

## NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

**RE: ZONING ORDINANCE TEXT AMENDMENTS regarding the BD-1 DISTRICT** clarifying Bulk, Yard and other Requirements for Residential Construction (Table 3, Sec. A), to Provide Open and Common Space Requirements for Residential and Mixed Use Buildings (Sec. 43(i)(1)), to Permit Compact Car Parking Spaces (Sec. 45(a)(1)a.6), clarifying that Mixed Use Buildings are Permitted (Table 3, Sec. A.2), and clarifying that text prevails over Table 3 (Karyn M. Gilvarg, City Plan Director).

**REPORT:**1473-02

**ADVICE:** Approval of revised Schedule A

### BACKGROUND

Before the Commission is a request to (i) clarify the bulk, yard and other requirements for residential construction in the Business D-1 (Central Business/Residence) Districts; (ii) provide that the open and common space requirements for residential and mixed use buildings in the new Business D-3 (Central Business /Mixed Use) District shall apply to the BD-1 Districts; (iii) permit compact car parking spaces in the BD-1 Districts; and (iv) clarify that mixed use buildings are permitted in the BD-1 Districts.

The first BD-1 District was created in 1988 as a result of a desire on the part of the City to encourage a residential presence in central areas of New Haven coupled with the realization that the existing Business D (Central Business) District provided no means by which to achieve such a presence. The BD District was (and still is) defined as follows:

*Business D District—Central Business.* This district comprises the main downtown section of the city, known in planning terms as the Central Business District (CBD). Here are concentrated activities that have primarily a citywide and regional function: large stores offering comparison shopper's goods, specialty stores, business services, banks, offices, theaters, hotels and government buildings. Land use is intensive and this intensity of uses is one of the main determinants of the vitality of the Central Business District. It is the purpose of these regulations to encourage such intensity of use and to exclude activities which have a negative effect upon the proper functioning of the downtown area.

The lack of any mention of residential use clearly indicated the need for a new subtype of high density urban development where residences were a fully integrated component of a full range of complementary uses. The BD-1 Districts were intended to provide the regulatory framework for this type of development . It was defined in part as follows:

This district concentrates[] residential uses at high density mixed with activities that have both a city-wide and district-wide function: small stores offering comparison shopper's goods, specialty stores, business services, offices and entertainment uses. The use of land is intensive, but respects the historic character of existing structures."

The New Haven Zoning Map currently includes four General Business-Residential Districts ("BD-1 Districts"). The original BD-1 District (approximately 35 acres) was established in 1988 and was enacted by the Board of Aldermen to enable the Ninth Square Redevelopment Project. This project rehabilitated a number of historic buildings and built new infill residential and mixed use buildings. Prior to the the Ninth Square Rehabilitation Project, there were a number of vacant

properties in this area used mainly as surface parking lots, and the upper stories of the existing buildings in the Ninth Square were for the most part vacant.

Subsequently, an area (approximately 6 acres) bounded by Chapel Street, College Street, High Street and Crown Street plus the southeast corner of Chapel and College Streets (the Taft Apartments and two buildings on Chapel Street) were also rezoned BD-1. A third BD-1 District (approximately 3 acres) was adopted for the block bounded by York Street, George Street, High Street and Crown Street to permit townhouse development on that site in 2005. Finally, in 2011, at the request of certain members of the Board of Aldermen, the Board of Aldermen rezoned a number of properties (approximately 25 acres) in the Chapel/West area from BA, RM-2 and RH-2 districts to the BD-1 District. The four Aldermen requested this rezoning for among other reasons to allow “a greater number of residential units” and to “promote higher residential density.” The rezoning request was based upon recommendations concerning increased density and district expansion in the Chapel West Special Services District Vision and Strategic Plan and in the Draft Planning Assessment Report prepared for the Special Services District by Connecticut Planning & Development, LLC. At the public hearing on this rezoning request, it was stated that the rezoning would make a number of non-conforming buildings, including the large apartment buildings on Howe Street, conforming. (CPC Report 1451-05)

When the BD-1 District was originally adopted in 1988, Section 42A of the Zoning Ordinance (the Use Table) was also amended to provide that in the BD-1 Districts, uses permitted in the General High Density RH-2 Residential District would be permitted and that “[i]rrespective of use, whether a *dwelling* or business, the building, bulk, yard and other zoning regulations applicable to the appropriate Business District as herein set forth” would govern. This mechanism allowed for the inclusion of residential uses in high density urban developments.

