

MINUTES OF THE PUBLIC HEARING MAY 13, 2008 ON THE APPLICATION ON BEHALF OF BLUE BACK SQUARE, LLC, DEVELOPER OF THE BLUE BACK SQUARE MIXED-USE DEVELOPMENT, FOR AMENDMENTS TO SPECIAL DEVELOPMENT DISTRICT APPROVALS IN CONNECTION WITH BLUE BACK SQUARE DEVELOPMENT – 40 SOUTH MAIN STREET, 15 NEW STREET, 65 AND 85 MEMORIAL ROAD AND 75 ISHAM ROAD (FORMERLY KNOWN AS 70 MEMORIAL ROAD) – AMENDMENTS TO SDD 113 AND APPROVAL OF AMENDED DEVELOPMENT PLAN.

Meeting started at 6:42 p.m.

President Slifka: I'd like to call to order the 6:30 Public Hearing. Mr. Coursey would you read the subject matter please?

Vice President Coursey: Yes, Mr. Mayor. Application on behalf of Blue Back Square LLC, developer of Blue Back Square mixed-use development, for amendments to special development district approvals in connection with Blue Back Square development – 40 South Main Street, 15 New Street, 65 and 85 Memorial Road and 75 Isham Road, (formerly known as 70 Memorial Road) – amendments to SDD 113 and approval of amended development plan.

President Slifka: Thank you Mr. Coursey. Ms. Labrot – attendance?

Present: Councilors Adler, Brennan, Cantor, Coursey, Davidoff, Slifka, Thornberry, Visconti:
Absent: Councilor Verrengia

President Slifka: Mr. Verrengia is absent. We move to the presentation from the applicant. I just announced at the beginning we are short one Council member, and on that basis we have agreed to begin the presentation this evening, that information will be given to Mr. Verrengia. We're going to conclude the hearing in the technical sense at 7:30 so we can begin the Council meeting. We will not be closing it, so I'm technically accurate; we will then reconvene in two week's time to finish the hearing at that point. So, Mr. Heapes is it your presentation?

Mr. Heapes: Good evening again, Richard Heapes, partner with Blue Back Square Development, LLC at 20 Isham Road West Hartford. What a nice evening to sit outside and have a drink! The amendment we are proposing tonight is, if I do my presentation right, quite simple, but I need to give you a little background and most of you have sat on the hearings, and so you will recall this, in the original SDD approval, not unlike cinema seats and other things, we had estimates of uses and sizes of uses and one of those estimates was at the street level – how much restaurant space versus how much retail space. And in our conversations with the merchants and other folks we had agreed and thought it reasonable to put a cap on the amount of restaurant space that was arbitrarily chosen at 30,000 square feet because we thought that we had wanted about 6 restaurants. We wanted two in the Board of Ed, we wanted two or three around Blue Back Square so

