

Columbia County Industrial Development Agency

MINUTES COLUMBIA COUNTY INDUSTRIAL DEVELOPMENT AGENCY PUBLIC HEARING Wednesday, September 4, 2024

The public hearing of Columbia County Industrial Development Agency held via Zoom see information join Zoom Meeting:

<https://us06web.zoom.us/j/86946528594?pwd=CPUDPsztJ1WAnaJpJXwuaIz3bbOtm.1>

Meeting ID: 869 4652 8594, Passcode: 012637, Dial by your location: 1 646 558 8656

The hearing was called to order at 8:35am by Carmine Pierro, Chairman.

Attendee Name	Title	Status
Brian Keeler	Board Member	Present in person
Carmine Pierro	Chair	Present in person
Sarah Sterling	Vice Chair	Present in person
Andy Howard	Agency Counsel	Present in person
F. Michael Tucker	President/CEO	Present in person
Lisa Draushuk	CEDC Staff	Present in person
Riley Werner	CEDC Staff	Present in person
Martha Lane	CEDC Staff	Present in person
Stephen Vandenburg	CEDC Staff	Present in person
Ben Fain	Applicant	Present in person
Zena Dickstein	Applicant's Counsel	Present via Zoom

See attached transcript of the September 4, 2024 IDA Public Hearing of the 41 Cross Street LLC project.

Respectfully submitted by Lisa Draushuk

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PUBLIC HEARING PURSUANT TO SECTION 859-a OF THE GENERAL MUNICIPAL LAW

Agency	Columbia County Industrial Development Agency (the “Agency”)
Project Beneficiary:	41 Cross Street LLC
Project Location:	39-41 & 43-51 Cross Street (tax map no. 109.43-1-62) in the City of Hudson, Columbia County, New York
Hearing Date:	September 4, 2024
Hearing Time:	8:30 a.m.
Hearing Location:	One Hudson City Centre – Suite 301 in the City of Hudson, Columbia County, New York

Opening Remarks

“Good morning.

My name is Carmine Pierro, and I am the Chairman of the Columbia County Industrial Development Agency (the “Agency”) in connection with the matter which is the subject of this public hearing.

Today we are holding this Public Hearing to allow citizens to make a statement, for the record, relating to the involvement of the Agency with the following matter:

Pursuant to a closing on May 10, 2017 (the “Closing”), the Agency entered into a lease agreement dated as of May 1, 2017 (the “Lease Agreement”) and a payment in lieu of tax agreement dated as of May 1, 2017 (the “Payment in Lieu of Tax Agreement”), each by and between the Agency and 41 Cross Street Hospitality LLC (the “Prior Company”), in connection with a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in an approximately .50 acre parcel of land located at 39-41 & 43-51 Cross Street (tax map no. 109.43-1-62) in the City of Hudson, Columbia County, New York (the “Land”), together with the existing building located thereon containing approximately 40,800 square feet of space (the “Existing Facility”), (2) the renovation, reconstruction and upgrading of the Existing Facility and related improvements located on the Land (the “Improvements”) (the Existing Facility and the Improvements hereinafter collectively referred to as the “Facility”), and (3) the acquisition and installation therein and thereon of certain machinery and equipment (collectively, the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned by the Prior Company and operated as a boutique hotel facility and any other directly and indirectly related uses; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease of the Project Facility to the Prior Company pursuant to the terms of a lease agreement dated as of May 1, 2017 (the “Lease Agreement”) by and between the Original Company and the Agency, a memorandum of which was recorded on May 19, 2017 in the Columbia County Clerk’s office in Book 846 at Page 1493, Instrument #: 20170004541.

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On or about July 25, 2024, 41 Cross Street LLC, a New York State limited liability company (the “New Company”), submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider a request by the New Company for approval by the Agency of a certain assignment and assumption relating to the Project (the “Assignment Request”), said Assignment Request consisting of the approval by the Agency of the assignment by the Prior Company to the New Company of the Lease Agreement, the Payment in Lieu of Tax Agreement and certain other documents entered into by the Prior Company in connection with the Closing (collectively, the “Basic Documents”), the assumption by the New Company of the Basic Documents and to provide the New Company with sales tax exemption (the “Additional Financial Assistance”).

I intend to provide general information on the Agency’s general authority and public purpose to provide assistance to this Assignment Request. I will then open the comment period to receive comments from all present who wish to comment on either the Assignment Request or the Additional Financial Assistance contemplated by the Agency with respect to the Assignment Request.

Legal Authorization and Powers of the Agency

The provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York as amended, and Chapter 305 of the 1975 Laws of New York, as amended, constituting Section 895-1 of said General Municipal Law (collectively, the “Act”), authorize the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining and equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others.

Purpose of this Public Hearing

Pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the “Act”), prior to the Agency providing any “financial assistance” (as defined in the Act) of more than \$100,000 to any project, the Agency, among other things, must hold a public hearing pursuant to Section 859-a of the Act with respect to said project. Since the proposed “financial assistance” to be provided by the Agency with respect to the Assignment Request may exceed \$100,000, then prior to providing any “financial assistance” (as defined in the Act) of more than \$100,000 to the Assignment Request, the Agency must hold a public hearing on the nature and location of the Project Facility and the proposed “financial assistance” to be provided by the Agency with respect to the Assignment Request.

