

**CITY OF NEW HAVEN
BOARD OF ALDERMEN**

In re Petition of the Executive Director of the City :
of New Haven City Plan Department for :
Amendments to the Text of the Zoning Ordinance :
Concerning the General Business/Residential :
("BD-1") Districts to Clarify the Bulk, Yard and :
Other Requirements for Residential Construction, :
to Provide New Open and Common Space :
Standards for Residential and Mixed Use :
Buildings, to Permit Compact Parking Spaces, and :
to Clarify that Mixed Use Buildings are Permitted :
in the BD-1 Districts :

**PETITION FOR AMENDMENTS TO THE TEXT OF THE NEW HAVEN
ZONING ORDINANCE CONCERNING THE GENERAL
BUSINESS/RESIDENTIAL ("BD-1") DISTRICTS TO
CLARIFY THE BULK, YARD AND OTHER REQUIREMENTS FOR
RESIDENTIAL CONSTRUCTION, TO PROVIDE OPEN AND COMMON
SPACE REQUIREMENTS FOR RESIDENTIAL AND MIXED USE BUILDINGS,
TO PERMIT COMPACT CAR PARKING SPACES,
AND TO CLARIFY THAT MIXED USE BUILDINGS ARE PERMITTED IN THE
BD-1 DISTRICTS**

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"), Petitioner, Karyn M. Gilvarg, AIA, the Executive Director of the City of New Haven City Plan Department with offices at 165 Church Street, New Haven, CT ("Petitioner") hereby petitions the Board of Aldermen of the City of New Haven to amend the Zoning Ordinance to: (i) clarify the bulk, yard and other requirements for residential construction in the BD-1 Districts; (ii) provide that the open and common space requirements for residential and mixed use buildings in the new BD-3 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.

In support of this Petition, Petitioner represents as follows:

1. The Petitioner is the Executive Director of the New Haven City Plan Department.

2. The City Plan Department serves as staff to the City Plan Commission.

3. Pursuant to the New Haven Zoning Ordinance Section 64(a), the City Plan Commission and its staff are required to carry on a continuous review of the effectiveness and appropriateness of the New Haven Zoning Ordinance and recommend such changes as they see fit.

4. The New Haven Zoning Map includes four General Business-Residential Districts (“BD-1 Districts”). The original BD-1 District 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.

5. Subsequently, an area 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 rezoned BD-1. A third BD-1 District was adopted for the block bounded by York Street, George Street, High Street and Crown Street to permit townhouse development on that site. Finally last year, at the request of certain members of the Board of Aldermen, the Board of Aldermen rezoned a number of properties in the Chapel/West area from the BA District to the BD-1 District. The Ordinance text amendment adopted by the Board of Aldermen in connection with

this 2011 map amendment noted the “distinct role” of the BD-1 Districts “in maintaining a strong residential presence in portions of the City’s Central Business Districts” and that the “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.”

6. One of the purposes of the BD-1 Districts, as set forth in Section 41 of the Zoning Ordinance, is to “concentrate[] 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.”

7. 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.

8. Subsequently, Section 42A was changed on several occasions so that Section 42A now contains general language that the standards of the residential districts apply 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).

9. 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” (emphasis added).

10. Because of this ambiguity and conflict in the Zoning Ordinance, 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.

11. 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) and the parcel on George Street between South

Orange Street and State Street. 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.

12. 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 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).

13. Moreover, the proposed text amendments carry out the purposes of the BD-1 District to promote dense mixed use and residential development, continue the mixed use environment in the Ninth Square and the other areas of the City where BD-1 Districts are mapped, promote pedestrian activity on streets in these districts, and create lively neighborhoods. In contrast, a requirement that residential construction in the BD-1 comply with the residential bulk and area standards, including the open space requirements of 250 square feet per dwelling unit, promotes “tower in the park” type of residential development, which is not compatible with a pedestrian friendly streetscape.

14. Petitioner also requests that the Zoning Ordinance be amended to apply the new BD-3 regulations (Section 43i(1)b. and c.) recently adopted by the Board of Aldermen concerning open and common spaces to residential and mixed use buildings in the BD-1 Districts. The new BD-3 regulations define open space to include a wide variety of spaces devoted to recreation (Article I and Section 1) and require 50 square feet of open space per dwelling unit and an additional 50 square feet of common space,

such as bicycle rooms, gyms, and recreational rooms, business centers etc., for residential and mixed use buildings with six or more units. If a building is located proximate to a public space, such as a public park, these requirements are reduced. These regulations are appropriate for the BD-1 Districts, which are also intended to promote dense mixed use developments.