Subsequently, however, Section 42A was changed on several occasions so that Section 42A now contains general language that applies the standards of the residential districts to new residential construction in all of the business districts (with the exception of the new BD-3 district pursuant to the recent amendments of the Zoning Ordinance). Notwithstanding these changes to Section 42A, Section 43 of the Zoning Ordinance, entitled “Bulk and yard regulations for business and industrial districts,” still provides that the bulk and yard regulations for business and industrial districts in that section apply to all uses in the BD-1 District”.

There is, accordingly, an ambiguity and conflict in the Zoning Ordinance concerning whether the bulk, building and open space regulations of the residential districts (in this instance, the RH-2 District) or the bulk, building and yard regulations governing commercial construction in the BD-1 District apply to residential and mixed use developments in the BD-1 District. This ambiguity and conflict has created uncertainty among developers who wish to develop residential or mixed used buildings in the BD-1 Districts as well as the need for variances for such developments.

Over the past several years, a number of dense residential/mixed use projects in the BD-1 Districts, particularly in the Ninth Square neighborhood, have requested and required extensive zoning relief from the New Haven Board of Zoning Appeals from the residential standards of the RH-2 District. For example, a project to create 65 residential units at 26-36 and 44 Crown Street required variances from the side and rear yard, private useable open space, building coverage, and gross floor area requirements of the RH-2 zone. Similarly, Liberty Community Services, which is located at 204-210 State Street, required variances for building coverage, floor area ratio (“FAR”), usable open space, and maximum number of units for its supportive housing project. Other residential and mixed use projects in the Ninth Square BD-1 District have required FAR

and/or open space variances (Centerpointe apartments (852-870 Chapel and 99-109 Church Street), 360 State Street, 804 Chapel Street, 813 Chapel Street, 116 Court Street, 841 Chapel Street, and 831 Chapel Street). Most recently a proposed 144 mixed use apartment project on the corner of Chapel and Howe Streets in the Chapel West BD-1 District was granted nine variances from the residential standards of the RH-2 District by the Board of Zoning Appeals.

There are also a number of properties, which are slated for development in the BD-1 Districts, particularly in the Ninth Square neighborhood, including surface parking lots and vacant parcels, such as the parcel on lower Chapel Street which runs to Center Street (where the fire took place), the parcel on George Street between South Orange Street and State Street, which was originally to be a later phase of the Ninth Square Development Project, and the parking lots on State Street near the Knights of Columbus Museum. These properties may not be able to be developed at an appropriate level of mixed use or residential density without receiving extensive relief from the yard, coverage, FAR, and usable open space requirements of the RH-2 District, and even if they receive such variances, such variances could be subject to appeal, creating a disincentive to future development.

Additionally, under the current Zoning Ordinance (Section 67(C)(1) and (5)), an existing residential structure in a BD-1 District which does not conform to the RH-2 bulk, yard and other requirements (but which may have been conforming when the BD-1 regulations were originally adopted) may not be able to be expanded, and, if destroyed by fire or otherwise to the extent of more than 50% of its replacement value, may not be able to be rebuilt in its current configuration (which can also affect its ability to obtain financing).

**Public Hearing:** For public hearing proceedings, see verbatim proceedings 1/16/13 by Post Reporting Service in City Plan Commission file 1473-02; see page 9 for materials submitted at the public hearing.

## PLANNING CONSIDERATIONS

Currently, according to Section 43 all development in the BD-1 is subject to the following bulk and area requirements:

The following bulk regulations shall apply to all **uses** in the BD-1 District, but shall apply only to **uses** other than **dwelling**s in all other business and industrial districts indicated. (**Dwellings** shall follow the bulk and **yard** regulations of the appropriate residence district, as indicated in § 42(a) above.)

(b) Maximum **FAR**. 6.0.

© Maximum **building height**.

(1) Except as provided in subsection 43(c)(2) and (3), there shall be no direct limit on **building height** in any business or industrial district (although indirect limits may be produced by **floor area ratio** and other requirements).

(d) Maximum **building coverage**. There shall be no direct limit on **building coverage** in any business or industrial district (although indirect limits may be produced by **floor area ratio**, parking and loading, and other requirements).

(e) **Maximum size of courts.** The horizontal distance between facing walls of any **court** in any business or industrial district shall not be less than five feet where neither facing wall has an **average height** greater than 20 feet, and not less than one foot for each four feet of **average height** of the two facing walls averaged together where either facing wall has an **average height** greater than 20 feet.

