



Transcript of the Hearing of

**Date:** April 14, 2009

**Volume:** 1

**Case:** WEST HARTFORD TOWN COUNCIL

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WEST HARTFORD TOWN COUNCIL  
April 14, 2009

TOWN OF WEST HARTFORD, CONNECTICUT

TOWN COUNCIL MEETING

Re: Application on behalf of Blue Back  
Square mixed-use development, for amendment  
to Special Development District approvals in  
connection with Blue Black Square  
Development - 40 South Main Street, 15 New  
Street, 65 and 85 Memorial Road and 75 Isham  
Road - amendment to SDD 113 and approval of  
amended Development Plan

Public Hearing held at the Town Hall, 50  
South Main Street, Room 314, West Hartford,  
Connecticut, on April 14, 2009, beginning at  
7:00 p.m.

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1       A p p e a r a n c e s:

2               Town Council Members Present:

3               MAYOR SCOTT SLIFKA

4               CHARLES T. COURSEY

5               TIMOTHY L. BRENNAN

6               LEON DAVIDOFF

7               STEVEN I. ADLER

8               JOSEPH VERRENGIA

9               JOSEPH VISCONTI

10              CAROLYN THORNBERRY

11  
12              Alternate:

13              KEVIN AHERN

14  
15              RONALD VANWINKLE

16              Interim Town Manager

17              JOSEPH A. O'BRIEN, ESQ.

18              Corporation Counsel

19              PATRICK ALAIR, ESQ.

20              Deputy Corporation Counsel

21  
22              ESSIE S. LABROT

23              Town Clerk/Council Clerk

24  
25  
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1 A p p e a r a n c e s (Cont'd.):

2 For the Applicant:

3 DAY PITNEY, LLP

4 242 Trumbull Street

5 Hartford, Connecticut 06103

6 By: JOSEPH L. HAMMER, ESQ.

7 jhammer@dayptiney.com

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1 PRESIDENT SLIFKA: Okay. We  
2 will open up the 7:00 o'clock public hearing.  
3 Get a roll call please Ms. Labrot.

4 MS. LABROT: Mr. Adler.

5 COUNCILOR ADLER: Here.

6 MS. LABROT: Mr. Brennan.

7 COUNCILOR BRENNAN: Here.

8 MS. LABROT: Mr. Ahern for  
9 Shari Cantor.

10 COUCILOR AHERN: Here.

11 MS. LABROT: Mr. Coursey.

12 COUNCILOR COURSEY: Here.

13 MS. LABROT: Mr. Davidoff.

14 COUNCILOR DAVIDOFF: Here.

15 MS. LABROT: Mr. Slifka.

16 PRESIDENT SLIFKA: Here.

17 MS. LABROT: Dr. Thornberry.

18 COUNCILOR THORNBERRY: Here.

19 MS. LABROT: Mr. Verrengia.

20 COUNCILOR VERRENGIA: Here.

21 MS. LABROT: And Mr. Visconti.

22 COUNCILOR VISCONTI: Here.

23 PRESIDENT SLIFKA: Thank you.

24 Mr. Coursey, please read the  
25 subject matter.

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1 COUNCILOR COURSEY:

2 Mr. Mayor, application on behalf of Blue Back  
3 Square, LLC, developer of the Blue Back  
4 Square mixed-use development for amendment to  
5 special development district approvals in  
6 connection with the Blue Back Square  
7 development - 40 South Main Street, 15 New  
8 Street, 65 and 85 Memorial Road, and 75 Isham  
9 Road - amendment to SDD 113 and approval of  
10 amended development plan.

11 PRESIDENT SLIFKA:

12 Mr. Coursey, while we're at it, might as well  
13 get the items for the record out of the way.

14 COUNCILOR COURSEY: Yes.

15 Later -- letter dated March 30, 2009, from  
16 Mila Limson, DRAC secretary, recommending  
17 approval for 40 South Main Street, 15 New  
18 Street, 65 and 85 Memorial Road and 75 Isham  
19 Road, and a letter dated April 7, 2009, from  
20 Jeffrey Daniels, Chairman for TP&Z, tabling  
21 their decision until TP&Z's May 4, 2009  
22 meeting regarding 40 South Main Street, 15  
23 New Street, 65 and 85 Memorial Road and 75  
24 Isham Road.

