

## NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

**RE:** **ZONING ORDINANCE TEXT AMENDMENT** to Article V, Section 42.0 (Use Table), Section 43.0 (Bulk and Yard Regulations for Business and Industrial Districts) to permit residential uses in IL Districts with a Special Permit, to require a Special Permit for self-storage uses in IL Districts, and Section 45.0 (Regulations for Parking, Loading, and Automotive and Drive-in Establishments) to amend retail parking standards. (City Plan Executive Director)

**REPORT:** 1518-08

**ADVICE:** Approve as amended

### BACKGROUND

The City Plan Director has submitted to the Board of Alders proposed Zoning Ordinance Text Amendments to Sections 42, 43, and 43 and 45 of the New Haven Zoning Ordinance to allow for 1) residential uses in existing structures in Light Industrial Districts by Special Permit, 2) a Special Permit for self-storage uses in IL Districts and 3) amendment of the current parking requirements for retail uses of over 5,000sf in area. The first two amendments represent the second stage of changes to the IL District which are intended to reflect contemporary patterns of land use and ensure the continued viability of the districts. They are also the result of recommendations that are part of the recently adopted Mill River District Plan.

The amendment to Section 45 would change standards long recognized as problematic and originally instituted as a mechanism to achieve land use related outcomes no longer relevant in terms of current land practice in New Haven.

**PUBLIC HEARING:** A public hearing was held on May 19, 2016. A transcript of the hearing is stored in City Plan Department files.

### PLANNING CONSIDERATIONS:

In New Haven, as in many cities in this part of the country, there are a number of older buildings that provide evidence of the city's industrial past. These buildings while found throughout the city, are most often found in zoning districts areas currently designated as either Light (IL) or Heavy (IH) Industrial Districts. Some have stood for more than 100 years; they are frequently of multistory brick or masonry type construction. While structurally sound in many cases, the physical nature of the buildings, often presenting elongated and largely vertical profiles, does not lend itself to either modern industrial process in particular or alternative commercial uses more generally. Future industrial use of the properties where these buildings are found would almost certainly involve the razing of these structures.

They may however, in many cases, lend themselves to residential conversions. Existing regulations now permit some form of such conversion of these buildings in almost all other residence and commercial zoning districts found on the New Haven Zoning Map. Given the suitability of the buildings themselves for residential conversion along with recommendations of the Mill River District Plan concerning the introduction of some residential use into industrial districts and recent amendments to the zoning ordinance permitting commercial uses that are compatible with residential uses the Commission believes that now is the time to consider residential conversions of older industrial buildings located in some industrial districts.

The Commission does feel however that such an amendment does require qualification on a number of levels. First of all, it is important to make a distinction between the IL and IH Districts. IH Districts allow for a range of very intense industrial uses, most of which are not compatible with residential uses. IL Districts, on the other hand, do not generally permit the same level of industrial intensity. IL Districts also now permit a considerable

number of other less intensive commercial uses compatible with and supportive of residential development. Consequently the proposed amendment only applies to IL Districts.

The second qualification is concerned with the allowable extent of residential use in the IL districts, i.e., whether to limit residential use to existing structures, to existing structures but with new additions, or to allow new structures. The Commission is of the belief that while residential use does have a place in an IL District its role is more ancillary or accessory than in most other districts. It, along with the newly permitted commercial uses, is primarily intended to help support and sustain successful areas of light industrial use. To insure that accessory role, and to ensure that high density residential growth continue to focus on portions of the city where it is most appropriate the Commission originally believed that conversions be limited to existing structures only. **Further discussion at the Public Hearing, however, led to the Commission recommendation that additional building of up to five percent in area of the existing structure be allowed for non-habitable interior areas such as common hallways, elevator shafts, etc. in order to ensure that all such conversions will be able to comply with current building, health and safety codes while retaining the historic form and character of the subject properties.**

Proposed use, bulk, and density standards for residential use in existing IL buildings should be such that residential use is encouraged but at a density and in locations that ensure its ancillary role in the district. Towards that end the proposal originally limited such use to buildings of at least two stories with at least 5,000sf of gross floor as defined in the New Haven Zoning Ordinance as follows:

*FLOOR AREA, GROSS: The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of exterior walls (and from the center lines of party walls if the portions of the building separated by such party walls are to be treated separately), including:*