(f) **Minimum yards.** There shall be no minimum **yard** requirements in the BD-1 District.

Additionally Section 47 directs that where a business or industrial district abuts a residence district, the following regulations shall apply:

(2) **Side yards:** Same as in section 43, with the following exception:

a. Where a **lot** in a business district or industrial district abuts a residence district along a **side lot line** of such **lot**, all of the regulations of such residence district for **side yards** shall apply to such **lot** along such **side lot line**.

Although the above regulations clearly indicate that all uses are subject to these standards language in Table 3 Section 42, while permitting RH-2 development in a BD-1 District, also contains language as follows with respect to new construction:

IF SUCH USES ARE DWELLINGS they shall be subject to the building requirements, parking standards, and all other appropriate Residence District regulations. Such regulations shall apply even though the building contains another use or uses in addition to a dwelling unit or units.

RH-2 bulk and area standards are as follows:

(1) **Dwellings—Single-family, two-family and multi-family.**

**Building** requirements:

a. **Minimum lot area:** 5,400 sq. ft., except for nonconforming **lots** under subsection 67(e).

b. **Minimum average lot width:** 50 ft., except for nonconforming **lots** under subsection 67(e).

c. **Maximum building** coverage for **principal building** or **principal buildings:** 25% of lot area.

d. **Maximum building height:** No direct limit.

Provided that, no point on a side or rear **building** wall shall be so located that it is closer to a **side** or **rear lot line** than one foot for each two feet that such point is above the average **finished lot grade** along such side or rear **building** wall. But the more flexible rules of section 30 of

this ordinance may be followed in lieu of this proviso, at the option of the owner.

e. **Minimum yards:**

**Front**—17 ft., except that where 75% or more of the entire street frontage (in feet) on the same side of the same street between the nearest two intersecting streets has been developed with **buildings** with **front yards** smaller than 17 feet, the required **front yard** shall be the same as the **yard** presently followed by existing **buildings** along the greatest quantity of street frontage (in feet). Provided that, the **front yard** shall in any case be increased proportionally (up to a maximum of 25 feet of required **front yard**) if necessary to maintain a ratio of one foot between the front **building** wall and the center line of the street to two feet of **average height** measured along the front **building** wall, except as provided in subsection 30(b).

**Rear**—25 ft.

**Side**—One at least eight ft. and the other at least ten ft. in the case of a **corner lot**, at least eight ft. for the one **side yard**.

f. **Maximum gross floor area:** No such **building** or **buildings** shall have a **gross floor area** greater than 0.5 times the **lot area**; except that this floor area may be increased by 0.1 times the **lot area** (up to a maximum of 1.7 times the **lot area**) for each one percent of **lot area** by which the **building coverage** of the **principal building** or **buildings** is reduced below the maximum of 25% of **lot area** set by subparagraph (c) above. The maximum **floor area ratio** allowable at each percent of **building coverage** under the formula is as follows:

<b>Building Coverage in Percent</b>	<b>Floor Area Ratio</b>
25	0.5
24	0.6
23	0.7
22	0.8
21	0.9
20	1.0
19	1.1
18	1.2
17	1.3
16	1.4
15	1.5
14	1.6
13 or less	1.7

Where a lot contains more than one **principal building** in the same ownership, all such **buildings** shall be considered together in determining the **floor area ratio**.

*g. Minimum usable open space:* 250 square feet per **dwelling unit**, except 125 square feet in the case of **elderly housing units**, only by special exception and subject to standards enumerated in subsection b(a)(1)g. of section 15 of this ordinance.

As described in the previous section, there is a conflict between Section 43 and the current language in Table 3 requiring residential development in the BD-1 to comply with RH-2 standards, which was not part of the original BD-1 legislation but rather was part of later overall revisions to the Ordinance. The fact that no portion of Section 43 was amended at the same times as the changes were made to Table 3 appears reasonable evidence of the idea that this conflict was inadvertent as does the lack of evidence of any discussion about applying the residential standards to residential uses in the BD-1 District when these changes were made.

It is first of all of primary importance that there be no conflicts between sections in the Zoning Ordinance so that the Zoning Ordinance can be understood by members of the public, including developers and investors in new developments, and so that the Zoning Ordinance will be fairly and consistently applied.

Second, this current proposal aims to restore language in the Zoning Ordinance that would allow a use to be developed in the BD-1 Districts subject to essentially the same bulk and area standards as all other permitted uses (nonresidential). The restoration of such language is necessary in order to ensure the creation of high density mixed use development in the BD-1 Districts as is the

purpose of the BD-1 Districts as stated in Section 41. Failure to do so creates (or rather perpetuates) a situation of administrative uncertainty in that many projects which are clearly in accordance with the defined goals of the BD-1 Districts could require variances from the Board of Zoning Appeals.

