 07054

www.saxumre.com

DD: 973 947 0051

arinaldi@saxumre.com

From: Lisa Ellis Business Development Madison NJ <Lisa.Ellis.Business.Development@rosenet.org>

Sent: Tuesday, July 3, 2018 11:53 AM

To: Anthony Rinaldi <arinaldi@saxumre.com>

Subject: Nice acquisition!

Tony,

I hope you had a great time in Hawaii. I am very happy to see that you are still willing to invest here! <https://re-nj.com/medical-office-building-is-saxums-latest-acquisition-in-madison/>

The property across the street from this building is crying out for redevelopment. They just lost their anchor bank, M&T closed the branch, and perhaps they would be interested in a sale. It is almost as ugly as the old theater!

I received a note this morning from Ray Codey, that Governor Codey and Kevin Codey had been approached by a broker on behalf of Saxum regarding the potential sale of the building. I understand all options have to be kept open but if you are interested, I am still happy to set up a meeting here regarding the theater site.

Just let me know. Have a Happy 4th!

Thank you,

Lisa Ellis

Director of Business Development Borough of Madison

Madison Downtown Development Commission

Cell: 201-400-2349 (talk or text) | Office: 973-245-3493

Email: business@rosenet.org

Email #7

Subject: RE: Nice acquisition!
Date: 2018-07-09 11:23:33
From: Anthony Rinaldi
To/Cc: Lisa Ellis Business Development Madison NJ

That's what Peter said, which was upsetting. Whatever broker called and said that did not have the authority to do so. Not sure why he did that and I am sorry they got that call.

Just to clear the air- we are not marketing the building for sale whatsoever. If we ever do sell it will be to Bollywood as we have an agreement with them but this would only happen if we don't make progress on the development. I truly do want to develop this site, it would be an amazing project and great win for the downtown as it is a perfect project for the site and street. That said, as I shared with you, this process has been a bit unsettling, however I remain hopeful we can figure this out collectively. So to reiterate, the only option we are entertaining is developing the site ourselves if we can get these issues resolved and real support or selling to Bollywood. I have zero interest in selling to anyone else.

Yes lets get a meeting set for next week then. Following that we can try to have a meeting with Greico set up.

Let me know some dates that work on your end.

Thanks,

Anthony
Anthony M. Rinaldi
Managing Principal
Saxum Real Estate
339 Jefferson Road
Parsippany, NJ 07054
www.saxumre.com
DD: 973 947 0051
arinaldi@saxumre.com

From: Lisa Ellis Business Development Madison NJ <Lisa.Ellis.Business.Development@rosenet.org>
Sent: Monday, July 9, 2018 10:54 AM
To: Anthony Rinaldi <arinaldi@saxumre.com>
Subject: RE: Nice acquisition!

Anthony,

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Peter and Ray spoke but Ray told him that he had heard that 14 Lincoln was for sale and I think that short-circuited the conversation about the meeting with Grieco. It might be better to have

an internal meeting first, so that Ray and the Mayor understand what exactly you would like the strategy with Grieco would be.

Ray is away this week but we could schedule something for the following week.

Just let me know!

Thanks,

Lisa

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To: Lisa Ellis Business Development Madison NJ <Lisa.Ellis.Business.Development@rosenet.org>

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arinaldi@saxumre.com

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Sent: Tuesday, July 3, 2018 11:53 AM

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Subject: Nice acquisition!

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Just let me know. Have a Happy 4th!

Thank you,

Lisa Ellis

Director of Business Development Borough of Madison
Madison Downtown Development Commission
Cell: 201-400-2349 (talk or text) | Office: 973-245-3493
Email: business@rosenet.org

Email #9

Subject: 14 Lincoln Traffic Engineering Evaluation, etc.