- (1) Basement space where more than one-half the basement height is above the finished lot grade average along the exterior walls of the building;*
- (2) Elevators and stairwells at each floor;*
- (3) Attic space, whether or not a floor has been laid, over which there is structural headroom of seven foot or more; and*
- (4) Enclosed porches, interior balconies and mezzanines, and penthouses; and excluding floor space permanently devoted to mechanical equipment used in the operation and maintenance of the building, and floor space permanently devoted to a parking space or parking spaces.*

**Further consideration of the minimum building size by the Commission resulted in an amendment to change the minimum size for conversion to 50,00sf from the originally proposed 5,000sf based on the concern that smaller conversions surrounded by industrial uses would be less likely to generate the kind of mixed use environment that this set of amendments is intended to create.**

The purpose of this standard is to effectively prohibit residential uses in marginally habitable areas of a building, in particular basement areas. It is the position of the Commission that safety issues inherent in below grade residential use outweigh considerations of reasonable use of property and also ensure space for common use such as storage, common recreation, etc. The requirement of an existing second floor construction is to reinforce the idea that these structures were originally constructed for industrial purposes no longer in existence.

The proposal also requires that any structure considered for residential use must have been in existence no later than 1963. While the Commission recognizes the relative subjectivity of that year it is fairly clear that any significant industrial use commencing in this city after that year was located in building space significantly different than the type of structure relevant to this proposal. Post -1964 industrial type construction would for

the most part not only be less appropriate for residential conversion but just as importantly is more likely to still be an appropriate location for industrial uses.

There are two significant elements to the density standard. The maximum permitted density of one dwelling unit per 1000sf of gross floor area (see above) for conversions projects that are entirely residential is a standard almost all recent larger scale residential development comply with. Given the extent of common area required by the zoning ordinance and the building code as well as the practical realities of building design it is the determination of the Commission that this standard provides a level of density that ensures not only the economic viability of conversion but also allows for a number of different approaches for such a project.

The second element of the density standard is related to the concept of a mixed use type of conversion. The Commission recognizes the difficulty in maintaining a commercial presence in this type of conversion and understands the limitations in requiring this presence. As a mechanism to actively encourage (as opposed to requiring) the incorporation of a commercial presence in these projects the density requirement for residences will apply to all existing gross floor area as opposed to just that actually devoted to residential use.

For example, a 25,000sf 5 story building would be entitled to a maximum of 25 dwelling units. That entitlement would not change even if the portions of the building were proposed for certain nonresidential uses. The inclusion of commercial uses in no way affects the allowable density of the residential component of the property.

Closely related to the issue of density is the issue of nonresidential use in this type of project. The Commission believes that while mixed use is a condition that should be encouraged in conversions there are some uses permitted in IL districts that are not site compatible with residential use. Permitted nonresidential uses in these projects are limited to those permitted **both** 1) in the IL District by right or Special Permit **and** 2) In either a BA, BA-1, BD2 or BD-3 District by right Special Permit or Special Exception. In addition no automotive related use (Section M of Use Table 3) or construction related use (Section O. of use table 3) would be permitted. A list of uses generally permitted in IL Districts but which would not be permitted on properties with residential uses would include the following:

- Section D. Firing range*
- Section E. Adult cabaret more than 1,500 feet from another adult cabaret, bar in the same structure, or adult use as defined in Section 42.3 of this ordinance*  
*With Liquor Service*  
*No Liquor Service*
- Section H. Gun shops and accessory goods sales including ammunition, subject to Section 42.4 provisions.*
- Section L. Adult businesses, including adult bookstores, adult theaters, adult entertainment centers, rap parlors, massage parlors, saunas, subject to Section 42.3 provisions.*
- Section M. Automotive: All uses in this Section are prohibited.*
- Section N. Boat Sales and Services, Boat Building, Seaplane Base, Deep Sea Shipping Facility*
- Section O. Construction & Related Goods & Services: All uses in this Section are prohibited.*
- Section R. Storage of commercial vehicles (where not an accessory use to another permitted use), Taxi Terminal, Truck or Rail Freight Yard Terminal.*
- Section S. Cold storage facility, no limit as to customer type.*  
*External building cleaning, disinfecting, or exterminating establishments.*  
*Food processing or wholesale bakery.*  
*Warehousing, or moving and storage establishment.*  
*Wholesaling or distribution, including the handling of stock and incidental retailing.*  
*Cleaning, Laundering, Dyeing or Diaper Service Plants*

*Section T. Miscellaneous manufacturing.  
Household hazardous waste collection centers, as defined and regulated by Section 46.  
Outdoor storage of more than 500 square feet of material.  
Waste processing and transfer*

This approach is intended to ensure a mix of uses that will be mutually self-supportive and by virtue of the level and diversity of the resultant human activity may actually provide a basis for the establishment of a neighborhood environment where one does not currently exist.