It is also recognized that the proposed amendments are an absolute necessity in order for there to be any meaningful distinction between the BD-1 Districts and the BD Districts. By holding residential development to standards that realistically prohibit any “by right” mixed use projects reflecting appropriate density and form, such as those projects proposed and built previous to the introduction of ambiguous language into the Ordinance which is now proposed for removal, it is not unreasonable to assume that future proposals in the Districts may forego residential elements entirely or that any proposal for residential use would be “free standing” and in a form substantially out of character with the rest of the district (i.e., setbacks from the street, reduced coverage and FAR, etc.). Moreover, those residential projects that were built under the original BD-1 regulations are now nonconforming and cannot be expanded or rebuilt in the case of a catastrophe.

In addition to the restorative elements of this proposal, there are also amendments that will help to ensure that this type of situation does not reoccur. Mixed use in the BD-1 Districts is now listed as a permitted use in Table 3. New language in Table 3 would also make it clear that whenever there is any conflict between Table 3 and Zoning Ordinance text, the standards of the text would prevail.

Also, there are proposed changes intended to enhance the quality of residential use in the BD-1 Districts. New open space standards as well as requirements for areas of interior common space should allow for the creation of a fully integrated urban residential experience. Finally, standards to permit compact car spaces will, in conjunction with the relative lack of required parking in the Districts, result in parking that is required utilizing much less space than is currently the case.

Section 182 of the City of New Haven Charter requires that the proposed Zoning Ordinance text amendments be in accordance with a comprehensive plan. The Comprehensive Plan consists of the zoning regulations and zoning map. The proposed amendments are consistent with the purposes of the BD-1 Districts as set forth in Section 41, the provisions of Section 43, which state that the bulk, yard and development standards applicable to commercial development shall apply to all uses in the BD-1 Districts and with the original language of Section 42A with respect to residential development, which appears to have been inadvertently deleted. The proposed amendments are also in accordance with the general policies of the New Haven Comprehensive Plan of Development adopted in 2003, as such amendments will encourage intensive mixed use projects and promote economic development.

As also required by § 182, these amendments are designed to lessen congestion in the streets, secure safety, promote health and the general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentrations of population, provide adequate provisions for transportation and other public requirements, reflect the character of the BD-1 zoning districts and their peculiar suitability for the uses to be allowed in such districts, conserve the value of existing buildings, and encourage the most appropriate use of land in the City. Permitting dense residential development on the same sites where major commercial development could occur will most likely reduce the type of traffic congestion that would result if dense office or commercial development were situated on the same site, as residents generally only have two trips per day to and from their homes at specific hours/day and many walk, bicycle or use public transportation in the BD-1 Districts. Further, allowing compact car spaces to satisfy parking requirements should

lessen street congestion. Dense residential and mixed use development will also promote security, safety, the public health, and general welfare by creating more people on the streets during many hours of the day and the evening, generate higher taxes, encourage business and retail development, and create a thriving urban neighborhood. The proposed amendments regarding open space and common space will provide adequate light and air, prevent the over-crowding of land and avoid undue concentrations of population. Adequate provisions for transportation and other public requirements are provided in the compact car space regulations and other existing provisions of the BD-1 regulations which are not being amended. Additionally, the amendments reflect the character of the BD-1 zoning district and its peculiar suitability for the uses allowed in this district, as one of the major objectives of this district is dense mixed use and residential development, which these amendments will promote. The amendments should conserve the value of existing buildings, particularly because many buildings have been made nonconforming by inadvertent changes in Table 3 and should promote the development of vacant lots. Finally, these amendments will encourage the most appropriate use of land in the City. The very purpose of the BD-1 district is to have a dense mixed residential, business and commercial district in a downtown/urban neighborhood. Restoring the language in Section 42A (Table 3) as it was originally intended accomplishes this objective.

The final requirement of § 181 of the City of New Haven Charter is that the proposed amendments be uniform for each class of buildings or structures throughout the BD-1 Districts. Clarifying the ambiguities between Table 3 and Section 43 promotes the required uniformity as does restoring the language regarding bulk standards for residential development that was originally part of the BD-1 regulations.

