

NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

RE: **ZONING ORDINANCE MAP AMENDMENT**, Petition to Amend Zoning Map (grid #8) to change the Designation of properties known as **25 FLINT STREET, 411, 429, 420 and 423 MIDDLETOWN AVENUE** (approximately 3.74 acres) from Low/Middle Density Residential (RM-1) to General Business (BA) (Petitioner: Alderman Stopa on behalf of the Pellegrino Law Firm).

REPORT: 1467-06

ADVICE: Approval

BACKGROUND

Alderman Stopa and the Pellegrino Law Firm propose to change the existing Low/Middle Density (RM-1) Residence Zoning District to a General Business (BA) on five properties of approximately 3.74 acres in total area. The relative location, area and current use of each property is as follows:

1. 25 Flint Street (1.93 acres) - Located at the intersection of the south side of Flint Street and the east side of Middletown Avenue. Currently the site of a 9,000 SF movie theater permitted by right in 1970.
2. 411, Middletown Avenue (.49 acres) - Located at the intersection of the north side of Flint Drive and the east side of Middletown Avenue. Currently the site of a 10,000 SF mixed use (1st floor commercial, 2nd floor residential) originally approved as a Neighborhood Convenience Use in 1980.
3. 423 Middletown Avenue (.34 acres) - Located on the east side of Middletown Avenue to the immediate north of 411 Middletown Avenue. Currently the site of a vacant residential structure although use variance permitted office use in 1981.
4. 429 Middletown Avenue (.24 acres)-Located on the east side of Middletown Avenue to the immediate north of 423 Middletown Avenue. Currently the site of a 2500 SF office building permitted by use variance in 1983.
5. 420 (AKA 430) Quinpiac Avenue. (.74 acres)- Located on the west side of Middletown Avenue directly across that street from 411,423 and 429 Middletown Avenue. Currently the site of a 4600 SF restaurant permitted by use variance in 1975.

This map amendment is proposed largely in response to concerns of the owners of the subject properties regarding the less than by-right nature of the existing uses on the properties. There is concern that the present situation offers little flexibility in terms of alternative commercial use and represents a significant impediment to appropriate use of the properties.

PUBLIC HEARING: At the June 20, 2012 Public Hearing Zoning Director Tom Talbot introduced the matter describing the uses in the proposed zone change area as stated above. Alderman Stopa indicated his support of the application which he had agreed to sponsor. Bernard Pellegrino, of the Pellegrino Law Firm, representing the Soffer family who owned 25 Flint Street where the movie theater was located, explained that in order to upgrade the theater, a change to commercial use made the uses within conforming. He noted they had reached out to the property owners within the area with the help of the previous alderman Gerald Antunes.

Tina Jendizewski, 40 Donna Drive, spoke in opposition due to anticipated increased hours of business and traffic from potential commercial uses and rise in property value (and taxes) due to increased value of the properties. She had not been informed by the previous alderman about a potential zone change.

Barbara Soffer, owner of 25 Flint Street, said that in order to change the theater over to digital media, they were seeking financing to make the improvements. They were not seeking to acquire additional properties. Mr. Pellegrino concluded by stating the change wouldn't alter the assessment of the properties within the zone change area which were already assessed as commercial properties. There was no intent to expand the commercial area further to include additional residentially zoned properties.

PLANNING CONSIDERATIONS

Ordinance considerations notwithstanding, review of this proposed zone change should initially be based on a conceptual planning-based analysis. Such a review takes looks at the proposal on three discrete levels. First, 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 BA 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 community at large as reflected in 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 bulk and area standards in the BA District. While relatively small in size, each of these properties, by virtue of existing commercial activities, demonstrates such suitability. The relative separation of these properties from adjacent residential properties also supports arguments in favor of this proposal. In addition, adjacency to a roadway with a fairly high level of traffic supports a claim to a commercial zoning designation. It should also be noted that due to the current level of development on the properties any changes are much more likely to involve those of use as opposed to intensity of activity. There are two “relationships of adjacency” that are clear indications that this is a locationally rational proposal. The first has to do with proximity of the surrounding neighborhood. The requested BA District is specifically designed to be complementary to an adjacent residential area while maintaining a commercial presence on a non-local roadway. The second element of “adjacency” is related to the proximity of the proposed District in relationship to the I-91 entrance ramp. These two factors operating in conjunction may result in a wider variety of commercial uses and consequently an enhanced quality of life for neighbors as well as an increase in economic opportunities business owners in the district.

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 as 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 be viewed as an effective way by which “...to elevate the quality of development in New Haven.”

SECTIONS(S) 181 and 182 OF THE CHARTER OF THE CITY OF NEW HAVEN

The City Plan Commission finds that, based on submitted information the proposed map amendments comply with Sections 181 and 182 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 proposed BA 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)c OF THE NEW HAVEN ZONING ORDINANCE

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 properties at issue for a period of almost 40 years have been the beneficiary of use related zoning relief to an extent that strongly implies the inappropriateness of a Residence District in this location.

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

As above, examination of past land-use history in this area clearly indicates the appropriateness of the present course of action.