25 PRESIDENT SLIFKA: Okay.

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1 Thank you, Mr. Coursey.

2 We have a presentation from  
3 the applicant. Welcome.

4 MR. HAMMER: Yes. Thank you,  
5 Mr. Mayor, members of the Council. Joseph  
6 Hammer, from the law firm of Day Pitney  
7 representing the applicant. With me tonight  
8 is Lucy Wildrick, applicant's representative  
9 as well as Norm Goldman of Desmond  
10 Associates, parking consultant for the  
11 project. And before we begin, just two  
12 housekeeping matters I have with me to submit  
13 the affidavit regarding sign posting and also  
14 a memo regarding the public outreach that the  
15 applicant has gone through.

16 Thank you.

17 Essentially, we are seeking an  
18 amendment just to SDD 113, which is  
19 essentially what I'll refer to as the private  
20 development component of Blue Back Square.  
21 And the proposed amendment would essentially  
22 allow the exchange or change of uses in  
23 existing building space without the provision  
24 of additional parking, as might otherwise be  
25 required under our existing SDD approval.

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1 And essentially, this amendment, if approved,  
2 would treat Blue Back Square in the same  
3 manner that West Hartford Center is already  
4 treated for purposes of changing uses and not  
5 being required to increase parking that's  
6 provided.

7 West Hartford Center, I  
8 believe, is either in a BC or a CBDH zone.  
9 They provide -- no additional parking is  
10 needed. The CBDH zone is actually underlying  
11 SDD 113. And again, what we'd like to do is  
12 just really go with the procedures that would  
13 apply if we were not in an SDD.

14 Right now, and as many of you  
15 recall from hearings, use changes in this SDD  
16 are tied to some very specific parking  
17 calculations that are part of the approved  
18 plan; therefore, if we're making a change in  
19 existing space, it's necessary, often, to  
20 have to return to this Council, you know, if  
21 in fact the theoretical parking demand is  
22 going to be two spaces or five spaces more  
23 than what's out there today, you have seen us  
24 in the past, I think, coming to you in order  
25 to get an amendment to the SDD. And, as you

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1 know, that's time consuming and has some cost  
2 involved and time involved for the town, for  
3 the Council, for the TPZ, for the staff, as  
4 well as for the applicant and as well as for  
5 potential tenants. And not only would there  
6 be a hearing in front of the Council, there'd  
7 be a referral to TPZ. There would be a  
8 referral to the Design Review Committee even  
9 where we're not proposing outside changes to  
10 the buildings because that's part of the  
11 ordinance, and there would likely be the need  
12 for reports from consultants, and so forth.

13 Especially in this climate,  
14 that process can be a real disincentive for  
15 potential tenants, especially larger type  
16 tenants who have lots of choices in terms of  
17 where they can locate having to go through  
18 that type of an involved process, can be a  
19 real disincentive and cause them to go  
20 elsewhere.

21 And again, going back to the  
22 original approval, at that time, everything  
23 was tied very closely to parking because we  
24 were really dealing with a type of  
25 development that there was not a track record

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1 for here in town, and I think you and others  
2 and staff were being very cautious and  
3 conservative at the time to have parking tied  
4 very closely.

5 The Desmond Associate study,  
6 which we've submitted as part of that  
7 application, has counted actual parking usage  
8 as of October 2008, and they have concluded  
9 that there is adequate supply, not only to  
10 meet the needs of the project, but also to  
11 meet whatever needs would arise from this  
12 exchange of uses that we are proposing. And  
13 Desmond is the firm that did the initial  
14 parking studies, so they're very, very  
15 familiar with the project.

16 Again, our intent is simply to  
17 make tenant permitting more efficient and to  
18 adjust our approval process to reflect the  
19 actual track record and actual experience  
20 that we've had. We're not seeking any types  
21 of fundamental changes to the development. I  
22 will mention when we observed the TPZ at its  
23 last meeting, there were some comments  
24 expressed which showed us that perhaps the  
25 way we had initially phrased the application

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1 could be subject to unintended consequences  
2 or the potential for unintended consequences,  
3 specifically as to the residential portion of  
4 the development. So what I was going to  
5 propose on behalf of the applicant to you is  
6 that our ability to change the uses without  
7 providing additional parking, that that  
8 ability not apply to space that is currently  
9 residential space, either condominiums or  
10 apartments. And with that modification, we  
11 think any concern that people might have as  
12 to that component of the development would be  
13 addressed.