Additionally, in passing upon this petition, Section 64(d)(2) requires the City Plan Commission to take into account the various factors favoring and disfavoring a change, such as 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 purposes of zoning, the comprehensive plan of the City of New Haven, and whether some other method or procedure under the zoning ordinance is more appropriate. For the reasons stated above, these amendments are appropriate to correct the inadvertent error in the Zoning Ordinance with respect to the bulk and yard standards for residential development in the BD-1 Districts. Additionally, the dense urban nature of land use and construction in the areas that have been designated BD-1 Districts, the presence of vacant land in the BD-1 Districts which should be developed, the particular suitability of BD-1 Districts for dense residential and mixed use development, the purpose of zoning to provide clear and uniform rules, and the goals of the City's Comprehensive Plan of Development all counsel for the changes being requested in the Petition and support the position that the amendments requested in the petition are the most appropriate method of accomplishing such changes.

Finally, upon further review of the Petition, the Commission recommends that additional changes be made to Section 43(i)(2), as set forth in the attached Schedule A dated 1/3/13 Version, so that certain of the requirements of the new BD-3 District which are not applicable to the BD-1 Districts are not inadvertently incorporated into the BD-1 Districts.

**ADVICE:**

The Commission finds that the proposed zoning regulation amendments are appropriate given the stated purpose of the subject district as well as evidence that they represent a restoration of previously existing standards inadvertently affected by subsequent amendments to the Ordinance. Therefore, it advises approval of the proposal with the revision as described in the previous paragraph.



**ADOPTED:** February 20, 2013  
Edward Mattison  
Chair

**ATTEST:**   
Karyn M. Gilvarg, AIA  
Executive Director

**Written materials submitted at Public Hearing on Jan. 16, 2013:**

- Letter of support from Paul Denz, downtown property owner 01/14/13
- Letter of support from Frederick P. Leaf, Ninth Square property owner 1/14/13
- Letter of support from William Christian, Developer of 99-101 Orange St & 804-6 Chapel St
- Letter of support from Bianca Bowles, 7 University Pl 1/16/13
- Letter from SCC Regional Planning Commission with finding of no negative impacts on the region 1/14/13
- Letter in opposition from Olivia Martson, Friends of Dwight Historic District 1/16/13 with attached intervention petition to BZA referral 1469-13 9/18/12, "Connecting Chapel West with the Dwight Neighborhood" 01/08/13
- Letter from Renee Kahn, consultant in preservation of historic properties 1/14/13
- Comments by Patricia Kane 119 Dwight St 01/16/13
- Testimony in opposition by Susan Bradford, 70 Howe St & Friends of Dwight St Historic District 01/16/13 including letter from C. Kone 10/27/12, memo from R. Salvatore to S. Bradford 10/27/12, summary of zoning relief & neighborhood comparisons for proposed Chapel Howe project
- Letter of support from Winfield Davis Ex Dir, Town Green Special Services District 01/15/13
- Letter from Brian J. Miller, Turner Miller Group 1/16/13
- Legislative History of Business/Residential Districts submitted by Carolyn W. Kone Esq 01/16/13

## SCHEDULE A

### PROPOSED TEXT AMENDMENTS TO THE BD-1 DISTRICTS ADDITIONS ARE UNDERLINED DELETIONS ARE CROSSED OUT

#### Section 42. Use regulations for business and industrial districts.

The following table describes the *uses* permitted in each business or industrial district.

In any case where a *use* is not specifically referred to by the following table, its status under this section shall be determined by the zoning enforcement officer, by reference to a clearly analogous use or uses that are specifically referred to by the table. When the status of a use has been so determined by the zoning enforcement officer, such determination shall thereafter have general applicability to all uses of the same type. For uses that are not specified and are not clearly analogous to uses specifically referred to in the following table, an application must be made either for an amendment to the zoning ordinance or for a use variance with the Board of Zoning Appeals.

**Accessory uses** customarily incidental to uses in the table are permitted in connection with such uses. Such **accessory uses** may include residences of caretakers and other such persons who must live in the area for the convenience of business or industry, and their dependents.