After consideration of the Application received from the New Company, the members of the Agency adopted a resolution on August 6, 2024 (the “Resolution Authorizing Assignment and Assumption and Public Hearing in Connection with an Assignment and Assumption”) authorizing the Agency to conduct this Public Hearing with respect to the Assignment Request pursuant to Section 859-a(2) of the Act.

By way of background, notice of this Public Hearing was published on August 24, 2024 in The Daily Gazette, a newspaper of general circulation available to the residents of the City of Hudson, Columbia County, New York. In addition, as required by New York law, the notice of this Public Hearing was mailed on August 21, 2024 to the Mayor of the City of Hudson, the Chairman of the County Board of

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Supervisors of Columbia County and the Superintendent, the Board of Education President and District Clerk of the Hudson City School District (collectively, the “Affected Taxing Jurisdictions”). Lastly, copies of the Public Hearing Notice were posted on August 21, 2024 on a public bulletin board located at City Hall located at 520 Warren Street in the City of Hudson and One Hudson City Centre, Suite 301 in the City of Hudson, Columbia County, New York and were posted on August 21, 2024 on the Agency’s website. A copy of the certified Resolution Authorizing Assignment and Assumption and Public Hearing in Connection with an Assignment and Assumption was mailed to the Affected Taxing Jurisdictions on August 21, 2024.

Copies of the notice of this Public Hearing are available on the web site of the Agency.

Now, unless there is any objection, I am going to suggest waiving the full reading of the notice of this Public Hearing, and instead request that the full text of the notice of this Public Hearing be inserted into the record of this Public Hearing.

The comments received today at this Public Hearing will be presented to the members of the Agency at or prior to the meeting at which the members of the Agency will consider whether to approve the undertaking of the Assignment Request by the Agency and the granting by the Agency of any “financial assistance” in excess of \$100,000 with respect to the Assignment Request.

Written Comments

The notice of this Public Hearing indicated that written comments could be addressed to: Carmine Pierro, the Chairman of the Agency. We have received no written comments prior to this Public Hearing which will be included in the public record.

Remarks by the New Company

I will now introduce Ben Fain, who is appearing on behalf of the 41 Cross Street LLC. Are there any comments you would like to make?”

Mr. Fain: “We are thrilled to get to purchase The Wick, it is a big part of our plans for the waterfront and assuming the PILOT is extraordinary helpful for us, actually I don’t think it happens without it. I am very grateful to be here and grateful for the CEDC’s support on it. I would say, it is crucial for us. I’m just here to answer any questions about it and say thank you for the support. I’m looking forward to improving the Wick and making it a little bit better as well as being part of what is going on at the waterfront , because it is a pretty exciting place to be. Thank you for letting us be here.”

Open Public Hearing to the Floor for Comments

“I will now open this Public Hearing for public comment at 8:40 o’clock, a.m.

By way of operating rules, if you wish to make a public comment, please indicate your wish to do so, and I will call on you. Please wait to be recognized, once recognized, please stand and state your name and address for the record.

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When everyone has had the opportunity to speak, I will conclude this Public Hearing. A record of this Public Hearing will be prepared and included in the file for this matter.

Again, the purpose of this Public Hearing is to solicit public comment. We are not here to answer questions. However, we will in the course of this Public Hearing consider questions if we have the information to answer the questions and there is sufficient time to consider such questions.

I will now ask if there is anyone on this conference call who wishes to comment on either the nature and location of the Project Facility or the proposed “financial assistance” being contemplated by the Agency with respect to the Assignment Request.

For the record, please state your name and indicate your comments on either the Assignment Request or the proposed “financial assistance” being contemplated by the Agency with respect to the Assignment Request.”

Formal closure of the public hearing

Mr. Pierro noted there was no public present, only Staff, the applicant and the applicant’s counsel.

“I will now move forward to close this Public Hearing.

If there are not further comments, I will now close this Public Hearing at 8:46 o’clock, a.m.

Thank you all for attending.”

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NOTICE OF PUBLIC HEARING

COLUMBIA COUNTY INDUSTRIAL DEVELOPMENT AGENCY NOTICE OF PUBLIC HEARING ON PROPOSED PROJECT AND FINANCIAL ASSISTANCE RELATING THERETO

Notice is hereby given that a public hearing pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the “Act”) will be held by Columbia County Industrial Development Agency (the “Agency”) on the 4th day of September, 2024 at 8:30 o’clock a.m., local time, at the offices of the Agency located at One Hudson City Centre – Suite 301 in the City of Hudson, Columbia County, New York in connection with the following matters:

