

NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

RE: ZONING ORDINANCE TEXT AMENDMENT, Amend Sections 1 (Definitions), 42, Table 3 (Permitted Uses) and 45 (Parking in Commercial Districts) to Define, Add and eliminate Certain Uses and to Add On-Site Parking Requirements for Certain Uses in Central Business/Residential (BD-1) Districts (City Plan Department).

REPORT: 1454-03

ADVICE: Approval of Substitute Order

BACKGROUND

The City Plan Department is proposing text amendments to the New Haven Zoning Ordinance concerning permitted uses in all of the City's BD-1 Districts. There are currently three such districts limited to areas bounded approximately by 1) Church/George/State and Court Streets (nearly 35 acres), 2) Chapel/Crown/High and College Streets (about 5 acres) and 3) George/High/Crown and York Streets (close to 2.5 acres) (see attached map). In addition the Board is in the process of considering an application from the Chapel West Special Services District to create a new, 26 acre BD-1 District centered along Chapel Street extending east to west from York Street to Dwight Street and north to south from Edgewood Avenue to George Street.

It is this last proposed change to the Zoning Map submitted by the Chapel West Special Services District that has occasioned this submission by City Plan Department staff. Upon review of the Zoning Map Amendment by the Department it became apparent that while the overall concept was sound there were specific areas of concern not only in terms of the area under immediate consideration but also regarding the existing BD-1 Districts. Chief among them were 1) the ability of the areas in question to absorb and effectively deal with a likely increase in parking demand due to a threefold increase in allowable floor to-area ratio (FAR) that results from a change to BD-1 from BA, and 2) concern about the proliferation of certain uses that are currently permitted (many by right) in all of the BD-1 Districts.

This submission is a text driven approach to dealing with both issues. It is the result of meetings with affected property owners and Chapel West Special Services District as well as Staff research. It has three basic components:

1. Section 42 Table 3 has been revised to eliminate currently permitted uses that were determined to be unsuitable for the district (e.g., pawn shops, gun sales or repair, off-track betting facilities and adult cabarets). Special Exception will be required for some uses now permitted by-right (see #3 below) and new uses (e.g. veterinarians offices, garden supply stores) introduced into the districts.
2. Existing BD-1 regulations eliminate any on-site parking requirement for nearly all commercial uses. In an effort to mitigate possible increase in parking demand uses determined to be most likely to realistically require significant levels of parking (e.g. hotels, dance halls and places of assembly) were identified and will now be subject to on-site parking requirements.
3. Uses requiring liquor permits will be regulated in a somewhat more precise manner than up to now. Currently any such use, whether a restaurant, tavern, café or nightclub is permitted by right and is not subject to an on-site parking requirement. Language in the submitted proposal will differentiate between conventional restaurant and cafes/clubs. The former will continue to be permitted by right without an on-site parking requirement while the latter will require a Special Exception and on-site parking.

PUBLIC HEARING

At the public hearing on July 20, 2011 Thomas Talbot, Deputy Director, Zoning, made the staff presentation. Commissioners recommended leaving in "regional outpatient clinic" by Special Exception with a parking requirement and that general and special hospitals be as of right with a parking requirement. Lauren Zucker, representing Yale University, a large property owner in the BD-1 zone, agreed with this recommendation.

PLANNING CONSIDERATIONS

Once staff had the opportunity to review the Chapel West Special Services District proposal, and raised concerns related to both that particular application as well as to the BD-1 regulations themselves it was determined that an overall review of BD-1 standards was necessary. The first step involved a review of currently permitted use categories to ensure that they were reasonably related to the definition of the BD-1 District as one which "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”. Based upon the idea that what distinguishes the BD-1 District from other BD Districts is its emphasis on relatively high residential densities in close physical adjacency to commercial uses, any currently permitted uses that could reasonably be viewed as inappropriate in immediate proximity to residential uses the following currently permitted uses have been eliminated:

- Guns and weapons repair, firearms training
- Pawn shop or swap shop
- Drive-in establishments selling food for immediate consumption
- Adult Cabarets
- Gun Shops
- Game Rooms
- State Sponsored Off-Track Betting Facilities
- Auto Repair
- Intercity Passenger station or terminal, Railroad Station or Heliport

Conversely, examination of Section 42 Table 3 indicated that there were uses permitted in other districts in the City that could appreciably enhance the residential experience in BD-1 Districts. These proposed uses are:

- Farm and Garden Supply, including greenhouses and nurseries.
- Veterinarian (by Special Exception).