Matters closely related to use are regulated by:

- (1) Bulk and yards..... § 43 and § 47
- (2) Signs . . . § 44
- (3) Parking and loading . . . § 45
- (4) Automotive and drive-in establishments . . . § 45
- (5) Outdoor activities and storage . . . § 46
- (6) Performance standards . . . § 48

#### ZONING DISTRICT ABBREVIATIONS

BA:	General Business
BA-1:	Neighborhood Center Mixed Use
BB:	Automotive Sales
BC:	Marine Commercial
BD:	Central Business

BD-1:	Central Business/Residential
BD-2:	Central/Business/Medical
BD-3:	Central Business/Mixed-Use
BE:	Wholesale and Distribution
IL:	Light Industry
IM:	Light Industry/Marine
IH:	Heavy Industry

INTERPRETATION OF USE TABLE

R:	Permitted as of right
SE:	Permitted only by special exception under § 63(d) of this ordinance
SP:	Permitted only by special permit under § 64(e) of this ordinance
X:	Not permitted

Parking:	Key letters refer to Parking Standards in § 45(a)(1)a.
Loading:	Key letters refer to Loading Standards in § 45(a)(1)b.

TABLE 3. USE TABLE

<p><b>Key:</b> R – Permitted As-of-Right SP – Special Permit SE – Special Exception X – Not Permitted                      In case of conflict between this Table 3 and the text of the Zoning Ordinance, the text District Regulations shall prevail.</p>														
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>
<p><b>A. Uses Of Same Type As Those Permitted In Residence Districts:</b>                      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 WITH THE EXCEPTION OF NURSING HOMES, CONVALESCENT HOMES AND REST HOMES, AS FOLLOWS:</p>	X	X	X	SP	X	X	X	X	X	X	X	X		
		R <sup>(1)</sup>	R	X	X	X	X	X	X	X	X	X		
		X	X	X	R	R <sup>(2)</sup>	See Text	R <sup>(2)</sup>	X	X	X	X		
		X	X	X	X	R <sup>(2)</sup>			X	X	X	X		
<p>1. In any RM-1 District.</p>														
<p>2. In any RM-2 District.</p>														
<p>3. In any RH-2 District.</p>														
<p>In the BD-3 District, Table 3 shall govern whether nonresidential uses shall be permitted in the BD-3 District where there is a conflict between Table 3 and the RH-2 District regulations regarding nonresidential uses.</p> <p>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) and except that in the BD-1 and BD-3 Districts, all uses shall be subject to the parking, loading, bulk, yard, and sign regulations set forth in §§ 43, 44 and 45 for such uses in the BD-1 and BD-3 Districts and not to any residential Residence District regulations regarding such items</p>														<p>See requirements of Appropriate Residential District for Parking and Loading Standards except for the BD-1 and BD-3 Districts. For the BD-1 and BD-3 Districts, see §45</p>

TABLE 3. USE TABLE

<p><b>Key:</b> R – Permitted As-of-Right SP – Special Permit SE – Special Exception X – Not Permitted                      In case of conflict between this Table 3 and the text of the Zoning Ordinance, the text District Regulations shall prevail.</p>														
Use	BA	BA-1	BB	BC	BD	BD-1	BD-2	BD-3	BE	IL	IM	IH	Parking <sup>(5)</sup>	Loading <sup>(6)</sup>
<u>uses.</u>														
<p><b>For New Construction Only</b>  <b>Except for the BD-1 and the BD-3 Districts, IF</b>                      SUCH USES ARE DWELLINGS they shall be subject to the building requirements, parking standards, and all other appropriate Residence District regulations. Such regulations shall apply even though the building contains another use or uses in addition to a dwelling unit or units. In the <u>BD-1</u> and <u>BD-3</u> Districts, the building, bulk, yard, and sign requirements and parking standards set forth in §§ 43, 44 and 45 for the <u>BD-1</u> and <u>BD-3</u> Districts shall apply to all uses.</p>		(3)												
<p><del>Convenience Goods and Services as defined in § 34 shall not be included in this § 42(a)</del></p>														
<b>4. Custodial care facilities (See § 19):</b>	SE	SE	X	X	SE	SE		X	X	X	X	X		
<b>For New Construction Only:</b>		(3)												