On May 10, 2017 (the “Closing”), the Agency granted certain financial assistance to 41 Cross Street Hospitality LLC (the “Original Company”) to assist in financing a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in an approximately .50 acre parcel of land located at 39-41 & 43-51 Cross Street (tax map no. 109.43-1-62) in the City of Hudson, Columbia County, New York (the “Land”), together with the existing building located thereon containing approximately 40,800 square feet of space (the “Existing Facility”), (2) the renovation, reconstruction and upgrading of the Existing Facility and related improvements located on the Land (the “Improvements”) (the Existing Facility and the Improvements hereinafter collectively referred to as the “Facility”), and (3) the acquisition and installation therein and thereon of certain machinery and equipment (collectively, the “Equipment”) (the Land, the Facility and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to be owned by the Company and operated as a boutique hotel facility and any other directly and indirectly related uses; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease of the Project Facility to the Original Company pursuant to the terms of a lease agreement dated as of May 1, 2017 (the “Lease Agreement”) by and between the Original Company and the Agency, a memorandum of which was recorded on May 19, 2017 in the Columbia County Clerk’s office in Book 846 at Page 1493, Instrument #: 20170004541; and

Simultaneously with the execution and delivery of the Lease Agreement (the “Closing”), (A) the Original Company executed and delivered to the Agency (1) a certain lease to agency dated as of May 1, 2017 (the “Lease to Agency”) by and between the Original Company, as landlord, and the Agency, as tenant, a memorandum of which was recorded on May 19, 2017 in the Columbia County Clerk’s office in Book 846 at Page 1440, Instrument #: 20170004538, pursuant to which the Original

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Company leased to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the “Leased Premises”); (2) a certain license agreement dated as of May 1, 2017 (the “License to Agency”) by and between the Original Company, as licensor, and the Agency, which License Agreement was recorded on May 19, 2017 in the Columbia County Clerk’s office in Book 846 at Page 1480, Instrument #: 20170004540, as licensee, pursuant to which the Original Company granted to the Agency (a) a license was entered into upon the balance of the Land (the “Licensed Premises”) for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Original Company, an additional license was entered into upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement; and (3) a certain bill of sale dated as of May 1, 2017 (the “Bill of Sale to Agency”), which conveyed to the Agency all right, title and interest of the Original Company in the Equipment; (B) the Original Company and the Agency executed and delivered (1) a certain payment in lieu of tax agreement dated as of May 1, 2017 (the “Payment in Lieu of Tax Agreement”) by and between the Agency and the Original Company, pursuant to which the Original Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility, (2) a certain recapture agreement (the “Section 875 GML Recapture Agreement”) by and between the Original Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes and (3) a certain uniform agency project agreement dated as of May 1, 2017 (the “Uniform Agency Project Agreement”) relating to the granting of the Financial Assistance by the Agency to the Original Company, (D) the Agency filed with the assessor and mailed to the chief executive officer of each “affected tax jurisdiction” (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the “Real Property Tax Exemption Form”) relating to the Project Facility and the Payment in Lieu of Tax Agreement, (E) the Agency executed and delivered to the Original Company a sales tax exemption letter (the “Sales Tax Exemption Letter”) which ensured the granting of the sales tax exemption which formed a part of the Financial Assistance and (F) the Agency filed with the New York State Department of Taxation and Finance the form entitled “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (the form required to be filed pursuant to Section 874(9) of the Act) (the “Thirty-Day Sales Tax Report”) (collectively with the Lease Agreement, the “Basic Documents”).

In connection with an application submitted to the Agency (the “Assignment Application”), on or about July 25, 2024, by 41 Cross Street LLC, a limited liability company organized and existing under the laws of the State of New York (the “New Company”), the Agency has been requested (A) to approve the assignment to, and assumption by the New Company of all of the Original Company’s interest in the Project Facility and the Basic Documents, (B) to authorize the assumption by the New Company of all obligations of the Original Company under the Basic Documents pursuant to an assignment and assumption agreement (the “Assignment and Assumption Agreement”) (the foregoing

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being collectively referred to as the “Assignment and Assumption”) and (C) to provide the New Company with sales tax exemption (the “Additional Financial Assistance”).

Pursuant Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on August 6, 2024 (the “Resolution Authorizing Assignment and Assumption and Public Hearing”), the Agency determined that the Assignment and Assumption constituted a “Type II action” (as such quoted term is defined under SEQRA), and therefore that no further action with respect to the Assignment and Assumption was required under SEQRA.

The Agency will at said time and place hear all persons with views on either the location and nature of the proposed Assignment and Assumption or the Additional Financial Assistance being contemplated by the Agency in connection with the proposed Assignment and Assumption. A copy of the Assignment Application filed by the New Company with the Agency with respect to the Assignment and Assumption, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the offices of the Agency or <https://columbiaedc.com/about-cedc/columbia-county-ida/>. A transcript or summary report of the hearing will be made available to the members of the Agency. Individuals may participate virtually by Zoom at:

<https://us06web.zoom.us/j/87941932526?pwd=ePl6oMdbQFlh9tcfiLBQTiAxtw92RT.1>

Meeting ID: 879 4193 2526

Passcode: 706766

646 558 8656 US

Additional information can be obtained from, and written comments may be addressed to: Carmine Pierro, Chairman, Columbia County Industrial Development Agency, One Hudson City Centre – Suite 301, Hudson, New York 12534; Telephone: (518) 828-4718.

Dated: August 15, 2024

COLUMBIA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: /s/Carmine Pierro
Chairman