By far the most significant use related change is concerned with the manner in which establishments that sell or serve alcohol for on premises consumption will be regulated. Currently, regulations make no distinction between restaurants and other similar uses such as cafes, taverns or brew pubs (they are all permitted by right). Recent experience has made it clear that in fact some distinction needs to be made. Few establishments holding Restaurant Liquor Permits have generated the level or type of problematic late night activity seen in parts of the Central Business District. Generally the establishments responsible are holding Café liquor permits. As a means by which to address this issue this proposal includes a clear concise definition of restaurant (based on the State Liquor Control definition) and subsequent references in Section 42 Table 3 that permits any restaurant, Restaurant Liquor Permit or not, by right in a BD-1 District. Establishments looking for any other type of liquor permit from the State would be required to obtain a Special Exception from the Board of Zoning Appeals. One additional feature of this approach concerns parking requirements for restaurants as opposed to cafes, etc. and will be discussed in the following paragraph.

CPC Report 1451-05 raises the issue of parking requirements, specifically as related to the Chapel West proposal but also to the BD-1 in general. While staff supports the current practice of requiring no off street parking for nearly all permitted non-residential uses in the District it does believe that certain uses by virtue of their tendency to draw significant levels of traffic from areas outside of the District or the City and which have little or no direct relationship to (and consequently little potential for shared parking arrangements with) other permitted uses in the District. Staff review has led to the determination that the following uses, in addition to generating considerably high levels of parking need, play little meaningful role in the home /work/recreate/play dynamic that largely justifies elimination of on-site parking, and consequently should be subject to parking standards found in Section 45:

- HOTELS, BED AND BREAKFASTS OR TOURIST HOMES WITH 13 OR MORE GUEST ROOMS.
- FUNERAL HOMES
- ESTABLISHMENTS NOT MEETING THE DEFINITION OF “RESTAURANT” UNDER ARTICLE I, SECTION I OF THESE REGULATIONS, AND SELLING OR SERVING ALCOHOLIC BEVERAGES FOR

IMMEDIATE CONSUMPTION ON OR OFF PREMISES, INCLUDING ACCESSORY ENTERTAINMENT, OR PERMITTING IMMEDIATE CONSUMPTION OF ALCOHOLIC BEVERAGES ON OR OFF PREMISES INCLUDING ACCESSORY ENTERTAINMENT

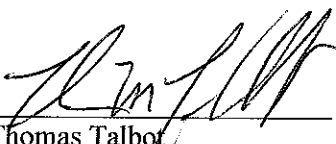
- GENERAL AND SPECIAL HOSPITALS, OUTPATIENT CLINICS AND PUBLIC HEALTH CENTERS (SUBJECT TO SECTION 12(b)(1)h) .
- MEDICAL PRACTITIONERS
- ASSEMBLY HALL
- DANCE HALL, LODGE, SOCIAL CLUB, VETERANS OR FRATERNAL ORGANIZATION
- THEATER
- REGIONAL OUTPATIENT CLINICS; REGIONAL PUBLIC HEALTH CENTERS

In conclusion it should be noted that proposed set of amendments attached to this report is the end result of a series of changes and revisions subsequent to its original submission to the Board of Aldermen and that these revisions will be submitted to the Board along with this report.

FINDINGS AND ADVICE

Based on a review of the definition and description of the intended functional nature of the BD-1 District and in recognition of existing regulatory deficiencies in current ordinance language this Commission finds the proposed text amendments will allow for patterns of development that will better reflect the expectations of both the Comprehensive Plan of Development and the New Haven Ordinance. Furthermore, the Commission finds that the proposed amendment serves a substantial government interest, is in the public interest and promotes the health, safety and general welfare of the community and therefore recommends approval.