Additional regulatory language will require usable open space and common amenity space similar to that required in other high density residential districts in New Haven. Also, self-storage facilities in IL Districts will now require a Special Permit to enable a degree of control over material storage not afforded by the Site Plan Review process.

Finally, any proposal residential use in an IL District will require a Special Permit from the City Plan Commission. This will ensure that even if an application complies with all qualitative standards of the zoning ordinance the Commission would still have authority to attach terms and conditions to any approval.

**Article XIII, Sections 2(B) and 2(C) of the Charter of the City of New Haven requires the following finding:**  
The City Plan Commission finds that the proposed text amendments comply with Article XIII, Sections 2(B) and 2(C) of the Charter of the City of New Haven in that they are (i) uniform for each class of buildings or structures, (ii) made in accordance with the comprehensive plan, (iii) designed to lessen congestion in the streets, secure safety from fire, panic and other dangers, promote health and the general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population, facilitate the adequate provisions for transportation, water, sewerage, parks and other public requirements, and (iv) made with reasonable consideration as to the character of the IL District and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

**Section 64(d) (2) of the New Haven Zoning Ordinance requires that the City Plan Commission take into consideration in evaluating any amendment to the Zoning Ordinance:**

*a. Errors in the existing ordinance, changes that have taken place in the city and in patterns on any of construction and land use, the supply of land and its peculiar suitability for various purposes, the effect of a map change on the surrounding area, the purposes of zoning and the comprehensive plan of the City of New Haven;*

The Commission finds that the existing table of permitted uses in IL Districts is not just unnecessarily restrictive but more importantly restrictive to the point of preventing the development in these areas in a manner that would not only provide areas for light industrial uses but also for a wide variety of compatible and complementary commercial uses of lesser intensity and residential uses that would in effect support such industrial use. The proposed changes will also serve the needs of an element of the community that does not feel the need to live in areas of strictly separated uses and which desires the atmosphere created by a mixed use environment and as such represents an appropriate response to “changes that have taken place in the City”.

*b. Whether some other method or procedure under the zoning ordinance is more appropriate...* The proposed text amendment permits residential use in IL Districts. There is no other mechanism in the ordinance that does this.

The Commission further finds the proposed amendments serve a substantial government interest, are in the public interest and promote the health, safety, and general welfare of the community without unreasonable limits on land use and therefore recommends approval.

**ADVICE AND FINDINGS**

Based on all of the above it is the recommendation of the Commission that the proposed text amendment is in full compliance with the standards and requirements of Article XIII, Sections 2(B) and 2(C) of the Charter of the City of New Haven and Section 64(d) (2) of the New Haven Zoning Ordinance and should be approved.

**ADOPTED:** May 19, 2016  
Adam Marchand  
Acting Chair

**ATTEST:**

  
\_\_\_\_\_  
Karyn M. Gilvarg, AIA  
Executive Director

Amended 5/25/16

Attachment C:

Draft IL Residential Use Regulation Amendments      Deletions in *Italic*      Additions in **Bold**

TABLE 3. USE TABLE

Key: R - Permitted As-of-Right   SP - Special Permit   SE - Special Exception   X - Not Permitted <b>NA- Not Applicable</b>														
In case of conflict between this Table 3 and the text of the Zoning Ordinance, the text shall prevail.														
Use	BA	BA-1	BB	BC	BD	BD-1	BD-2	BD-3	BE	IL	IM	IH	Parking <sup>(5)</sup>	Loading <sup>(5)</sup>
A.      Uses Of Same Type As Those Permitted In Residence Districts:														
<p><i>For Adaptive Reuse of Structures Built Prior to 1963, Provided the First Floor Remains in Commercial Use: Irrespective of use, whether a dwelling or business, the building, bulk and yard regulations applicable to the appropriate Business or Industrial District shall govern</i></p> <p><b>Dwelling units in existing structures of at least 50,000sf gross floor area and no less than two stories in height built prior to 1963, at a <u>maximum</u> density of 1 unit per 1000sf of gross floor area and limited to gross floor areas as defined in the New Haven Zoning Ordinance <u>except that a maximum 5% increase in building gross area for non-habitable areas of interior circulation (i. e., elevators, stairwells and common hallways) is permitted regardless of site floor to area ratio.</u></b></p> <p><b>Commercial Use in such structures or on such properties limited to those permitted in both the IL District by right or Special Permit and either in BA, BA-1 BD-2 or BD-3 Districts by right , Special Exception or Special Permit and excluding all uses listed in</b></p>	NA	NA	NA	NA	NA	NA	NA	NA	SP	NA	NA	l, m,	y	

