

MAYOR  
Caroline Simmons



CITY OF STAMFORD  
ZONING BOARD  
LAND USE BUREAU  
888 WASHINGTON BOULEVARD  
STAMFORD, CT 06904 -2152

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RECEIVED

September 27, 2023

Ms. Theresa Dell, Chair, Planning Board  
Land Use Bureau, City of Stamford  
888 Washington Blvd.  
Stamford, CT 06904

SEP 27 2023

PLANNING BOARD

**RE: Application 223-37 -City of Stamford – Zoning Board, 888 Washington Boulevard, Stamford, CT, - Text Change, -Proposing Text Changes to Section 10, Non-Conforming Uses: Currently, Section 10 does not clearly differentiate between non-conforming uses and non-complying buildings.**

The proposed text change would clarify that **Conformance** means that a use meets all the use regulations established under zoning and that **Compliance** means that a Building or Structure meets all the bulk regulations (e.g., height, setback, density) established under zoning.

**Grandfathering**, therefore, would apply to both uses and buildings and means that a use or a building that was legal at some point may remain unless the use is discontinued or abandoned and/or the building is demolished.

Dear Ms. Dell:

In accordance with Section C6-40-10 of the Charter of the City of Stamford, the above captioned Application for a Text Amendment is hereby referred to the Planning Board of the City of Stamford for its advisory report.

A public hearing has not yet been scheduled. Referral comments should be filed with the Zoning Board Office by **November 1, 2023**.

If you have any questions, please feel free to contact me at (203) 977-4716.

Sincerely,

  
Vineeta Mathur  
Principal Planner 



**APPLICATION FOR TEXT CHANGE OF THE STAMFORD ZONING REGULATIONS**

Complete, notarize, and forward **thirteen (13) hard copies and (1) electronic copy in PDF format** to Clerk of the Zoning Board with a **\$1,000.00 Public Hearing Fee** and the required application filling fee (**see Fee Schedule below**), payable to the City of Stamford.

**NOTE:** Cost of required Public Hearing advertisements are payable by the Applicant and performance of mailing of required property owners is the sole responsibility of the applicant. **LAND RECORDS RECORDING FEE:** \$60.00 for First page - \$5.00 for each additional page)

**Fee Schedule**

Minor Text Change	\$1,060.00
Major Text Change	\$5,060.00

APPLICANT NAME (S): CITY OF STAMFORD ZONING BOARD

APPLICANT ADDRESS: 888 WASHINGTON BOULEVARD, STAMFORD, CT 06901

APPLICANT PHONE 203-977-4711

IS APPLICANT AN OWNER OF PROPERTY IN THE CITY OF STAMFORD? NO

LOCATION OF PROPERTY IN STAMFORD OWNED BY APPLICANT (S): N/A

Proposing Text Changes to Section 10, Non-Conforming Uses: Currently, Section 10 does not clearly differentiate between non-conforming uses and non-complying buildings. The proposed text change would clarify that Conformance means that a use meets all the use regulations established under zoning and that Compliance means that a Building or Structure meets all the bulk regulations (e.g., height, setback, density) established under zoning. Grandfathering, therefore, would apply to both uses and buildings and means that a use or a building that was legal at some point may remain unless the use is discontinued or abandoned and/or the building is demolished.

DOES ANY PORTION OF THE PREMISES AFFECTED BY THIS APPLICATION LIE WITHIN 500 FEET OF THE BORDER LINE WITH GREENWICH, DARIEN OR NEW CANAAN? NO (If yes, notification must be sent to Town Clerk of neighboring community by registered mail within 7 days of receipt of application – PA 87-307).

DATED AT STAMFORD, CONNECTICUT, THIS 25 DAY OF September 2023

SIGNED: Ralph Blessing

**NOTE:** Application cannot be scheduled for Public Hearing until 35 days have elapsed from the date of referral to the Stamford Planning Board. If applicant wishes to withdraw application, please notify the Zoning Board at least three (3) days prior to Public Hearing so that the Board may have sufficient time to publicize the withdrawal.

STATE OF CONNECTICUT  
 COUNTY OF FAIRFIELD ss STAMFORD September 26 2023

Personally appeared Ralph Blessing, signer of the foregoing application, who made oath to the truth of the contents thereof, before me.

Mary Judge  
 Notary Public, State of Connecticut  
 My Commission Expires 9/30/2028  
 Notary Public - Commissioner of the Superior Court

**FOR OFFICE USE ONLY**

APPL. #: 223-37

Received in the office of the Zoning Board: Date: SEP 26 2023

By: \_\_\_\_\_

**RECEIVED**

**ZONING BOARD**

## NARRATIVE: Proposed Text changes to Section 10, Non-Conforming Uses

September 26, 2023

### 1. Purpose

As zoning regulations and designations are changed, existing uses may become non-conforming and existing buildings non-compliant. While State Statute generally requires that these existing uses and buildings can remain (they become “grandfathered”), the statute provides only a very general framework for grandfathering and does not address if and how non-conforming uses and non-complying buildings can be modified. Section 10 of the Stamford Zoning Regulations currently provides regulations addressing some of the aspects of grandfathering. However, definitions and rules around grandfathering remain unclear as does the scope of how non-conforming uses and non-complying buildings can be modified. The purpose of this text change, proposed by the Land Use Bureau, is to clarify regulations and to eliminate numerous special permits and exceptions that have evolved over the course of time.

### 2. Proposed Changes

Currently, Section 10 does not clearly differentiate between **non-conforming uses** and **non-complying buildings**.

The proposed text change would clarify that **Conformance** means that a use meets all the use regulations established under zoning and that **Compliance** means that a Building or Structure meets all the bulk regulations (e.g., height, setback, density) established under zoning.