ADOPTED: July 20, 2011
Edward Mattison
Chair

ATTEST: 
Thomas Talbot
Deputy Director, Zoning

Additions in Bold Capitals; Deletions in Bold Parentheses

Ordinance Text Amendments to Sections 1 (Definitions), 42, Table 3 (Permitted Uses) and 45 (Parking in Commercial Districts) of the New Haven Zoning Ordinance to Define, Add and Eliminate Certain Uses and to Add On-Site Parking Requirements for Certain Uses in Central Business/Residential (BD-1) Districts

WHEREAS, the City of New Haven recognizes that the character and vitality of the city is dependent upon the maintenance and enhancement of the quality of life in its Central Business Districts; and,

WHEREAS, the Comprehensive Plan of Development recognizes the unique and distinct role of Central Business/Residential Districts in maintaining a strong residential presence in portions of the City's Central Business Districts; and,

WHEREAS, it is recognized that while given that the functional nature of a BD-1 District is such that conventional on-site parking requirements are not generally necessary or appropriate, regulation of uses determined to be of such type and scale so as generate a need for levels of associated parking that cannot be readily integrated into the existing parking landscape are necessary; and,

WHEREAS, permitted uses in BD-1 districts should be those that facilitate the development of a high density, mixed use environment, and which have some clear integrative value in terms of all other permitted uses; and,

WHEREAS, the Upper Chapel Street Special Services District, and the City Plan Department are committed to the improvement of the manner in which Central Business/Residential Districts are regulated; and,

WHEREAS: 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;

NOW THEREFORE, BE IT ORDAINED by the Board of Aldermen of the City of New Haven that the Zoning Ordinance of the City of New Haven is hereby amended, as follows:

**Proposed Text Amendments
Central Business/ Residential (BD-1) Districts**

Add to Article I, Section 1 Definitions

"RESTAURANT: A SPACE IN A SUITABLE AND PERMANENT BUILDING KEPT, USED, MAINTAINED, ADVERTISED AND HELD OUT TO AND KNOWN BY THE PUBLIC AS PRIMARILY A FOOD SERVICE ESTABLISHMENT WHERE HOT MEALS ARE REGULARLY SERVED. IF ALCOHOLIC DRINK IS SERVED IN ANY RESTAURANT, IT SHALL BE AS AN ADJUNCT FUNCTION OF SERVING FOOD AND OPERATE UNDER A RESTAURANT LIQUOR PERMIT AS PROVIDED IN C.G.S. SECTION 30-22, AS AMENDED, AND COMPLY WITH ALL LIQUOR CONTROL COMMISSION REGULATIONS PERTAINING THERETO. RESTAURANTS SHALL BE OPEN DURING REGULARLY POSTED HOURS WHICH ARE CLEARLY MARKED AND SHALL HAVE NO REGULAR AND RECURRING UNUSUAL BARRIERS TO ENTRY SUCH AS COVER CHARGES OR AGE RESTRICTIONS

Additions in Bold Capitals; Deletions in Bold Parentheses
Additions and Deletions to Section 42 Table 3:

TABLE 3. USE TABLE

Key: R - Permitted As-of-Right SP - Special Permit SE - Special Exception X - Not Permitted
In case of conflict, the District Regulations shall prevail.

	<i>B</i>	<i>BA-</i>	<i>BB</i>	<i>BC</i>	<i>BD</i>	<i>BD-1</i>	<i>BD-2</i>	<i>BE</i>	<i>IL</i>	<i>IM</i>	<i>IH</i>	<i>Parking (4)</i>	<i>Loading(4)</i>
A.													
Uses Of Same Type As Those Permitted In Residence Districts:													
IN THE DISTRICTS INDICATED, THERE ARE PERMITTED AS OF RIGHT ALL OF THE SAME USES AS THOSE WHICH ARE PERMITTED, WHETHER AS OF RIGHT OR BY SPECIAL EXCEPTION, IN CERTAIN RESIDENCE DISTRICTS, AS FOLLOWS:													
1. In any RM-1 District.	X	X	X	SP	X	X	X	X	X	X	X		
2. In any RM-2 District.	R	R ⁽¹⁾	R	X	X	X	X	X	X	X	X		
3. In any RH-2 District	X	X	X	X	R	R	See Text	X	X	X	X		
IF SUCH USES ARE NOT DWELLINGS, they shall be subject to the bulk and yard and sign regulations of the Business or Industrial District in which they are located, and to the parking requirements of the appropriate Residence District (except that no parking for such uses shall be required in the Business D, BUSINESS D-1 AND BUSINESS D-2 Districts as provided in § 45.)													
B	R	X	X	SE	R	R	R	X	X	X	X	a	y
Hotel, Bed Breakfast or Tourist Home, 13 or more guest rooms												SEE ALSO § 45(a)(1)a.1	