15. This Petition also requests that the Zoning Ordinance be amended to permit 30% of required parking spaces to be compact spaces (7.5' x 15') as is permitted in the new BD-3 District and in at least one of the planned development districts (Science Park). This provision encourages denser building development and is reflective of the type of cars many downtown parkers drive.

16. Finally, Petitioner requests that the Zoning Ordinance be amended to specifically permit mixed use buildings, which is consistent with the description of the BD-1 Districts.

17. As required by § 182 of the City of New Haven Charter, the proposed Zoning Ordinance text amendments are in accordance with the Comprehensive Plan of Development for the City of New Haven as such amendments will encourage intensive mixed use. 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.

18. As required by § 181 of the City of New Haven Charter, the proposed amendments are uniform for each class of buildings or structures throughout the BD-1 districts.

WHEREFORE, Petitioner requests that the Board of Aldermen approve the amendments to the Zoning Ordinance set forth in Schedule A.

Respectfully submitted,

By: _____
Karyn M. Gilvarg, AIA
Executive Director of the City of New Haven City
Plan Department

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

Key: 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.

	Use	BA	BA-1	BB	BC	BD	BD-1	BD-2	BD-3	BE	IL	IM	IH	Parking ⁽⁵⁾	Loading ⁽⁵⁾
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 WITH THE EXCEPTION OF NURSING HOMES, CONVALESCENT HOMES AND REST HOMES, AS FOLLOWS:														
	1. In any RM-1 District.	X	X	X	SP	X	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	X		
3. In any RH-2 District.	X	X	X	X	R	R ⁽²⁾	See Text	R ⁽²⁾	X	X	X	X			
	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.														
	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 <u>BD-1 and BD-3 Districts</u> , 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 <u>BD-1 and BD-3 Districts</u> and not to any residential Residence District regulations regarding such items														
															See requirements of Appropriate Residential District for Parking and Loading Standards except for the <u>BD-1 and BD-3 Districts</u> . For the <u>BD-1 and BD-3 Districts</u> , see §45

TABLE 3. USE TABLE

<p>Key: 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 ⁽⁵⁾	Loading ⁽⁵⁾	
<u>uses.</u>															
<p>For New Construction Only Except for the <u>BD-1 and the BD-3 Districts</u>, 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 <u>BD-1 and BD-3 Districts</u>, the building, bulk, yard, and sign requirements and parking standards set forth in §§ 43, 44 and 45 for the <u>BD-1 and BD-3 Districts</u> shall apply to all uses.</p>		(3)													
<p>Convenience Goods and Services as defined in § 34 shall not be included in this § 42(a)</p>															
<p>4. Custodial care facilities (See § 19).</p>	SE	SE	X	X	SE	SE		X	X	X	X	X			
<p>For New Construction Only:</p>		(3)													

TABLE 3. USE TABLE

Key: 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.

Use	BA	BA-1	BB	BC	BD	BD-1	BD-2	BD-3	BE	IL	IM	IH	Parking ⁽⁵⁾	Loading ⁽⁵⁾	
<p>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.</p> <p>For Adaptive Reuse of Structures Built Prior to 1963, Provided the First Floor Remains in Commercial Use: Irrespective of use, whether dwelling or business, the building, bulk and yard regulations applicable to the appropriate Business or Industrial District shall govern.</p>		(3)													
<u>Convenience Goods and Services as defined in § 31 shall not be included in this § 42(a)</u>															
<p>A.2 Residential</p> <p>4. Custodial care facilities (See § 19).</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	See requirements of Appropriate Dwelling Residential District for Parking and Loading Standards See Section 18A(a)(3) 1 space/unit ½ space unit		
	X	R	X	X	X	XR	X	R	X	X	X	X			y
	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP			y
	X	X	X	X	X	X	X	X	SP	X	X	X			y
	R	R	X	X	R	R	R	R	R	X	X	X		y	

TABLE 3. USE TABLE

<p>Key: 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>															
	<i>Use</i>	<i>BA</i>	<i>BA-1</i>	<i>BB</i>	<i>BC</i>	<i>BD</i>	<i>BD-1</i>	<i>BD-2</i>	<i>BD-3</i>	<i>BE</i>	<i>IL</i>	<i>IM</i>	<i>IH</i>	<i>Parking</i> ⁽⁵⁾	<i>Loading</i> ⁽⁵⁾
	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, ~~F~~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, ~~F~~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**.

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 _____, 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 _____, 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 _____ of the Petition, CPC Report No. _____; 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 Schedule A attached hereto, which schedule is incorporated by reference.