14 Finally, we understand TPZ  
15 will be, I think, making its referral to you  
16 at its next meeting, which I believe is on  
17 May 4th. And we look forward to working with  
18 you through this process, hopefully  
19 culminating in an adjustment to our approval.  
20 But with that, if there's any questions, we'd  
21 be happy to answer them. If there's any  
22 questions regarding parking, Mr. Goldman is  
23 here.

24 PRESIDENT SLIFKA: Thank you,  
25 Mr. Hammer.

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1                   Are there any questions for  
2 Mr. Hammer or the applicants? Mr. Davidoff.

3                   COUNCILOR DAVIDOFF: Thank  
4 you, Mr. Mayor, through you. I just have a  
5 question on clarification, this SDD 113, does  
6 that deal with the movie theater?

7                   MR. HAMMER: Yes. I believe  
8 the movie theater is part of SDD 113.

9                   COUNCILOR DAVIDOFF: Because,  
10 if I recall, during the Blue Back Square  
11 hearings, I recall asking the question or  
12 having heard someone ask the question that if  
13 the movie theater did not succeed and wasn't  
14 well utilized that, I think, one of the  
15 conditions of approval from the TPZ was  
16 that the applicant was going to come back to  
17 the town to request a change in use under, I  
18 think, maybe a special use permit. Is that  
19 correct?

20                   MR. HAMMER: I don't recall.  
21 I'm not sure one way or the other. Although,  
22 what I do recall is that definitely, under  
23 the town zoning ordinance, movie theaters, I  
24 know, specifically are one use that does  
25 require a special use permit to begin with

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1 versus retail, for example, or restaurant or  
2 office, which does not. So I think, in part,  
3 that is what we were dealing with back then  
4 at TPZ, that the theater needed that extra  
5 permit unlike other uses.

6 COUNCILOR DAVIDOFF: So how  
7 would this amendment affect that ruling?

8 MR. HAMMER: Again, I don't --  
9 I don't have that on certain --

10 PRESIDENT SLIFKA: I could  
11 make a suggestion. Since the TPZ did not  
12 act, we don't have their -- their  
13 recommendation or disapproval yet. We have  
14 to hold this open for another couple weeks.  
15 So we're not acting on this tonight. So  
16 perhaps, Mr. Hammer, you could get an  
17 answer --

18 MR. HAMMER: Sure.

19 PRESIDENT SLIFKA: -- to  
20 Mr. Davidoff's question and have it for us at  
21 the continued portion of the hearing.

22 MR. HAMMER: Yes. I -- I  
23 will.

24 PRESIDENT SLIFKA: If that's  
25 all right.

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1 MR. HAMMER: And I would note  
2 that, of course, to the extent that we were  
3 seeking to change to any use that requires a  
4 special use permit, of course, we'd have to  
5 go through that process and we're not  
6 proposing that we not, but I will look into  
7 that specific question.

8 COUNCILOR DAVIDOFF: I  
9 appreciate it.

10 Thank you, Mr. Mayor.

11 PRESIDENT SLIFKA:  
12 Mr. Visconti.

13 COUNCILOR VISCONTI: Yes. I  
14 have a question for Mr. -- is it Mr. Desmond  
15 from the parking?

16 MR. GOLDMAN: Goldman.

17 COUNCILOR VISCONTI: Goldman.  
18 That's it.

19 MR. GOLDMAN: I wish I was  
20 Desmond.

21 (Laughter.)

22 COUNCILOR VISCONTI: We'll  
23 give him a call, tell him you said that.

24 My question is about, has  
25 there been any studies working with the town

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1 or not, that if the town owns the lots do any  
2 type of promotional parking -- is there an  
3 allotment or a percentage in all of your  
4 calculations with this -- with this use that  
5 would inhibit or restrict the town from doing  
6 promotional; is there a window of 200 spaces  
7 that are available in all of your  
8 calculations for zoning, you know, use  
9 change?

