

# NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

**RE:** ZONING ORDINANCE MAP AMENDMENT, Amend Title VI, Volume III of the Code of Ordinances to Change the Zoning Designation of Certain Parcels on **Park, Chapel, Crown, York, Dwight, George, Howe Streets and Edgewood Avenue** from BA, RH-2 and RM-2 to BD-1 (Alders Jones, Calder, Clark and Shah for the Chapel West Special Services District).

**REPORT:** 1451-05

**ADVICE:** Approval with technical amendments to Order:

- Under RH2 to BD-1: change 297-216-01300 to 297-216-00301
- Under RM-2 to BD-1: change 279-248-00200, 279-248-00300, 279-248-00400 to 297-248-00200, 297-248-00300, 297-248-00400.

## BACKGROUND

The Chapel West Special Services District is proposing to amend the City of New Haven Zoning Map by changing the zoning designation of nearly 125 properties, located primarily but not exclusively in the District and comprising an area of approximately 26 acres, from General Business (BA), General High Density Residential (RH-2) and High-Middle Density Residential (RM-2) to Central Business/ Residential (BD-1). The 120 or so BA-zoned properties make up nearly 23 acres of the proposed BD-1 District. Additionally, two RH-2 properties with an area of two acres in size are included in the proposal, as well as three RM-2 properties which comprise a total area of only about .6 acres in size.

As indicated on the map attached to this report the properties are all located at the eastern end of the existing Chapel West Special Services District in an area bounded at its extremes by George Street to the south, Dwight Street to the west, Edgewood Avenue to the north and York Street to the east. As noted most of the proposed area is currently part of the District with the exception of approximately 40 properties on about 5.5 acres located in the southeastern portion of the proposed area of change.

This current proposal is based not only upon general recommendations concerning increased density and district expansion found in the Chapel West Special Services District Vision and Strategic Plan but more specifically upon findings in the Draft Planning Assessment Report prepared for the District by Donald Poland of Connecticut Planning & Development, LLC. This report, which is part of the submission package to the Board of Aldermen, describes in detail the process by which both areas of District expansion and particular zoning classifications were determined.

## PUBLIC HEARING

On April 18, 2011 Executive Director Karyn Gilvarg noted the map amendment would have the effect of making a number of buildings which were now non-conforming such as the large apartment buildings on Howe Street conforming, ruling out uses not compatible with the densely built up nature of the area such as gas stations. While the City Plan Department's initial reaction was generally favorable, there were perhaps implications unintended by the applicants, uses which would not have a parking requirement such as large entertainment venues and theaters, general and special hospitals and OTB parlors.

Brian McGrath, Business Manager of the Chapel West Special Services District, gave some background on the proposed map change noting a Business Plan and Master Plan conceived which allowed for more density and flexibility. While parking was important, the requirements of the Ordinance were onerous. There were plenty of on street spaces and available garage spaces. A BD-1 text amendment could remove any noxious uses which Chapel West would support.

Planning consultant Donald J. Poland AICP presented his report recommending that BD-1 was the most appropriate for a neighborhood like Chapel West. Any "unwanted" uses would be permitted by special exception or special permit. BD was more restrictive in a use perspective than BA. Regarding bulk and area requirements, height, coverage and size were more or less the same throughout the BA and BD zones so there were no significant changes there. BD-1 had no minimum yard requirement. Many buildings in the area were non-conforming in this respect already. Increasing the FAR provided a greater opportunity for denser development. He noted no conflicts with state or regional plans or with the City's comprehensive plan.

A number of the business and property owners in the neighborhood spoke out in support of the zoning map amendment: Anthony Schaffer, President of C.A. White, Chairman of the Town Green SSD; Matt Oristann, owners of 1245, 1247, 1249 Chapel Street and 169, 175 Dwight Street; Steven Kovel, owner of 1144 Chapel Street; and Carl Carbone, a tenant at 398 Elm Street (not in the area of the zone change).

Susan Bradford, principal in the ownership of 70 Howe Street, asked for more information about impacts on historic structures and benefits of the change.

Sheila Masterson, Executive Director of the Whalley Avenue SSD, supported the change.