that it had that activity, we didn't want retail expression on the Town Green, so we wanted restaurants at the Board of Ed and maybe one or two others. At that time, not having leases or whatever, I was asked, how do we come up with how many seats that is, cuz that's what's gonna drive parking particularly and traffic to a lesser extent. We looked back to our past projects and came up with the number of 35 square feet per seat, just as a best guess. That was in the original SSD. 35 seats per square foot and 30,000 square feet. Not unlike some of the other amendments that we're proposing, this is really an attempt as we are now leasing the 6th restaurant to clean up the SSD for future referral with what really happened. We now have five leases, five restaurants open or under construction, and the sixth. In doing that, we are asking for essentially the restaurant space that is the second restaurant, and the Board of Ed building, to finish that as a restaurant space which means we need a few more square feet and a few more seats. Just based on what's happened with the real leases. At the end of the day, probably we were not anticipating a 10,000 square foot Cheesecake, and that's why we're short on some square footage for six restaurants. But this is really a request to add the square footage and the seats to build out that last restaurant at the end of the day. We are asking for about 4,700 square feet and about 248 additional seats. Associated with that, we are asking for a revision to the outdoor seating and locations for Flemings and for this second restaurant and I will go over that specifically. Then there is an ancillary set of issues that came up at last week's TP & Z hearing that I want to address having to do with outdoor seating, which, like the center, was a result of your ordinance, that doesn't require any parking, but we'll review what we know about that and what we can talk about from that aspect as well. We might as well, now that we know what the restaurants are, and what the seats are. The proposal specifically has in your packet you will see a traffic report from Urbatran who did all the past models of traffic and not surprisingly, it's important that we're not asking for new square footage, we're asking to convert retail square footage to restaurant. So we're not asking for additional square footage – we have a chunk of square footage on the ground floor, we want to convert some retail to some restaurant. That's really what the application is. Surprising or not surprising, the traffic impacts are essentially a wash. Because the retail and the restaurants behave the same, and they're not behaving that way during peak traffic. If you'll read the report, the weekday peak traffic is the same, the weekday p.m. peak traffic is the same, and on Saturday, which is mid-day peak, which is less than the week day, there is 15 additional trips generated, so that's one percent or less than one percent of the total trips coming to Blue Back, so it is the engineers and Mr. Kraus's separate memo, notion, that the impact is essentially minimal. And only on the weekends. Probably more substantial and a better conversation is what is the impact on parking to convert some of that retail space to restaurant space. And, it's interesting – we have on the site, there are really kind of three times a day that we think about parking at Blue Back. We have our lunchtime peak, one o'clock or call it eleven o'clock from 2 o'clock, we have our weekday evening peak – thinking about restaurants now – and then we have our weekend afternoon and evening peak. That's when the restaurants as you know, that's when people eat. So, you have to look at those three to really understand the impact on parking. I'm dealing with numbers, so I've really got to do this right. During the ..parking at Blue Back..although you have zoning categories of X spaces per thousand, Blue Back was special in that it because it was mixed and shared parking, we actually ran models every hour of the day.

Weekend/weekday, utilizing shared parking between office and cinema, residential and retail, etc. That's what generated the original parking supply. Blue Back Square has at these three times of day, about 1,258 spaces..call it 1250 available spaces, that's after you've taken out what the residences are using, privately, that's after you've take out the spaces associated with the library, just spaces available for the consumer that does not account for the Town Lot spaces of which there are over 500, which are also available to some extent in evenings and on the weekends. So that's just the spaces in Blue Back Square street and garages – 1,258. Our key peak time for parking at Blue Back is a weekday lunch. Different people have different perceptions – probably because of their experiences in the center, but one o'clock is really our peak time and at that time, with this change in use, we are short 21 spaces. That's our worst condition. 21 spaces is diminimous relative to parking because as Norm will tell you, the models are not that close and there's time of days, and occupancy factors, etc. it's essentially a wash, but we are technically by the model, short 21 spaces. When it comes to evenings and weekends, weekday evenings, because of the office use, we are over-supplied by parking, so except for about two hours every day at lunch, we actually have an over supply of parking at Blue Back. That's our Christmas hours. We have about over 120 extra spaces on the weekday evenings, not including the 500 spaces here that are partially utilized. On the weekends, we have 95 spaces extra that are not being required to be used, cuz the office is not there. It's pretty simple. Not including the 100 spaces, so essentially, what the report says, which Mr. Kraus agrees with, is that it's a wash at our worst peak, and that in fact, it helps use some of those surplus spaces, hence, revenue, in the evenings and on weekends when we have empty spaces sitting there. So I think it's generally a helpful change in terms of increasing the bond repayment revenues, the merchants I think have sent a letter suggesting that they agree with this, and that it extends that ..you have the experience of the center, but extends that shopping period and is a net plus. That's like the world's shortest summary of just the SDD itself. Now, I was unfortunately not here Tuesday night at the TPZ hearing, when a number of things happened regarding the application for Rizzutto's seating, which was approved, and then the referral to this, so you have had a referral, I won't get this right, Pat will correct me on this, but essentially, denied what the request to have further study and more information on what the impact of all the outdoor seating means because the outdoor seating is not in these parking plans – it's not required to be, it's the same way in the center as Pat said, you've never required parking for outdoor seating. I think historically, it was that change in the ordinance that created what today we know as, West Hartford with all the cafes and whatever that it really couldn't happen until it was released from that parking requirement. So, this weekend I've done some study to put in perspective what our expectations of outdoor seating is, relative to what's there today. Currently, on the other side of the center, you have 790 parking spaces available to be used at any time of day. As of Saturday, you have 412 seats – I just counted seats – if there was seat on the sidewalk, be it Maggie Moos or Max's or Grant's, I counted it up and there was 412 seats on Saturday. Which is an interesting number because in your zoning you use three seats per car, so if you take 412 divided by 3, you get 137 spaces that are being used by the outdoor seats that were not accommodated in the zoning. That's 17% of the 790..that's almost 20% of your parking that is potentially used by the outdoor seats – that's a lot. Or it seemed like a lot to me. When you compare that with Blue Back, with our 1,258 seats, based on the