TABLE 3. USE TABLE

<p><b>Key:</b> R – Permitted As-of-Right SP – Special Permit SE – Special Exception X – Not Permitted                      In case of conflict between this Table 3 and the text of the Zoning Ordinance, the text District Regulations shall prevail.</p>															
	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>
	<p><b>Except for the BD-1 and the BD-3 Districts, IF SUCH USES ARE DWELLINGS they shall be subject to the building requirements, parking standards, and all other appropriate Residence District regulations. Such regulations shall apply even though the building contains another use or uses in addition to a dwelling unit or units. In the BD-1 and BD-3 Districts, the building, bulk, yard, and sign requirements and parking standards set forth in §§ 43, 44 and 45 for the BD-1 and BD-3 Districts shall apply to all uses.</b></p> <p><b>For Adaptive Reuse of Structures Built Prior to 1963, Provided the First Floor Remains in Commercial Use:</b>                      Irrespective of use, whether dwelling or business, the building, bulk and yard regulations applicable to the appropriate Business or Industrial District shall govern.</p> <p><u>Convenience Goods and Services as defined in § 31 shall not be included in this § 42(a).</u></p>	(3)													
<b>A.2 Residential</b>	<p>4. <u>Custodial care facilities (See § 19).</u></p> <p>5. Mixed-Use residential uses (See definition)</p> <p>6. Live-Work Loft Residential Conversions Pursuant To Article III Section 18A</p> <p>7. Live-Work Unit – (Post 1963 and new structures) (See definition)</p> <p>8. Assisted Living (see definition), Elderly and</p>	SE	SE	X	X	SE	SE		X	X	X	X	X		
		X	R	X	X	X	X	X	R	X	X	X	X		
		SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	See Section 18A(a)(3)	y
		X	X	X	X	X	X	X	SP	X	X	X	X	1 space/unit	y
		R	R	X	X	R	R	R	R	X	X	X	X	½ space unit	y

TABLE 3. USE TABLE

<p><b>Key:</b> R – Permitted As-of-Right SP – Special Permit SE – Special Exception X – Not Permitted                      In case of conflict between this Table 3 and the text of the Zoning Ordinance, the text District Regulations shall prevail.</p>														
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>
Disabled Housing														

Notes:

- (1) Nonresidential Uses Only
- (2) The open space requirements for the BD-1 and BD-3 Districts shall be those set forth in § 43(i)(1) and not those set forth in § 16(a)(1)g.
- (3) (Exempt)
- (4) In the Marine Commercial District (BC) a marina, yacht club with ten or less slips is allowed as-of-right. A marina, yacht club with over ten slips requires a special permit.
- (5) Parking/Loading Requirements are governed by Section 45 for the Business D-1 and Business D-3 Districts.

**Section 43. Bulk and yard regulations for business and industrial districts.**

*(i) Additional Requirements for the BD-1 and BD-3 Districts*

*(1) Open Space/Common Space*

a. In the BD-3 District, For all **nonresidential buildings** in excess of 10,000 square feet of **gross floor area**, a minimum of 25 square feet of **open space** per 1,000 square feet of **gross floor area** up to a maximum of 10,000 square feet of **open space** shall be provided on the same **lot** on which the **nonresidential building** is located. In the event that any point on such **lot** is located within a 1000' foot radius of publicly accessible **open space**, then a minimum of 13 square feet of **open space** per 1000 square feet of **gross floor area** shall be required on such **lot** up to a maximum of 10,000 square feet of **open space**.

b. In the BD-1 and BD-3 Districts, For all **mixed use buildings** and **residential principal buildings**, a minimum of 50 square feet per **dwelling unit** of **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 1000' foot radius of publicly accessible **open space**, then a minimum of 25 square feet of **open space** per **dwelling unit** shall be required.

c. In the BD-1 and BD-3 Districts, **Mixed use buildings** with six or more **dwelling units** and **residential principal buildings** with six or more **dwelling units** shall provide 50 square feet of common space per **dwelling unit** in addition, to the **open space** required under subsection 43(i)(1)b above. Common Space may include (i) **open space** in addition to that which is required to be provided under Subsection 43(i)(1)b. above, (ii) interior space that is available to all of the residents of the **mixed use building** or the **residential principal building**, such as bicycle rooms, business centers, gyms, laundry rooms, common restrooms, lobbies, party rooms, indoor pools, shared overnight guest quarters, theaters, libraries, game rooms, common recreational/function rooms, and (iii) storage space not located within a **dwelling unit** but which is assigned to an individual **dwelling unit**.

*(2) Principal Entrances in the BD-3 District*

**Buildings** facing College Street, Orange Street, Temple Street, or Church Street shall have a **principal entrance** facing such streets or on the corner of any of the above listed streets and another **street**.