A letter from Abigail Rider, Associate Vice President of Yale University, owner of 33 properties within the proposed change area, was read into the record expressing concern about unintended consequences from the change, particularly used permitted as of right in the BD-1 district and not permitted in BA such as adult cabarets, gun shops, off-track betting and teletheater facilities, rail stations, heliports, regional outpatient clinics, and public health centers; also establishments selling or serving alcohol for consumption on or off premises, including entertainment accessory thereto (i.e. nightclubs). None of these uses would have a parking requirement which could consume all of the available on street parking. Therefore Yale could not support the change as it currently stood and urged the Commission to continue its hearing "so that a proposal could be crafted that better serves property owners and residents in the District.

Mr. McGrath said text amendments to the BD-1 zone could be drafted which could satisfy all parties and could be recommended to the Board of Aldermen.

On May 18, 2011 staff updated the Commission on progress in drafting the accompanying text amendments. Letters in favor were entered into the record from Thomas Brandt of Joseph's Furs; Schneur Katz of Crown Bell Management LLC; William Esposito of 1166, 1170, 1174 and 1171 Chapel Street; Arnold Lehrer, owner of 2 residential properties; Tejinder Singh, owner of Chapel Mini Mart at 1182 Chapel Street; and David Oronato, owner of Off Broadway at 100 Howe and other properties, and one letter from Susan Bradford, principal of 70 Howe, raising concerns.

On June 15 staff distributed a draft text amendment changes in three general areas: 1) uses with proposed deletions and additions, 2) parking and parking standards (in addition to parking for medical uses, hotels for example would have a parking requirement) and 3) restaurants, cafes and clubs.

On July 20, 2011 staff noted technical errors in the Order pertaining to tax assessor's map-block-parcel numbers:

Under RH2 to BD-1: change 297-216-01300 to 297-216-00301.

Also under RM-2 to BD-1, change 279-248-00200, 279-248-00300, 279-248-00400 to 297-248-00200, 297-248-00300, 297-248-00400.

## **EXISTING CONDITIONS**

As mentioned above the area of the proposed zone change is located at the eastern edge of the existing Chapel West Special Services District. The area of proposed change, arranged primarily around the intersection of Chapel and Howe Streets is bordered by other BA, BD and RH-2 properties on the north, east, and south, and RM-2 and BA to the west. There are also two Planned Development Districts and one Planned Development Unit abutting the subject area.

The existing character of the area is that of a fairly dense and rather unique mixed-use area. The mixed-use character of the area extends beyond the typical in that in addition to commercial, retail and residential uses there is a substantial Yale presence. Many existing structures in the area appear to exceed the maximum FAR of 2.0 (See following Section) and would consequently require variances for expansion (or possibly even replacement).

It is also evident that little further development could take place in this area without some form of relief from the on-site parking requirements that are part of the BA requirements. A BD-1 designation would largely eliminate that requirement. It may be that Chapel Street's role as a major public transportation route, the proximity of a large pedestrian community, and effective use of joint and shared use parking could justify such a change.

## **EXISTING AND PROPOSED ZONING CONSIDERATIONS**

In that over 90% of the proposed BD-1 District is currently zoned as BA on New Haven Zoning Map a comparative analysis of the two zoning categories is essential to a clear understanding of the impact of the

proposed map amendment. This analysis should focus on three key elements of the BD-1 and BA zoning regulations. These elements relate to 1.permitted uses, 2.bulk and area standards, and 3.accessory uses.

The existing BA District is best characterized as a neighborhood commercial zone permitting uses of a type and scale intended to best serve surrounding residential areas. Towards this end, while a broad range of commercial uses are permitted; they are sometimes more stringently regulated than in some other commercial zoning districts. Restaurants and cafes serving alcoholic beverages, for example, require a Special Exception in this district but are permitted by right in BA and BD-1 Districts. Other uses, such as residential dwelling units, are regulated in a similar, if not identical, manner.