Date: 2019-02-04 10:40:37

From: Lisa.Ellis.Business.Development@rosenet.org

To/Cc: kflanagan@hollistercs.com; arinaldi@saxumre.com; jgertler@gwarch.com

Anthony, Kieran and Jeff,

I just wanted to share a few observations regarding the Traffic Engineering Evaluation for 14 Lincoln Place. I have been tasked with working on solutions for the merchant parking issues. I have been putting information together for the mayor and council and have presented twice in public. Last fall, we also created a small committee to work on the issue, tagged as the "Mayor's Ad Hoc Parking Committee". A parking evaluation was also done as part of the Urbanomics Downtown Revitalization Study in 2016. A lack of street parking especially for customers at peak times is an ongoing concern for business owners and Thomas Haralampoudis is one of the most vocal in this regard. This is exacerbated by the fact that merchants are parking illegally in the downtown core. Thomas also advocates continually for a parking garage. I feel very strongly that we should not even consider a parking garage that is solely a parking garage. To my mind, the only way a garage, given the ambiguous future of personal vehicles, makes sense is perhaps as a part of the mixed use development of one of our municipal lots. Even then, there would be a need to make sure the garage space can be readapted for other uses.

I noticed that there are some minor inaccuracies in your evaluation and no reference to the **Ordinance Chapter 134: Parking Lots**. I am attaching associated documents here but I thought you should be aware of some things in progress:






- Substantive changes to **Chapter 124: Parking Lots** are being proposed. Everything from renaming the lots, changing the hours for specific constituencies, and creating merchant/commercial permit parking zones on specific streets. I would note that the Green Avenue Lot is permit only (merchant/commercial and residential/tenant 24/7), this was not clear in your evaluation.
- We are working with Joe Colangelo at Boxcar on managing the existing inventory and potential public/private partnerships.
- In addition the Borough is issuing an RFP for a parking app for daily commuter parking management.
- We have also pulled in an engineer to reevaluate all existing parking lots for possible reconfiguration to expand the numbers of spaces, basic reconstruction of existing lots and to look at adding potential new surface lots on borough owned property.

Thank you for the tour of the property on Friday. It was as I expected...horrific. The two experts hired to advise the Historic Preservation Commission have confirmed your assessment of the condition of the property, but Ray Codey has asked me again to reach out to you and stress how important he believes that it will be to have your own structural engineer and historic preservation architect/expert present for the Historic Preservation Commission on February 12. He has also expressed this thought to Peter Wolfson multiple times and has another call into him this morning. He feels very strongly that it is essential for the volunteer boards to hear the message from multiple sources.

Thank you for your time and attention,

Lisa Ellis

Director of Business Development Borough of Madison
Madison Downtown Development Commission
Cell: 201-400-2349 (talk or text) | Office: 973-245-3493
Email: business@rosenet.org

-
-  Karin Sainato - Merchant Parking Survey Results 052018.pdf (635KB)
 -  BOROUGH AD HOC PARKING COMMITTEE AGENDA 09112018.pdf (263KB)
 -  Parking Inventory - Urbanomics.pdf (499KB)
 -  Borough Council Meeting - Parking Update 01142019.pdf (466KB)
 -  Borough Council Presentation 07092018.pdf (7.1MB)

Email #10

Subject: RE: 14 Lincoln Traffic Engineering Evaluation, etc.
Date: 2019-02-04 11:24:59
From: Flanagan, Kieran
To/Cc: Lisa Ellis Business Development Madison NJ; "Rinaldi; Anthony"; Jeffrey Gertler

Lisa,

Thanks for attending the walk through of the building on Friday on such a cold day. They did a thorough walk through so I hope they confirmed what we already knew, the building is in rough shape all together. We appreciate this information on the parking issues and we will review and prepare accordingly.

Thanks,

Kieran

Kieran Flanagan
Principal & Co-Founder
Hollister Construction Services
339 Jefferson Road
Parsippany, NJ 07054
P: 201-393-6846
F: 201-393-8907
C: 973-768-8426
www.hollistercs.com
kflanagan@hollistercs.com



TEAM "Together Everyone Achieves More"

From: Lisa Ellis Business Development Madison NJ <Lisa.Ellis.Business.Development@rosenet.org>
Sent: Monday, February 4, 2019 10:41 AM
To: Flanagan, Kieran <kflanagan@hollistercs.com>; Rinaldi, Anthony <arinaldi@saxumre.com>; Jeffrey Gertler <jgertler@gwarch.com>
Subject: 14 Lincoln Traffic Engineering Evaluation, etc.
Importance: High

Anthony, Kieran and Jeff,

I just wanted to share a few observations regarding the Traffic Engineering Evaluation for 14 Lincoln Place. I have been tasked with working on solutions for the merchant parking issues. I have been putting information together for the mayor and council and have presented twice in public. Last fall, we also created a small committee to work on the issue, tagged as the "Mayor's Ad Hoc Parking Committee". A parking evaluation was also done as part of the Urbanomics