*(3) Transparent and Active Uses in the BD-3 District*



a. Every **nonresidential building** and every **mixed use building** that faces College Street, Orange Street, Temple Street, or Church Street in whole or in part shall have, at minimum, 60 percent of the first floor façade between two feet and eight feet in height facing such street comprised of clear windows and/or doors that allow views of indoor space and/or product display areas.

b. The first floor of the façade of every **nonresidential building** and every **mixed use building** that faces College Street, Orange Street, Temple Street, or Church Street shall contain uses which are active and involve the movement of persons in such spaces, including but not limited to restaurants, retail stores, art galleries, fitness centers, yoga studios, lobbies, dance or music studios, and personal services businesses.

c. Every **nonresidential building** and every **mixed use building** which faces Martin Luther King Boulevard or Legion Avenue/South Frontage Road in whole or in part shall have, at minimum, 30 percent of the first floor façade between two feet and eight feet in height facing such street comprised of clear windows and/or doors that allow views of indoor space and/or product display areas.

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

##### *(a) Parking and loading*

(1)a.6. In order to be credited to the quantity of spaces required, each **parking space** shall have an area of not less than nine feet by 18 feet in the case of self-service parking, or eight feet by 18 feet in the case of garage or attendant parking, exclusive of adequate driveways and aisles. Notwithstanding the foregoing, in the Business D-1 and D-3 Districts, 30% of required parking spaces may be **compact parking spaces**. No area shall be credited as a **parking space** which is in any part also credited or used as a **loading space**.

**ZONING ORDINANCE TEXT AMENDMENTS CONCERNING THE GENERAL BUSINESS/RESIDENTIAL (“BD-1”) DISTRICTS CLARIFYING THE BULK, YARD AND OTHER REQUIREMENTS FOR RESIDENTIAL CONSTRUCTION, PROVIDING FOR OPEN AND COMMON SPACE REQUIREMENTS FOR RESIDENTIAL AND MIXED USE BUILDINGS, PERMITTING COMPACT CAR PARKING SPACES, AND CLARIFYING THAT MIXED USE BUILDINGS ARE PERMITTED IN THE BD-1 DISTRICTS**

WHEREAS, on December 11, 2012, pursuant to 1925 Special Act No. 490, § 5, the Charter of the City of New Haven, § 184 and Section 64(d)(1) of the Zoning Ordinance, City of New Haven (the “Zoning Ordinance”), Karyn M. Gilvarg, AIA, the Executive Director of the RMS Chapel Street, LLC filed with the New Haven City Clerk for transmission to the Board of Aldermen a petition requesting that the Board of Aldermen amend the text of the New Haven Zoning Ordinance to clarify that the bulk, yard and other requirements for business and industrial districts apply to residential construction in the Business D-1 Districts – General Business/Residential (“BD-1”), to set forth the open space and common space requirements for the BD-1 Districts, to permit compact car spaces for 30% of the required parking spaces in the BD-1 Districts and to clarify that mixed use buildings are permitted uses in the BD-1 Districts; and

WHEREAS, on \_\_\_\_\_, pursuant to Section 184 of the City of New Haven Charter, the Board of Aldermen referred the Petition to the New Haven City Plan Commission for a public hearing; and

WHEREAS, on January 16, 2013, the City Plan Commission held a public hearing on the Petition after providing due notice of such hearing in accordance with the provisions of law; and

WHEREAS, on February 20, 2013, the City Plan Commission rendered an advisory report to the Board of Aldermen after considering the factors set forth in Section

64(d)(2) of the Zoning Ordinance recommending Approval of Revised Schedule A in CPC Report No. 1473-02; and

WHEREAS, on \_\_\_\_\_, the Legislation Committee of the Board of Aldermen after due notice held a public hearing on the Petition; and

WHEREAS, the Board of Aldermen finds that the text amendments to the Zoning Ordinance requested in the Petition are in accordance with the comprehensive plan of development for the City of New Haven as such amendments will encourage intensive mixed use development in the BD-1 Districts; and

WHEREAS, the Board of Aldermen further finds that the text amendments to the Zoning Ordinance requested in the Petition are designed to lessen congestion in the streets, secure safety, promote health and the general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentrations of population, provide adequate provisions for all forms of transportation and other public requirements, reflect the character of the BD-1 Districts and their peculiar suitability for the uses to be allowed in such districts, conserve the value of existing buildings, and encourage the most appropriate use of land in the City; and

WHEREAS, the Board of Aldermen further finds that the text amendments to the Zoning Ordinance requested in the Petition are uniform for each class of buildings or structures throughout the BD-1 Districts.

NOW THEREFORE BE IT ORDAINED by the Board of Aldermen of the City of New Haven that the Petition of the Executive Director of the City of New Haven City Plan Department for amendments to the text of the Zoning Ordinance is hereby granted

and that the Zoning Ordinance shall be amended in the manner set forth in Revised Schedule A attached hereto, which schedule is incorporated by reference.