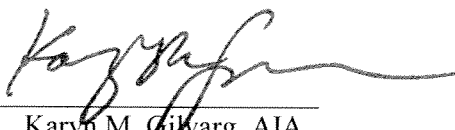
c. In the case of a map change, the size of the area involved. As a general policy, the City Plan Commission shall not consider favorably any petition which would result in a total contiguous area (separated only by streets, and excluding the area of streets) of less than two acres in the case of a residence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

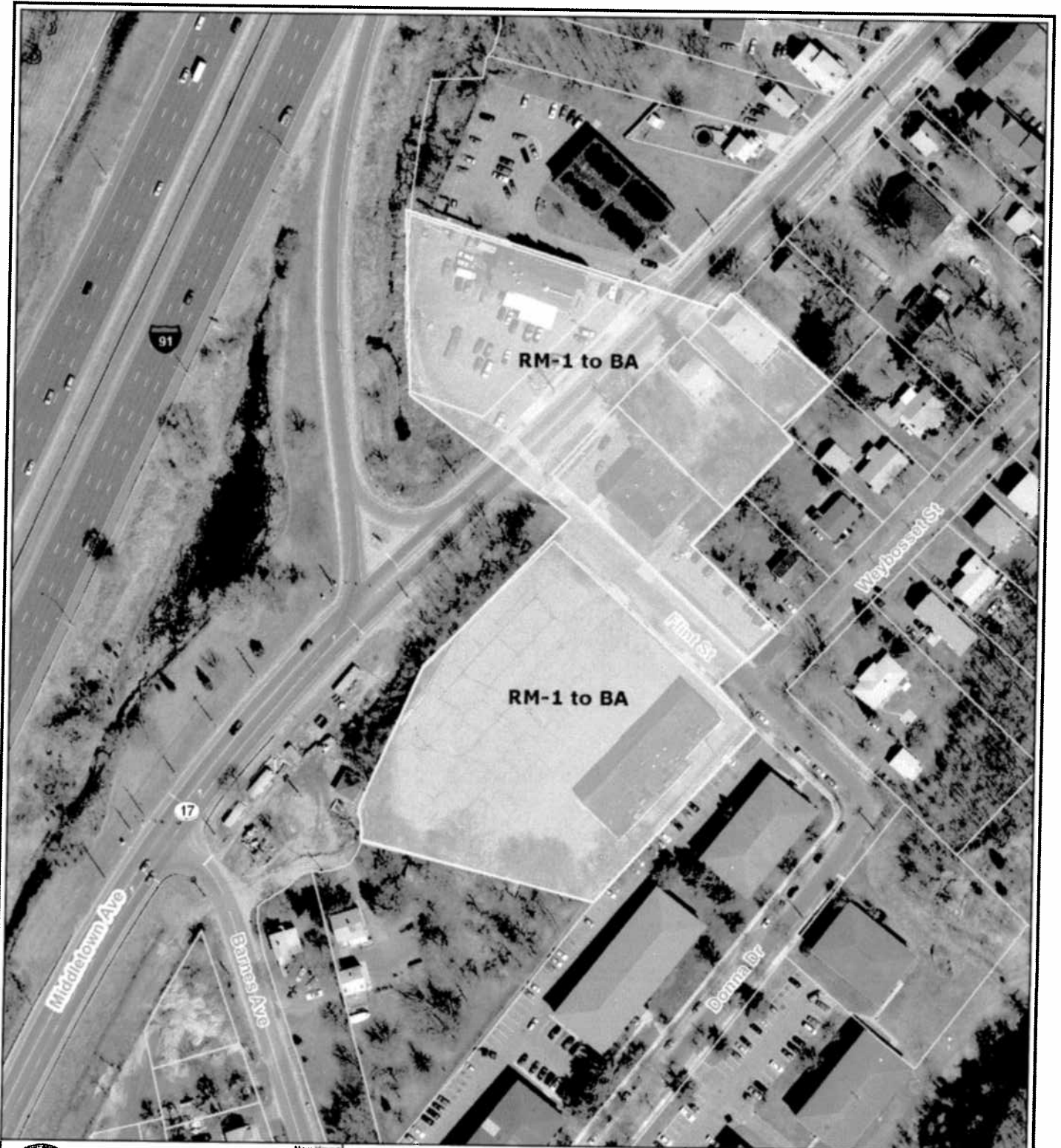
Given both the size of the surrounding neighborhood, established patterns of land use in the area and proximity to the I-91 entrance ramp the proposed area appears to be of a size that while easily sustainable in economic terms, is compact enough to represent no more of a physical imposition upon the adjacent residential area than is currently the case.

FINDINGS AND ADVICE

Based on all of the above it is the recommendation of the Commission that the proposed map amendment is in full compliance with the standards and requirements of Section(s) 181 and 182 of the Charter of the City of New Haven and Section 62(d)(2) of the New Haven Zoning Ordinance and should be approved.

ADOPTED: June 20, 2012
Edward Mattison
Chair

ATTEST: 
Karyn M. Gilvarg, AIA
Executive Director



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



Parcel
Street Centerlines

**Proposed Zone Change from RM-1 to
BA (General Business)**

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.

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Scale: 1" = 145 ft

Created: June 19, 2012