Downtown Revitalization Study in 2016. A lack of street parking especially for customers at peak times is an ongoing concern for business owners and Thomas Haralampoudis is one of the most vocal in this regard. This is exacerbated by the fact that merchants are parking illegally in the downtown core. Thomas also advocates continually for a parking garage. I feel very strongly that we should not even consider a parking garage that is solely a parking garage. To my mind, the only way a garage, given the ambiguous future of personal vehicles, makes sense is perhaps as a part of the mixed use development of one of our municipal lots. Even then, there would be a need to make sure the garage space can be readapted for other uses.

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Thank you for your time and attention.

Lisa Ellis

Director of Business Development Borough of Madison
Madison Downtown Development Commission
Cell: 201-400-2349 (talk or text) | Office: 973-245-3493
Email: business@rosenet.org

Email #11

Subject: Just letting you know - Statement 2/9/19

Date: 2019-02-13 12:59:31

From: Lisa.Ellis.Downtown.Development@rosenet.org

To/Cc: arinaldi@saxumre.com; kflanagan@hollistercs.com; jgertler@gwarch.com

CC:thomas@lancasales.com

Ray Codey has asked me to reach out regarding the statement dated 2/9/19 that was circulated by Thomas to Madison residents. He feels that this paragraph below can be problematic. He feels it has a tone of threat and racism. Though, I don't quite read it the same way (perhaps it says Hindi one too many times), I think it does make it sound like a theater could just reopen there tomorrow and I know that cannot be true, confirmed by the walkthrough on February 1. My advice would be to diminish this thought by deleting the second half of the first sentence, ending that sentence at operator and then deleting the second sentence in its entirety. Just keep what I highlighted below.

The rest is great! And I can now attest to the condition of the building, my lungs burned for 24 hours after that walkthrough.

The only group that has approached Saxum with a credible offer to purchase the facility and operate a theater has been several individuals associated with a Hindi movie theater operator., with the intent of playing predominately Hindi movies. The investment group is very confident that the region would successfully support a Hindi theater. While Saxum has strongly considered the option of selling the building to this group, Saxum believes its current plan is the best alternative for the site, the town, the local economy and Saxum's investment partners.

Lisa Ellis

Director of Business Development Borough of Madison

Madison Downtown Development Commission

Cell: 201-400-2349 (talk or text) | Office: 973-245-3493

Email: business@rosenet.org

Email #12

Subject: RE: Just letting you know - Statement 2/9/19
Date: 2019-02-13 13:05:21
From: Anthony Rinaldi
To/Cc: Lisa Ellis Madison Downtown Development Commission; kflanagan@hollistercs.com; jgertler@gwarch.com
CC: 'thomas (thomas@lancasales.com)'

Thank you Lisa. This was absolutely not to be circulated among a large group and are not our final statement. The Hindi theater part has been removed already and other areas have been cleaned up and changed. I will get you the final copy once completed. That said, there is no racism, Hindi Theater is actually the term in which the group would refer themselves and their movies as. Trust me, we check a number of times due to the same sensitivity

Anthony M. Rinaldi
Managing Principal
Saxum Real Estate
359 Springfield Avenue
Summit, NJ 07901
www.saxumre.com
DD: 973 947 0051
arinaldi@saxumre.com

From: Lisa Ellis Madison Downtown Development Commission
<Lisa.Ellis.Downtown.Development@rosenet.org>
Sent: Wednesday, February 13, 2019 1:00 PM
To: Anthony Rinaldi <arinaldi@saxumre.com>; kflanagan@hollistercs.com; jgertler@gwarch.com
Cc: 'thomas (thomas@lancasales.com)' <thomas@lancasales.com>
Subject: Just letting you know - Statement 2/9/19
Importance: High

Ray Codey has asked me to reach out regarding the statement dated 2/9/19 that was circulated by Thomas to Madison residents. He feels that this paragraph below can be problematic. He feels it has a tone of threat and racism. Though, I don't quite read it the same way (perhaps it says Hindi one too many times), I think it does make it sound like a theater could just reopen there tomorrow and I know that cannot be true, confirmed by the walkthrough on February 1. My advice would be to diminish this thought by deleting the second half of the first sentence, ending that sentence at operator and then deleting the second sentence in its entirety. Just keep what I highlighted below.