Generally speaking, however a comparison of permitted uses in the BA and BD-1 bears out the conclusion drawn in the Draft Planning Assessment Report that there are actually fewer permitted uses in the BD-1 District and that many of those require Special Permits or Special Exceptions (see Table 2. Differences in Uses-BA and BD-1.) This is reflective of the different functional character of each district. The BA regulations include many uses appropriate in the general vicinity of high-medium density residential development and which serve a largely local (and more auto-based) clientele but which are not appropriate in a district is defined in part as one that "... concentrates residential uses at high density mixed with activities that have both a city-wide and district-wide function." and where "The use of land is intensive, but respects the historic character of existing historic structures." Consequently, the BD-1 District retains the largely office, retail, restaurant/entertainment, personal service and residential uses also found in the BA because they are uses that lend themselves to a relatively intense use of property which, while maintaining respect for historical structures, can allow an area to assume a significant level of district- and citywide economic importance. Other uses permitted by right in BA Districts such as most automotive-related, outdoor amusement, or specialized residential (i.e., rooming house) uses are eliminated from the BD-1 regulations, due mostly to their incompatibility with the concepts of density and centrality.

Bulk and area standards differ from BA to BD-1 in one very significant way. Floor Area Ratio, defined as the ratio of gross floor area of a principal building on a lot to the total lot area, cannot exceed a maximum of 2.0 in a BA, while it can be up to 6.0 in the BD-1. This means, theoretically at least, that a 5000 s.f. parcel located in a BA District would be limited to a building of no more than 10,000 s.f. in area while the same lot in a BD-1 District would be entitled to up to 30,000 s.f. It also means that while it is unlikely that any new building in a BA District would be over four stories in height in the BD-1 District 6 stories and much higher would be possible and highly probable.

The last element to be considered, accessory use, really refers to parking and parking requirements. This aspect of the regulations must be addressed in order to understand fully the significance of this proposal. This is due to the fact that the proposed map amendment to BD-1 will result in a situation wherein requirements for on-site parking for commercial uses will be largely eliminated. Only dwellings, hospitals, and medical institutional uses will be required to provide on-site parking. Section 45(a) (1) a.1. of the New Haven Zoning Ordinance describes the reason for these commercial on-site parking requirement exemptions in the following manner:

- *These exemptions follow an established policy of providing public, commercial and cooperative private parking for non-residential uses in the intensively developed Business D, D-1, and D-2 Districts, for those customers, employees and visitors who do not arrive by public transportation.*

There is no evidence at present to indicate that the commercial on-site parking exemptions that would result from an approval of this proposal are predicated on an established policy of providing public, commercial and cooperative parking for nonresidential uses in this area. In addition, lack of an on-site parking requirement (along with the lack of a need for a Special Exception) for certain uses such as nightclubs and bars that are currently problematic in other BD and BD-1 Districts in the City could lead to a similar issues in this area.

## **PLANNING CONSIDERATIONS**

Technical considerations notwithstanding, review of this proposed zone change should also be subject to a more conceptual planning-based analysis. Initially, it should be established that the existing conditions are such that

the subject properties themselves are of such size and shape so as to be reasonably capable of supporting the uses that the BD-1 District permits. Next, it should be demonstrated that the proposal is locationally appropriate and represents an enhanced functional relationship with surrounding districts. Finally, there should be evidence that the proposal is in accordance with and furthers the goals and objectives of the Comprehensive Plan of Development.

Examination of properties in the proposed district does indicate suitability for and an ability to comply with both permitted use and most bulk and area standards in the BD-1 District. Of particular suitability are portions of the regulations that allow for the high density residential development, that eliminate uses more appropriate in less urban settings and that will permit the creation of a less automobile-dependent environment. Also, new Floor to Area Ratio Standards will encourage physical development in the district.

In terms of a relationship to adjacent areas there are clear indications that it is a locationally rational proposal. It represents a physical extension of BD-type zoning and as such minimizes concerns about the diffusion of developmental centrality that the creation of such a district in an area further removed from the City's traditional core might engender. Also, it is evident that this proposal would extend BD-type zoning into an area of the City that in many respects has outgrown its current zoning classification(s). BA Districts are typically found along main streets surrounded by low to middle density residential. High density residential and commercial zones are more likely to be situated adjacent to BD zones. Because this proposed area of change, with the exception of portions on its western boundary, is located adjacent to high density residential districts, Planned Development Districts, Planned Development Units and other BD Districts, it could reasonably be viewed as an entirely appropriate and necessary response to long term changes in the character of the surrounding area.