Additions in Bold Capitals; Deletions in Bold Parentheses

D	<p>Funeral home.</p> <p>Gun and weapons repair, firearms training.</p> <p>Pawn shop or swap shop (may include second-hand goods, precious metals purchase or resale), provided no location is within 1,500 feet from the outside entrance to another such use.</p>	R	SE	X	X	R	R	X	X	X	X	y
		S	X	X	SE	[SE]	X	SE	X	SE	SE	y
		S	SE	X	SE	[SE]	X	X	X	X	X	y
E	<p>EATING AND DRINKING PLACES</p> <p>Establishment selling food for immediate consumption on or off premises.</p> <p>RESTAURANTS, AS DEFINED IN ARTICLE I SECTION 1., SELLING OR SERVING ALCOHOLIC BEVERAGES FOR IMMEDIATE CONSUMPTION ON OR OFF PREMISES, INCLUDING ACCESSORY ENTERTAINMENT, OR PERMITTING IMMEDIATE CONSUMPTION OF ALCOHOLIC BEVERAGES ON OR OFF PREMISES, INCLUDING ACCESSORY ENTERTAINMENT.</p>	R	R	SE	R	R	R	R	R	R	R	x
		S	SE	SE	R	R	SE	R	R	R	R	x

Additions in Bold Capitals; Deletions in Bold Parentheses

<p>OTHER ESTABLISHMENTS SELLING OR SERVING ALCOHOLIC BEVERAGES FOR IMMEDIATE CONSUMPTION ON OR OFF PREMISES, INCLUDING ACCESSORY ENTERTAINMENT, OR PERMITTING IMMEDIATE CONSUMPTION OF ALCOHOLIC BEVERAGES ON OR OFF PREMISES, INCLUDING ACCESSORY ENTERTAINMENT</p> <p>Drive-in establishment selling food for immediate consumption on or off premises -- more than 250 feet from any residential use.</p> <p>Drive-in establishment selling food for immediate consumption on or off premises -- within 250 feet of any residential use.</p>	S	SE	SE	R	R	[R]	R	SE	R	SE	R	[X]	R	f	SEE ALSO § 45(a)(1)a.1	x
	R	X	R	X	[R]	X	R	R	X	R	R	X	R	f		x
	S	X	SE	X	[SE]	X	SE	SE	X	SE	SE	X	SE	f		x
	X	X	X	X	X	X	X	X	X	X	X	X	X	f		x
	X	X	X	X	[SE]	X	SE	X	X	SE	SE	X	SE	F		x
	X	X	X	X	[SE]	X	SE	X	X	SE	SE	X	SE	F		x
<p>With Liquor Service.</p> <p>No Liquor Service.</p>	X	X	X	X	[SE]	X	SE	X	X	SE	SE	X	SE	F		x
<p>H Gun shops and accessory goods sales including ammunition, subject to § 42.4 zoning ordinance provisions.</p>	X	X	X	X	[SE]	X	SE	X	X	SE	SE	X	SE	c		x

Additions in Bold Capitals; Deletions in Bold Parentheses

I	Farm & garden supplies, includes greenhouse, nursery.	R	R	X	X	X	X	X	R	X	X	X	X	C	x
K	Medical Practitioners	R	R	X	R	R	R	R	R	X	X	X	X	D	y
L	Assembly hall.	S	SP	X	SE	SE	SE	SE	SE	SE	SE	SE	SE	F	y
	Dance hall, social club, club, lodge, veterans or fraternal organization, fraternity, sorority.	S	SP	X	SE	SE	SE	SE	SE	SE	SE	SE	SE	G	y
	Game rooms, subject to § 42.2 provisions.	S	SE	X	SE	[SE]	SE	SE	SE	SE	SE	SE	SE	J	y
	State sponsored off-track betting facilities and teletrak facilities, teletheater or other legalized wagering systems, facilities & services.	X	X	X	SE	[SE]	X	X	X	X	X	X	X	G	y
	Theater, [251 or more seats].	R	SP	X	R	[R]	X	X	X	X	X	X	X	F	y
M	1. Repair of such vehicles, no full body paint spraying or body and fender work except replacement.	R	X	X	SE	[R]	X	X	X	X	X	X	X	See 45.B	See 45.B