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Lisa Ellis

Director of Business Development Borough of Madison
Madison Downtown Development Commission

Cell: 201-400-2349 (talk or text) | Office: 973-245-3493

Email: business@rosenet.org

Email #13

Subject: FW: Saxum Lincoln Place application hearing Tuesday February 12th at Hartley Dodge - going in front of Historic Preservation Committee for site redevelopment approval - 7:30pm

Date: 2019-02-13 13:13:22

From: Lisa.Ellis.Business.Development@rosenet.org

To/Cc: arinaldi@saxumre.com

FYI

-----Original Message-----

From: Codey, Ray

Sent: Tuesday, February 12, 2019 4:33 PM

To: Lisa Ellis Business Development Madison NJ <Lisa.Ellis.Business.Development@rosenet.org>

Subject: FW: Saxum Lincoln Place application hearing Tuesday February 12th at Hartley Dodge - going in front of Historic Preservation Committee for site redevelopment approval - 7:30pm

fyi

From: Thomas Haralampoudis <thomas@lancasales.com<mailto:thomas@lancasales.com>>

Date: February 12, 2019 at 12:51:08 PM EST

To: Undisclosed recipients.;

Subject: FW: Saxum Lincoln Place application hearing Tuesday February 12th at Hartley Dodge - going in front of Historic Preservation Committee for site redevelopment approval - 7:30pm

Good morning friends and neighbors. I hope everyone safe and warm - and the DPW is clearing the streets and parking lots as we speak! I thought we would get away without a snow storm but what would winter in NJ be without snow - boring!

The developers of the theater building were finally able to secure their easements from neighboring property owners for the future construction and function of the new building, which allowed them to fulfill all the requirements for completing the application for this project.

Their first meeting in this process is in front of the Historic Preservation Committee. Getting HPC support and approval through majority vote to bless demolition of the building is key in moving forward seamlessly to the planning board vote.

I have been led to believe there will be a large presence from movie theater demolition protestors, and the fire has been fueled by media releases over the last two weeks. The media have been one sided in their reporting(as they can be) of the history behind this process of acquisition and rebuilding. Jeff Gertler and his team in my opinion, have designed a fantastic, unique structure to take the place of the existing theater building. In an effort to gain support from HPC and make them feel confident to vote to allow the demo, it is crucial to have as many people from the community come and show support for a change. We want them to support the demo and the rebuild with a new structure that will give Lincoln place a landmark feeling that visitors will admire and comment on the historic tone of the modern building. They will potentially have two good retailers, 24 residential units (with 4 units for the borough to use as affordable housing) and a potential 90-100 seat boutique movie theater in the rear. This will have the space for a large screen and can be outfitted for anything that an operator can support for community theater goers. It will fill the void of our missing theater and will continue to offer residents the opportunity to visit town and see a show.







Please spread this message to our neighbors. Please try to attend but if you cannot, we need you to send a brief message of support for this design to our borough DDC official Lisa Ellis so she can relay to the HPC before tonight's meeting, advising that Madison is ready for a change and we endorse this Gertler design for addition to our Central Business District. Lisa's email address is ; Lisa Ellis Madison

Downtown Development Commission

Lisa.Ellis.Downtown.Development@rosenet.org<mailto:Lisa.Ellis.Downtown.Development@rosenet.org>
(this would definitely go a long way if you cannot make it in person).

Thank you for being involved and caring. Madison is unique because we all care and give back to the community.

Confidentiality notice: This e-mail contains information that is privileged and confidential and subject to legal restrictions and penalties regarding its unauthorized disclosure or other use. You are prohibited from copying, distributing or otherwise using this information if you are not the intended recipient. If you have received this e-mail in error, please notify us immediately by return e-mail and delete this e-mail and all attachments from your system. Thank You.

-
-  image001.gif (8KB)
 -  image002.jpg (9KB)
 -  image1.jpeg (140KB)
 -  image2.jpeg (128KB)
 -  HPC theater meeting notification flyer 02-2019.jpeg (127KB)
 -  14 Lincoln Redevelopment- Saxum Statement 2.9.19.pdf (184KB)