In terms of the Comprehensive Plan of Development, there is little specific reference to either this particular area or to this type of application. In the Commission Directives section of the document, however, it is stated that "It is the Commission's directive to elevate the quality of development in New Haven and to achieve a high standard of design, stewardship and environmental protection." In that this proposal may be viewed a means by which to best accommodate the needs of the property owners in the district for expanded developmental opportunity, and in that it may also be viewed as a means by which the surrounding neighborhoods are best served by this district, it could viewed as an effective way by which "...to elevate the quality of development in New Haven."

#### **SECTION 64(d)(2)**

*Section 64(d)(2) 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 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 applicant has demonstrated to the Commission that the existing Zoning Map, in respect to the area at issue, is currently in error in that both properties to be included in district this and properties in surrounding districts have developed in such a manner that the proposed BD-1 zoning designation is a far more relevant form of regulation than the existing BA designation.

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

The scope of both the physical area and degree of regulatory change required clearly indicate the appropriateness of an application to The Board of Aldermen for a Zoning Map Amendment.

*c. In the case of a map change, the size of the area involved. As a general policy, the City Plan Commission shall not consider favorably any petition which would result in a total contiguous area (separated only by streets, and excluding the area of streets) of less than two acres in the case of a residence district, less than one acre in the case of a Business District, or less than four acres in the case of an Industrial District.*