Additions in Bold Capitals; Deletions in Bold Parentheses

Q	General and specialty hospitals, outpatient clinics and public health centers.	R	SP	X	X	SE	[SE]	R	X	X	X	X	y
	Regional outpatient clinics; regional public health centers	X	X	X	X	SE	[R]	R	X	R	X	X	y
	Veterinarian (excluding establishment where care, breeding or sale of animals is the enterprise's main purpose) with all facilities within fully enclosed building(s).	R	R	X	X	R	[X]	X	R	X	X	X	y
R	Intercity passenger station or terminal, Railroad passenger station, or Heliport.	X	X	X	X	R	[R]	R	R	R	X	SE	i
													y

Add to Article V, Section 45(a)(1)a.1.

1. Section 45(a)(1) a. shall not apply to any business or industrial *use* in the Business A-1, D, D-1, D-2 Districts **WITH THE EXCEPTION OF THE FOLLOWING USES IN BUSINESS D-1 DISTRICTS:**
 - A. HOTELS, BED AND BREAKFASTS OR TOURIST HOMES WITH 13 OR MORE GUEST ROOMS.**
 - B. FUNERAL HOMES**
 - C. ESTABLISHMENTS NOT MEETING THE DEFINITION OF “RESTAURANT” UNDER ARTICLE I, SECTION I OF THESE REGULATIONS, AND SELLING OR SERVING ALCOHOLIC BEVERAGES FOR IMMEDIATE CONSUMPTION ON OR OFF PREMISES, INCLUDING ACCESSORY ENTERTAINMENT, OR PERMITTING IMMEDIATE CONSUMPTION OF ALCOHOLIC BEVERAGES ON OR OFF PREMISES INCLUDING ACCESSORY ENTERTAINMENT**
 - D. GENERAL AND SPECIAL HOSPITALS, OUTPATIENT CLINICS AND PUBLIC HEALTH CENTERS (SUBJECT TO SECTION 12(b)(1)h) .**
 - E. MEDICAL PRACTITIONERS**
 - F. ASSEMBLY HALL**
 - G. DANCE HALL, LODGE, SOCIAL CLUB, VETERANS OR FRATERNAL ORGANIZATION**
 - H. THEATER**
 - I. REGIONAL OUTPATIENT CLINICS; REGIONAL PUBLIC HEALTH CENTERS**

Uses of the types allowed in RH-2 Districts, other than *dwelling and hospital and medical institutional use*, shall also be exempted from parking requirements in the Business D, D-1 and D-2 Districts. *Dwellings* in the Business D District shall be subject to the parking requirements of RH-2 Districts and *hospital and medical institutional use* in the BD-2 Districts shall be subject to the parking requirements of section 12(b)(1)h. *Dwellings* in the Business D-1 District shall have, for each *dwelling unit*, one *parking space*, except that only one-half *parking space* shall be required for each *dwelling unit* allocated for the elderly. Required *parking spaces* in the Business D-1 District shall be located within a 1,000 foot radius of the outside entrance of the dwelling. 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.

Add to Article V, Section 45(a)(7)

(7) The Board of Zoning Appeals shall have the power to lessen the requirements of this ordinance as to the number of parking or loading spaces required and/or increase the maximum allowable walking distance to such parking spaces, but only upon a finding that such other standards will be adequate. All deviations from normal requirements by means of this paragraph (7) shall be considered as special exceptions under subsection 63(d) of this ordinance, and the Board of Zoning Appeals may impose time limits where it finds that the continued adequacy of such other parking or loading standards cannot be fairly predicted. **IN THE CASE OF ANY RELIGIOUS, EDUCATIONAL OR MEDICAL INSTITUTION WHICH HAS AN OVERALL PARKING PLAN FOR ALL OF ITS FACILITIES WHICH HAS BEEN APPROVED BY THE BOARD**

Additions in Bold Capitals; Deletions in Bold Parentheses

OF ZONING APPEALS THE 300 OR 1000 FOOT PARKING DISTANCE SET FORTH IN THIS ORDINANCE, INCLUDING THIS SECTION 45, SHALL NOT APPLY.