

NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

RE: **ZONING ORDINANCE TEXT AMENDMENT, Amend Article I, Definitions; Article III Residence Districts Section 16 RH-2 Districts: General High Density; and Article V, Section 42.0 (Table 3: Use Table), Section 43.0 (Bulk and Yard Regulations for Business and Industrial Districts), and Section 45.0 (Regulations for Parking, Loading and Automotive and Drive-in Establishments) (City Plan Director)**

REPORT: 1524-07

ADVICE: Approve

BACKGROUND

The City Plan Director has submitted to the Board of Alders a proposed Zoning Ordinance Text Amendment to change the text pertaining to; Article I Definitions; Article III Residence Districts Section 16 RH-2 Districts: General High Density; and Article V, Section 42.0 (Table 3: Use Table), Section 43.0 (Bulk and Yard Regulations for Business and Industrial Districts), and Section 45.0 (Regulations for Parking, Loading and Automotive and Drive-in Establishments).

Changes to Section 42 are primarily concerned with the elimination of references to Residence sections of the Zoning Ordinance (Articles III and IV) in Use Table 3 and to replace them with standards specific to residential uses in Business Districts. These amendments are necessary due to the fact that the current manner in which residential uses are regulated in Business Districts does not easily allow for the type of residential/business mixed use arrangement that is explicitly called for in the most recent update of the City's Comprehensive Plan of Development (New Haven Vision 202). Current standards, while allowing for some residential use in Business Districts, require bulk and area standards (i.e., yards, height, building, coverage, etc.) have two undesirable effects:

1. They result in buildings and lot arrangements that are not in character with an urban commercial district. Buildings typically sit in the middle of lots and structures thereby negatively impacting the building line of street in terms of not only terms of the proximity of buildings to each other (due to side yards as well as to consistency of a structural presence along the street itself (due to required front yards).
2. They promote the concept of the strict separation of uses in buildings by limiting the conversion of existing structures in Business Districts to residential use while at the same time encouraging residential in structures designed as above.

Amendments to the Definitions section, Section 16 and Section 43 are designed to reinforce and fully integrate the changes to Table 3 into the entire body of the Zoning Ordinance as well as to provide a greater degree of order and continuity to existing elements of Section 43. Changes to Section 45 include amended parking requirements, primarily as they apply to residential uses, in recognition of the view that residential (as well as certain institutional use) parking needs are significantly different in Business as opposed to Residence Districts.

These proposed changes are a direct reflection not only of changes that have taken place in New Haven but also of changes that have occurred in how the city would like to see itself grow and develop in the future. Fifty years ago the Zoning Ordinance regulated its Business Districts in such a manner as to create places almost exclusively devoted to nonresidential use. While not completely prohibited it was discouraged to the extent as to prevent the by right approvals of proposals that could be considered to be what is commonly referred to as mixed use development. Significant revisions to this approach have been enacted during the last few decades; specifically the creation the BD-1, BD-2, and BD-3 Districts all made provision for residential uses in some form. This latest amendment is however, the first time a comprehensive change to residential regulation in all Business Districts (with the exception of the BE District) has been proposed.

PUBLIC HEARING:

A public hearing was held on November 16, 2016. A transcript of the hearing is stored in City Plan Department files.

PLANNING CONSIDERATIONS:

Residence District Uses

The most significant element of this amendment package is, as mentioned, the creation of regulations concerning residential uses in Business Districts that no longer make any reference to standards for residential uses in Residence Districts. Rather than applying, for example, RM-2 standards for residential development in BA Districts and RH-2 standards for residential uses in BD Districts, residential uses in almost all Business Districts would have to comply with the same existing bulk and area standards of the district as nonresidential uses. Only the issue of density needs to be addressed. This involves a new across the board standard (all Business Districts except for BE) of 1 dwelling unit per 1000sf of interior gross floor and only in areas that actually qualify as gross floor area (no full basement residential occupancy).

The maximum permitted density of one dwelling unit per 1000sf of gross floor area for both new and conversions projects that are entirely residential is a standard almost all recent larger scale residential development complies 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 both new and conversion development 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 project. The Commission recognizes the difficulty in maintaining a ground floor commercial presence in many Business Districts 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. This preference rather than insistence on first floor commercial use in Residence Districts is further reflected in the fact that first floor residential use would require a Special Permit while all above first floor residential use is permitted by right.

A number of nonresidential uses, primarily medical and institutional in nature are currently permitted in Residence Districts and consequently in Business Districts under the same referential arrangement as residential use. This practice would also be discontinued with these amendments; all such uses have been added all other nonresidential uses permitted in Business Districts and listed in Table 3

Parking Requirements

Amendments to on-site parking requirements have been made in consideration of the fact that most uses will have a greater need for on-site parking in a residential setting as opposed to a nonresidential setting. Of most significance is the proposed reduction of required on-site parking to .5 space per dwelling unit from existing 1 or .75 per dwelling unit, depending on the district. The only exception to this reduction would be in BA and BA-1 Districts due to the proximity of residential neighborhoods. Also proposed is a new approach to regulating parking for retail and office uses. Rather than using difficult to regulate net area standards of use parking requirements will be based on a gross floor area standard.

Reordering

Remaining amendments are primarily those devoted to the reordering of existing regulations in Sections 43 and 45 of the Zoning Ordinance. What may appear to be extensive amendment is really an effort to sequentially integrate other recent amendments into the body of the Zoning Ordinance.

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 residential uses in Business Districts 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 Map:

- 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;*

As described above these earlier in this report these amendments are proposed as a direct result of changes in development patterns, a response to current public and professional views of mixed use development as essential to the creation of a sustainable urban environment, and as a regulatory implementation of directives found in the Comprehensive Plan of Development.

- b. *Whether some other method or procedure under the zoning ordinance is more appropriate...*

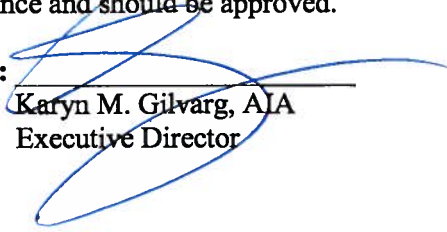
The proposed text amendment, within the context of the existing Zoning Ordinance, is the approach most likely to achieve the goal of enabling mixed use development in Business Districts in a fair consistent and manageable manner.

ADVICE AND FINDINGS

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.

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) of the New Haven Zoning Ordinance and should be approved.

ADOPTED: January 25, 2017
Edward Mattison
Chair

ATTEST: 
Karyn M. Gilvarg, AIA
Executive Director