10 MR. GOLDMAN: Well --

11 COUNCILOR VISCONTI: It's just  
12 a question I have. I actually am excited  
13 about this.

14 MR. GOLDMAN: Uh-huh.

15 COUNCILOR VISCONTI: But came  
16 to mind about promotional, my whole feeling  
17 is we want to get the garages filled, and if  
18 you bring tenants in or tenants come in that  
19 may actually fill the garage more or  
20 whatever, that's great; but, if it doesn't  
21 happen, are we limited or restricted on the  
22 town side because we would be maxed out with  
23 this. Is there any --

24 MR. GOLDMAN: Now, are you  
25 talking about as a legal issue, Mr. Visconti?

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1 COUNCILOR VISCONTI: But  
2 all -- more important for the legal issue  
3 would be the question of what percentage of  
4 allotment did -- did you come up with? In  
5 other words, if there's a use change  
6 anywhere.

7 MR. GOLDMAN: Let me go to  
8 your first question. First, there's not been  
9 a study, okay --

10 COUNCILOR VISCONTI: Okay.

11 MR. GOLDMAN: -- done for  
12 that.

13 COUNCILOR VISCONTI: Okay.

14 MR. GOLDMAN: It was never  
15 requested. But you have to recognize that  
16 what we did and what we do is a, what we call  
17 a "shared-use analysis." And at various  
18 times of the day, during the week, at various  
19 times of the weekend, there are excess  
20 capacities available. So to answer your  
21 question, we would need to know and you would  
22 need to know when this promotional thing  
23 would hit. And it would have to hit when  
24 there are spaces available for it to be  
25 performed and for it to go on.

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1                   Because if you take the peak,  
2                   which occurs at 1:00 o'clock during the week  
3                   and 1:00 o'clock on the weekend based upon  
4                   our original projections, but then you go  
5                   down to the evening, there are plenty of  
6                   spaces available late afternoon, Saturday  
7                   morning, Saturday afternoon, there are spaces  
8                   available.

9                   COUNCILOR VISCONTI: Okay. So  
10                  we could -- this date is available for us,  
11                  for the town to actually take a look at.

12                  MR. GOLDMAN: I -- I believe,  
13                  I mean, based upon our -- based upon our  
14                  study, there would be.

15                  COUNCILOR VISCONTI: Right.

16                  MR. GOLDMAN: It would seem  
17                  that there are spaces available.

18                  COUNCILOR VISCONTI: Okay.  
19                  Well, that's helpful. Thank you.

20                  PRESIDENT SLIFKA: Thank you,  
21                  Mr. Visconti.

22                  Mr. Verrengia.

23                  COUNCILOR VERRENGIA: You said  
24                  that the last study was October, 2008.

25                  MR. GOLDMAN: What we did --

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1 what we did in November -- actually it was  
2 November. It was November of 2008, we were  
3 requested by the developer to come to the  
4 site, and I talked to Mr. Van Winkle and to  
5 John, and what we did was a vacant space  
6 count because we wanted to see what was  
7 occupied and what was available. And we went  
8 through the on-street -- the on -- the  
9 off-street lots, the two garages, et cetera.  
10 And we went through it from 11:00 o'clock in  
11 the morning to 3:00 o'clock in the afternoon,  
12 every two hours. So we got a good handle on  
13 what that was what -- the reason we did that  
14 day was there was a consensus of opinion that  
15 was a typical day of the week. It was in a  
16 good period of the year, not on a holiday.  
17 And we then determined from our counts how  
18 many spaces were vacant and how many spaces  
19 were occupied.

20 COUNCILOR VERRENGIA: Thank  
21 you.

22 PRESIDENT SLIFKA: Thank you,  
23 Mr. Verrengia.

24 Mr. Visconti.

25 COUNCILOR VISCONTI: Joe, just

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1 -- something went off in my head when Joe did  
2 his thing. Were you able to analyze, through  
3 any of the parking receipts or the parking  
4 authority, comparative data with your  
5 physical assessment?

6 MR. GOLDMAN: We did compare  
7 that with the -- with your parking people,  
8 yeah.

9 COUNCILOR VISCONTI: So you  
10 did physical assessment based off of the --  
11 the data that we have for parking usage.

12 MR. GOLDMAN: No. We did  
13 physical assessment by ourselves on the site,  
14 and then we compared what we had with your  
15 parking people to confirm that it was in the  
16 same --

17 COUNCILOR VISCONTI: Okay.  
18 Great.

19 MR. GOLDMAN: -- order of  
20 magnitude.

21 PRESIDENT SLIFKA: Do you have  
22 anyone else right here? Okay. Mr. Alair.  
23 The sign-up sheet please.

24 MR. GOLDMAN: Thank you.  
25 Thank you.

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1 PRESIDENT SLIFKA: Okay.