Deleted: ¶



within a 1,000-foot radius of publicly accessible open space, then a minimum of 13 square feet of usable open space per 1,000 square feet of gross floor area shall be required on such lot up to a maximum of 10,000 square feet of usable open space.

b. In the BD-1, BD-3 **and IL Districts**, for all mixed use buildings and residential principal buildings **both existing and proposed**, a minimum of 50 square feet per dwelling unit of usable open space shall be provided on the same lot on which such building is located. In the event that any point on the lot upon which the mixed use building or the residential principal building is situated is located within a 1,000-foot radius of publicly accessible usable open space, then a minimum of 25 square feet of usable open space per dwelling unit shall be required.

C. In the BD-1 , BD-3 **and IL Districts**, mixed use buildings and residential principal buildings **both existing and proposed** with six or more dwelling units shall provide 50 square feet of common amenity space per dwelling unit in addition to the usable open space required under subsection 43(i)(1)b above.

#### Section 45. - Regulations for parking, loading, automotive and drive-in establishments.

The following regulations shall apply to all business and industrial uses described in section 42 of this ordinance (excluding uses of types permitted in residence districts, which shall be subject to the requirements of the appropriate residence district, as indicated in subsection 42(a) above).

In any case where provisions of this section 45 are applicable, the plans submitted shall be sufficient in scope and character to determine that all relevant requirements of this section are adhered to.

In any case in which the zoning enforcement officer is uncertain as to the applicability of standards or the adequacy of facilities, such questions shall be referred to the department of traffic and parking for an opinion. Where further refinement of the provisions of this section 45 is necessary, reference shall be made to The Traffic Engineering Handbook, Institute of Traffic Engineers, in its latest edition, or to A Policy on Arterial Highways in Urban Areas, American Association of State Highway Officials, in its latest edition.

(a)

Parking and loading.

(1)

Off-street parking and off-street loading spaces shall be furnished in the following quantities for business and industrial uses in the case of expansion of existing uses and new uses which require more such parking and loading spaces than were required for the immediately prior use (except in the Business A-1, Business D, D-1, D-2 and D-3 Districts as provided in clause a.1. below). If existing parking and loading spaces for an existing use are needed for such existing use to meet the ratios and stated below, such parking or loading spaces may not be credited for any expansion of such use. Parking lots and parking structures containing less than 200 parking spaces shall be permitted as of right unless otherwise indicated in the Table of Use Regulations in section 42. Parking lots or parking structures capable of containing 200 or more parking spaces shall be allowed by special permit only in accordance with section 64(e) except that such parking lots and structures located entirely on parcels subject to a development agreement with the City of New Haven entered



into prior to June 1, 2007, require only site plan approval. Special permit applications for parking lots and parking structures may be heard at the same time as any related applications for site plan review.

a.

Quantity of parking spaces: The quantity furnished shall be in accordance with the following table. For the sake of clarity, the appropriate key letter in the first column below appears with each use in the Table of Use Regulations in section 42.

Key Letter	General Description of Uses	Quantity of parking spaces
a	Motel or Hotel, tourist home	1 per unit
b	Other transient lodging	1 per 3 sleeping rooms
c	Retail sales and services: 600—5,000 sq. ft. of sales service area	1 per 200 sq. ft. of total sales or service area
	<i>Over 5,000 sq. ft. of sales or service area</i>	<i>1 per 100 sq. ft. of total sales or service area</i>
d	Reserved	Reserved
e	Other office	1 per 600 sq. ft. of net office floor area
f	Place of assembly, eating or drinking place, funeral home	1 per 4 seats (total capacity)
g	Amusement	1 per 4 persons present at such facilities when they are filled to capacity
h	Vocational, trade or business school	1 per 2 students present at one time

i	Industrial, heavy commercial, transportation, marine, miscellaneous services	1 per 2 employees on the largest shift
j	Game room, as defined in <a href="#">section 42.2</a>	1 per 2 game machines
k	Marina	1 per slip
l	<a href="#">Single Family Dwelling Unit</a>	<a href="#">1 per dwelling unit</a>
m	<a href="#">Assisted Living and Elderly Housing</a>	<a href="#">.5 per dwelling unit</a>
n	<a href="#">Custodial Care</a>	<a href="#">See Section 19</a>
o	<a href="#">Live Work Loft</a>	<a href="#">1 per unit</a>