applications that have already been made by Cheesecake, Rizzuttos, Flemings, my best estimates of the new restaurant Besitos , and the other restaurants we have, I believe Blue Back is going to have about 275 seats based on those current restaurants, new café ordinance or not, it doesn't really matter. Not just because of the application. We're looking at seats at Blue Back that are about 60% of what's compared in the center today which are accommodated by 1,258 available spaces, so we have more spaces here and less proposed seats. The bottom line is, that's about 7% of our capacity potentially being used by outdoor seats. You have to be careful with this, because it's not one to one. If the cafes are full, that doesn't mean the restaurants are also full, it does happen, but rarely – there's a little give and take on when you sit outside and when you don't. The long and the short of this is, that the extra capacity we have – the plus 100 spaces, plus 95 spaces in the evenings – and in the Saturdays, you take 200, call it 250 spaces and use your 3 ratio, means you need about 90 -100 cars. We do actually have the excess capacity at the times those seats are being sat in, to accommodate it. That's without using any parking here on Saturday's and weekends. So, we didn't ever study this, or attend it, so as long as we are in the realm of the 250 seats, that I would project, that kind of helps take up that extra capacity that's in the garages. There was another thing that happened at the TP & Z, my understanding was, that they just wanted to make sure that you understood in context of all the parking, the impact of your ordinance, which doesn't require additional parking for outdoor seats. And so, our conclusion is, that we have half as many, a third more spaces, and we have the excess capacity when that's happening. I need to say that I listened to the hearing all day today, I was a little dismayed by three of our new residents at Blue Back Square referring to the TP&Z that they were unaware that there was restaurants and cafes in building D, that disturbed me, and I know it disturbed the TP&Z rather a lot because the assumption was that Blue Back Square had not told them about that, had intentionally not disclosed it. I guess I was a little upset in that we didn't get any benefit of the doubt, but we are developers and so I have several letters I would like to put into the record as part of this. Here's the affidavit. There's a letter from our leasing agent, Joyce Tarentino, our Sales Manager, unequivocally stating that the model in Blue Back Square shows a restaurant right where Rizzuttos is, it shows the seats further than where Rizzuttos is, and in fact, in our public offering statement, which is attached, and in fact in our Condo documents, and in fact in conversations with every person who bought a condo there was standing joke, that if you'll buy one on the west side, you can drop a bucket off your balcony and get free breadsticks. So, this letter is from Joyce stating all of that in addition to the rescission period and the other documents. The renderings had cafes so without any further commentary, I think the TP & Z took the word of that testimony, and that testimony was unequivocally false. I will give you..

President Slifka: Mr. Heapes, I've been asked just for the record, if you could specify again what building D is? We should have this memorized..