2 Mr. Alair, of course, the sign-up sheet is  
3 blank. Is there anyone who did not sign up  
4 who wished to speak to the subject matter of  
5 this application?

6 (No response.)

7 PRESIDENT SLIFKA: Okay.

8 Seeing none. Mr. Van Winkle, I was wondering  
9 if you might -- I apologize. You may not be  
10 prepared for this, but say, we have a  
11 continued hearing, if it's necessary. I  
12 thought it might be helpful though, that  
13 based on your previous role here, Director of  
14 Community Service, I sense you oversaw some  
15 of this. The DRAC approval that we received  
16 had based its approval, in large part, on the  
17 fact that this has been extended to other  
18 central business districts within the town,  
19 and that -- so this was not the first time  
20 that it's been requested. It was something  
21 that was, sort of, a natural outgrowth of the  
22 development.

23 I was wondering if that -- it  
24 might just be illustrative for the record if  
25 you could get into that since we -- we have

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1 the written record here but something verbal  
2 for the record might be helpful.

3 MR. VAN WINKLE: The town's  
4 effort to vitalize West Hartford center began  
5 in the late eighties, actually when we sat  
6 down and tried to look at how to strengthen  
7 the retail core in West Hartford Center.

8 We looked at various options,  
9 and one of the things that we had in West  
10 Hartford Center was lots of stores and no  
11 restaurants. And we constantly had  
12 restaurants knocking on our doors saying, we  
13 want to open a restaurant in the Center, but  
14 our zoning law didn't allow us to do a swap.  
15 You needed to create parking spaces to put a  
16 restaurant, and you couldn't do that. So we  
17 brought you an ordinance that allowed a  
18 retail store that might close, that retail  
19 store to be turned into a restaurant without  
20 going for additional parking. A swap,  
21 similar to what they're talking about here.  
22 That was part of what -- what vitalized West  
23 Hartford Center, that brought in a lot of new  
24 business, a lot of new customers, and has  
25 made West Hartford Center the center of the

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1 region.

2 So it was part of many things  
3 we did in the early nineties, but it was  
4 certainly an important factor. If anybody  
5 who has been in the Center on a -- on a  
6 Thursday night or any other night, sees the  
7 amount of foot traffic due primarily to the  
8 fact that we have been flexible with  
9 position. Today, in this very hard  
10 recession, our vacancy rate in the Center is  
11 quite low, what you might expect at a normal  
12 time, and it's simply because we've been able  
13 to strengthen that demand for space in West  
14 Hartford Center, and that's part of the  
15 answer.

16 PRESIDENT SLIFKA: Thank you,  
17 Mr. Van Winkle.

18 Okay. If there's nothing else  
19 from the applicant.

20 MR. GOLDMAN: There isn't.  
21 Thank you.

22 PRESIDENT SLIFKA: Okay.  
23 We're going to continue the public hearing to  
24 May 12th, at 6:15 p.m.

25 (Whereupon, the above

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1 proceedings were adjourned at 7:20 p.m.)  
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1 CERTIFICATE

2 I hereby certify that the foregoing 22  
3 pages are a complete and accurate  
4 transcription of a digital sound recording  
5 taken of the Public Hearing in Re:  
6 APPLICATION ON BEHALF OF BLUE BACK SQUARE  
7 MIXED-USE DEVELOPMENT, FOR AMENDMENT TO  
8 SPECIAL DEVELOPMENT DISTRICT APPROVALS IN  
9 CONNECTION WITH BLUE BLACK SQUARE  
10 DEVELOPMENT - 40 SOUTH MAIN STREET, 15 NEW  
11 STREET, 65 AND 85 MEMORIAL ROAD AND 75 ISHAM  
12 ROAD - AMENDMENT TO SDD 113 AND APPROVAL OF  
13 AMENDED DEVELOPMENT PLAN, before the West  
14 Hartford Town Council, which was held at Town  
15 Hall, 50 South Main Street, Room 314, West  
16 Hartford, Connecticut, on April 14, 2009.

17 I further certify that the digital sound  
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