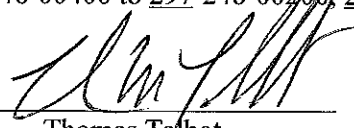
Not Applicable

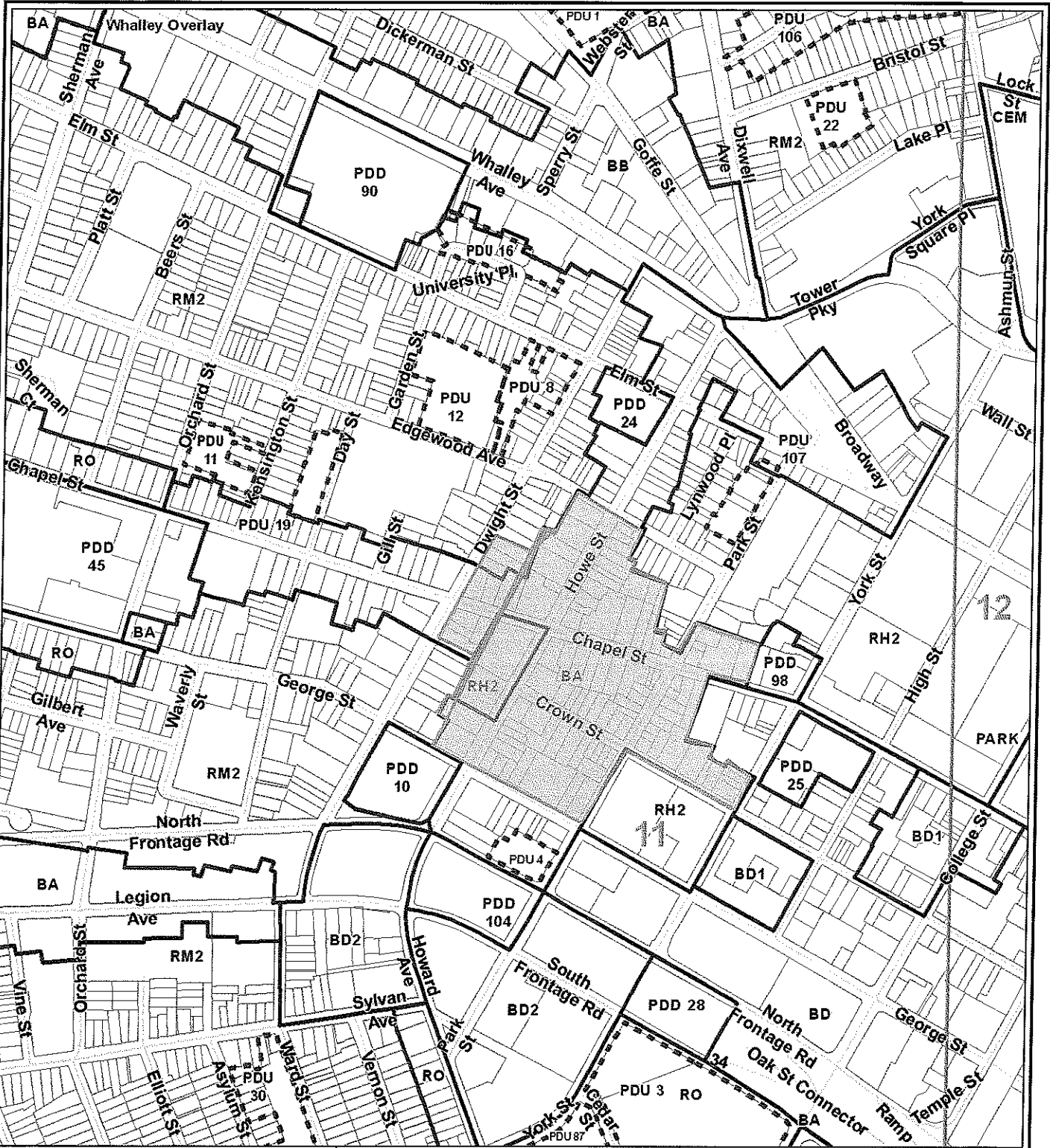
**FINDINGS AND ADVICE**

The Commission finds that the proposed zoning map amendment is appropriate given the character of both the surrounding neighborhood and the subject properties themselves. It advises approval of the Zoning Map Amendment along with the accompanying Zoning Text Amendment (see CPC 1454-03) to the Board of Aldermen with the following technical amendments to the Order pertaining to tax assessor's map-block-parcels affected by the change to BD-1:

- Under RH2 to BD-1: change 297-216-01300 to 297-216-00301.
- Under RM-2 to BD-1, change 279-248-00200, 279-248-00300, 279-248-00400 to 297-248-00200, 297-248-00300, 297-248-00400.

**ADOPTED:** July 20, 2011  
Edward Mattison  
Chair

**ATTEST:**   
Thomas Talbot  
Deputy Director, Zoning



City of New Haven, Connecticut  
John DeStefano Jr., Mayor



- City Boundary Line
- ▨ Coastal Area Management
- ▨ Local District
- ▨ PDU Poly
- ▨ Zoning
- ▨ Zoning Map Grid

### Area of Proposed Chapel West BD-1 District

Produced by the  
Office of Information Technology  
Geographic Data Viewer

This map is intended for illustrative and Community-Based Planning processes. Every reasonable effort has been made to assure the accuracy of the map and data provided; nevertheless, some information may not be accurate. The City of New Haven assumes no responsibility arising from the use of this information.

No warranty is made by the City of New Haven as to the accuracy, reliability or completeness of these data for individual or aggregate use with other data. Original data compiled from various sources. Spatial information may not meet national map accuracy standards. This information may be updated without notification.

Scale: 1" = 579 ft

Created: July 20, 2011



**ZONING ORDINANCE MAP AMENDMENT  
CHANGE FROM Business A ,RH2,and RM2 TO Business BD-1  
the ZONING of the herein listed parcels on  
Chapel,Howe,Crown,Dwight,Park,York,George,and Edgewood**

**ORDER OF THE BOARD OF ALDERMEN APPROVING  
AMENDMENTS TO TITLE VI, VOLUME III OF THE CODE OF  
ORDINANCES**

**WHEREAS: the City of New Haven recognizes that the character and vitality of a mixed use neighborhood is dependent upon harmonious commercial, institutional and residential uses;and**

**WHEREAS: the long standing development trends of the downtown portions of the Chapel West neighborhood have been towards a higher density than currently is permitted by low density commercial zoning restrictions;and**

**WHEREAS: the current zoning does not facilitate investment in higher density uses or growth in the grand list;and**

**WHEREAS: the proposed amendments serve a substantial governmental interest,are in the public interest, are supported by the property and business owners and residents involved,and promote the health, safety,and welfare of the community.**

**NOW THEREFORE, BE IT ORDAINED by the Board of Aldermen of the City of New Haven that the zoning map classification of the following parcels shall be changed from**

**RM2 to BD-1 parcels <sup>297</sup>279-248-00200,<sup>297</sup>279-248-00300,<sup>297</sup>279-248-00400**

**RH2 to BD-1 parcels <sup>1301</sup>297-216-01200,<sup>1301</sup>297-216-01300,280-249-01001**

**BA to BD-1 parcels 280-230-00100,280-230-00200,280-230-00201,280-230-00300,280-230-00400,280-230-00500,280-230-**

*Correct  
Errors*