Mr. Heapes: The Heritage Condominiums which is the units above the new Rizuttos restaurant who's application..I do have a second letter here from Mr. Byer who lives in Unit 508, I have another letter coming, registering with us that in fact, they were all of the opinion that this restaurant was going to be there. The mixed use aspect of the project was one of the reasons they purchased these units. They are thrilled to have them, and

they were aware of the pros and cons in the public offerings, and I have this letter to submit to you as well from current occupants of the condo building who understood this unequivocally, so I know the TP&Z was, they used the word “shocked”, that Blue Back would have not disclosed this, and I will just tell you it’s not been our history. So I’ll leave it at that. They are our new tenants and we’re thrilled to have them there. Joyce also offers you to come by and see the model, that was used. She has been in contact with every one of these tenants and has found specifically their complaints – we have complaints about Rizutto’s chopping wood, and cigarette smoking by the dock, and we’re going through all that stuff and working to manage that completely, so I don’t want to leave any impression that we’re not thrilled to have them there, and not doing everything that you do as you crank up the project and get new residents, so I want you to be aware of that as well.

That is, I believe, all of my testimony.

President Slifka: Thank you Mr. Heapes. Are there questions from the Council this time? Mr. Adler?

Councilor Adler: Thank you Mr. Mayor. Mr. Heapes with the sale of the condos, any impact to your parking space analysis or any thought to that?

Mr. Heapes: No, those were always in the parking analysis and they have their own private spaces below the building, so those are taken out of the pool. Whenever we talk about parking, any space like those that are private, they are out of the pool, because they can’t be used.

Councilor Adler: OK, Thank you.

President Slifka: Mr. Visconti?

Councilor Visconti: Could you elaborate a little bit more on the residents that felt they were not informed about the restaurants?

Mr. Heapes: Well, there’s two specifically and there’s about four residences on that side of the building. As I said, and this the letter directly from Joyce Tarentino who is the Leasing Sales Manager. In the sales office, when you sign up and pick your unit, there is a model that has been in there since we offered the units that in fact, show a restaurant and show outdoor seating on the model for an extent actually larger than what’s being proposed now. Secondly, the use of the first floor is specifically mentioned in the public offering statement, offering the condominiums, and is again mentioned in the condo documents saying what uses would be on the first floor, what the rights were. The tenants do have the right to an easement allowing them access to all parts of the building, and finally, Joyce assures me personally, that that was mentioned to every tenant, because we viewed it frankly as a sales plus rather than a negative. So, I believe all of that is in her letter, they also had a rescission period to read the documents and receive their money back of 30 days.

Councilor Visconti: One more question, I didn't see the brochures for the sales – you don't have a sample, do you?

Mr. Heapes – I don't.

Councilor Visconti – I only say that because the Art Cinema which was definitely defined in the master agreement did specify there could be first run movies, and closed circuit TV, but there was a big pitch for Arts Cinemas and day one it opened with the first run movies. I was just wondering what the brochure looked like. I know you're thorough with it, I questioned you many times on the Art Cinema, and you were saying one thing, and also, I believe during the public hearings you saying that there could be first run movies, so I'm just wondering what the brochures look like for the residents. I'd like to get a sample if I could at one point.

President Slifka: OK, is that it Mr. Visconti? Are you finished? Is there anyone else? OK. Mr. Alair, could I have you take a look at the sign up sheet please?

Mr. Alair: We have a sign up sheet, but it's blank.

President Slifka: Is there anyone who did not sign up who wishes to speak to this subject matter of this public hearing? Seeing none, Mr. Heapes, I didn't get to ask if that was the conclusion of your presentation..was that it? OK, thank you Mr. Alair. Anything else from the Council right now? OK, per the earlier announcement, we are going to continue this hearing to May 27th at 5:45 just in case. We will judge the actual start time as we did tonight, but that should give us some flexibility because there are a couple other public hearings starting later that night. With that I will continue the Public Hearing.

7:07 p.m.