



**THE MARCUS CORPORATION**

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A NYSE Company

Tom Makarewicz

DIRECT DIAL [REDACTED]

August 29, 2019

**SENT VIA EMAIL**

Ben Zellers, AICP, CNU-A

Department of Planning & Community & Economic Development

Madison Municipal Building, Suite 017

215 Martin Luther King Jr. Blvd.

Madison WI 53703

Re: Nelson Neighborhood Development Plan  
B&G Realty, LLC  
5205 High Crossing Boulevard  
Tax Parcel No. 251-0810-224-0306-8

Dear Ben:

I am writing on behalf of B&G Realty, LLC, an affiliated entity of The Marcus Corporation and owner of the former Eastgate Theatre property located at 5205 High Crossing Boulevard, City of Madison, Wisconsin. The City of Madison sent a letter dated October 17, 2018 notifying us of their intent to update the Nelson Neighborhood Development Plan of which our ±14.3 acre former Eastgate Theatre property is a part of. After review of the latest draft of the Neighborhood Plan dated August 19, 2019, we have significant concerns over the plan and its negative impacts on our property and the neighborhood.

Permitted Uses

The property is currently zoned Commercial Center (CC) District which allows for a wide variety of uses including retail, office, medical, food and beverage, recreation, entertainment and lodging, and automobile services, among others. The updated neighborhood land use plan, however, designates our property as an Employment District which allows for a much smaller subset of uses found within the CC District including office, medical, hotel, and complementary service and restaurant uses, although these complementary uses are envisioned as ground-floor space integrated with a larger office/medical development.

It is our understanding that the CC zoning designation supersedes the land use plan's Employment designation and we are free to develop our property with any use allowed under current zoning. However, if a development were to require a rezoning, conditional use permit, variance or some other land use adjustment, it is highly likely the City would require the development to abide by the neighborhood land use plan's more restrictive Employment designation. Considering nearly all new developments require some sort of land use adjustment, especially a property as large as this, it is assumed the Employment designation will govern the parcel. Unfortunately, the uses allowed under the Employment designation are not the highest and best use of the property.

Highest and Best Use is defined in The Dictionary of Real Estate Appraisal as: *"The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible and that results in the highest value. The four criteria the highest and best*

*use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.”*

The highest and best use of the property is for large-format retail, entertainment or automotive use, or possibly hotel use. The physical characteristics that set our property apart from the others are a combination of its large size and great exposure and convenient access to I-90/94 and U.S. Highway 151. There simply are very few properties in the greater Madison area that possess these features making it a high-demand property that commands a high price. The former cinema property has been actively listed for sale since it closed in April, 2015. Although every type of user allowed by zoning has been engaged since its closing, the predominant interest has been from restaurants, hotel developers, auto dealerships, and large format retail/entertainment users.

There has been zero interest from office users. The lack of demand is due, in part, to the close proximity of the 447-acre **American Center** office park to the north where there are 23 lots and nearly 72 acres of vacant land available for general and medical office development. Within the park’s existing 26 buildings there’s an additional ±97,000 square feet of available office space. The neighborhood’s exorbitant amount of vacant office land and existing available space clearly demonstrates that supply far exceeds demand and it will be impossible to find tenants to fill a large office building such as the 6-story Arbor Crossing that the City envisions for our property.

Several restaurant and small retail users have offered to subdivide and purchase 1 to 2 acres of the total 14.3 acre parcel. However, the City will not allow a simple subdivision without submitting a development plan for the entire property -- which could prove to be a costly, time consuming and risky proposition without securing users for the balance of the property. The large size of our property requires a single building or user to utilize all or the large majority of the property.

We have had a handful of hotel developers interested in the property. However, nothing has materialized due to there being 19 hotels totaling over 2,200 rooms located within 2 miles of the property, including a newer 106-room Holiday Inn Express next door. Also, the hotel developers are again looking for less than 14.3 acres making subdivision necessary.

The property is located immediately adjacent to car dealerships making that a likely use for the property. In fact, Russ Darrow has leased the majority of our parking lot for years to store and display their vehicles, and has expressed mild interest in acquiring our property in the past. There are clearly market synergies and demand for these automotive users, as well as for large-format retail/entertainment users who we are currently engaged in discussions with to purchase the property. These uses are the maximally productive use (i.e. create the highest land value) and are the highest and best use of the site. A change to a use permitted under the Employment designation devalues the property, significantly reduces the pool of potential buyers for the property and will result in considerable additional delays and challenges in the site’s potential sale and redevelopment timeline.

### Road Bisection

The neighborhood land use plan details a more robust and connected street network to boost connectivity in the area, including a road that bisects our property to connect the dead end road to the north with the traffic light-controlled intersection of High Crossing Blvd. and Crossroads Dr. (the main driveway entrance to our property). Though we understand and support the idea of “walkable” neighborhoods, it appears that our parcel is not an ideal candidate for such a model considering its location along a heavily trafficked commercial thoroughfare fully improved on the northwest side with several car dealerships and other auto-related users. Increased pedestrian activity in an area focused so deeply on vehicles may pose

safety concerns. Additionally, our property's highest and best use is for a large-format user. The size of our parcel is valuable and sets it apart from other locations. Requiring the parcel to be cut in half changes its highest and best use, reduces the number of potential buyers/users for the property, increases redevelopment costs, and ultimately negatively impacts the value of the property.

#### Stormwater and Other Open Space Designation

The northern portion of our property is designated for "Stormwater and Other Open Space". Although not currently improved, this area is fully developable and not designated as wetlands or environmental corridor. We understand that a redevelopment of the entire property will require on-site stormwater management facilities. However, the location of such facilities should be at the discretion of the developer so long as such plans meet the City's guidelines. Designating a specific location on our property for stormwater management may create additional hurdles when redeveloping the site.

#### Conclusion

We recommend the following adjustments to the Nelson Neighborhood Development Plan:

- Change our property's designation from Employment to Community Retail and Service to be consistent with the property's highest and best use.
- Remove the requirement of a connector road through our property (or at least the location of the connector road; leave the location to the discretion of the developer per the market-driven plans that may emerge).
- Remove the Stormwater and Other Open Space designation from the northern portion of our property.

Please consider our comments and recommendations when finalizing the Nelson Neighborhood Development Plan. Thank you and we look forward to working with the City as we try to redevelop our property for the betterment of the neighborhood.

Sincerely,



Tom Makarewicz  
Real Estate Manager

Cc (via email): Samba Baldeh- Alderperson 17th District, City of Madison  
Michael Locke- Member of High Crossing Neighborhood Association  
Justin Fehrman- CFO, Russ Darrow  
Katie Falvey- VP of Real Estate, The Marcus Corp.  
Joshua Welsh- Associate Director of Legal Affairs, The Marcus Corp.