**Grandfathering**, therefore, would apply to both uses and buildings and means that a use or a building that was legal at some point may remain unless the use is discontinued or abandoned and/or the building is demolished.

#### a. Conformance

The proposed text would establish standards for how a grandfathered non-conforming use can be modified. The general rule is that a grandfathered use can only be changed if it is either brought into conformance with the regulations for the respective district, or the non-conformity is decreased. More specifically rules are proposed to determine if a use is less non-conforming:

- a. Residential uses are always less non-conforming than other uses
- b. Uses only allowed in M-L and M-G districts are always the most non-conforming uses
- c. Uses only allowed in the CC district are always more non-conforming than other uses, except those only allowed in the M-L and M-G districts.
- d. Non-conforming uses in the M-L and M-G districts can not be converted to residential uses

These standards would be applied by the ZEO or the Zoning Board, respectively.

## **b. Compliance**

Secondly, the proposed text would establish standards how non-compliant buildings could be modified:

- Non-compliance of a building could only be increased if required to meet code requirements (e.g., Building or Fire Code or ADA requirements)
- A non-compliant building could only be enlarged or modified if it does not lead to an increased or new non-compliance (e.g., a building that is non-compliant with regard to coverage but has floor area left, floor Area could be added if the coverage is not increased, and the density or height requirements are not exceeded)

## **c. Discontinuation or Abandonment of Special Permit Uses**

A clarification to Section 19.C., Special Permits, would clarify when an abandoned or discontinued Special Permit use would need a new Special Permit application to be resumed.

## **3. Expected Impacts**

The proposed changes are primarily a clarification that do not generate any new or additional development rights. They provide more clarity for property owners and neighbors on how existing non-conforming uses and non-compliant buildings may be modified in the future, with the goal of bringing them into more conformance and compliance.

**PROPOSED TEXT CHANGE TO MODIFY SECTION 10, NON-CONFORMING USES,  
OF THE STAMFORD ZONING REGULATIONS**

**September 26, 2023**

**AMEND Section 10 as follows:**

**SECTION 10 - NON-CONFORMING USES AND NON-COMPLYING BUILDINGS**

**09/26/2023**

**10.A. GRANDFATHERING OF NON-CONFORMING USES AND NON-COMPLIANT BUILDINGS**

Any Building, Structure or Use which does not conform to or comply with the provisions of these Regulations for the Use Zoning District in which it is located, and which was ~~of land or Building~~ (1) legally existing at the time of enactment of these Regulations or of any amendments thereto, or (2) authorized by lawful permit issued prior to the adoption of ~~or changes to~~ these Regulations, which does not conform to or comply with the provisions of these Regulations for the Use Zoning Districts in which it is located, shall be designated a non-conforming Use or non-complying Building or Structure. Such Building or Structure may be maintained, or such Use may be continued, and under certain conditions modified, but may not be extended or expanded, or changed to a less restrictive Use as listed in the LAND USE SCHEDULE in APPENDIX A as provided for in this Section 10.

Whenever a non-conforming Use or non-complying Building or Structure is modified the goal should be to move it closer to conformance or compliance.

**10.B. NON-CONFORMING USES**

**10.B.1. Continuation of Non-Conforming Uses**

- a. A non-conforming Use may continue if it is not increased, expanded, intensified, or extended.
- b. A non-conforming Use may be converted to a different non-conforming Use that is less intense or more restrictive. The following criteria shall be applied to determine if a different non-conforming Use is less intense or more restrictive:
  - (1) A change from a non-residential Use (such as industrial, retail or office) to a residential Use, including multi-family and dormitory Uses, shall always be considered the least intensive Use.
  - (2) Uses allowed exclusively in the M-L and the M-G districts shall be considered the most intense and least restrictive Uses.
  - (3) Uses allowed exclusively in the C-C district shall be considered more intense and less restrictive than Uses permitted in all other districts, except Uses permitted exclusively in the M-L and the M-G districts.

- c. If the relative intensity or restrictiveness of a proposed non-conforming Use cannot be determined by the ZEO based on the criteria in Subsection b. above, the Zoning Board shall administratively – in instances where development is as-of-right – determine if the proposed Use is less intense or more restrictive. If a request for Final Site and Architectural Plan and Requested Uses approval, Special Permit approval or any other Zoning Board approval is sought, the Zoning Board shall determine the intensity and restrictiveness of the proposed Use as part of the requested action. As part of its approval the Zoning Board shall make a finding regarding the Use and may consider, among other relevant factors, the following factors:
- Number of parking spaces required, or traffic generated, pursuant to Section 12 of these regulations or the ITE;
  - Number of employees or residents;
  - Number of customers or visitors;
  - Hours of operation; or
  - Other impacts on neighboring Uses such as light and noise.
- d. Buildings located in zoning districts where residential Uses are prohibited shall not be converted to residential Uses.

### **10.B.2. Continuation of a Non-Conforming Uses Prohibited**

A non-conforming Use shall not be continued under the following circumstances:

- a. If the Use has been discontinued or abandoned for a continuous period of twelve (12) months or longer; or
- b. If the Building, Structure, equipment, fixtures or other physical assets related to and necessary for the Use have been purposefully demolished, dismantled, abandoned or removed; or
- c. After a legally binding declaration to discontinue the Use.

Every Use established after any of these circumstances has occurred shall fully conform to the respective zoning district regulations.

### **10.B.3. Continuation of Non-Conforming Uses after Accidents or Disasters**

Any non-conforming Use which has been discontinued due to fire, flood, explosion, earthquake, war, civil unrest, or any accident, act of God or act of any governmental authority (collectively, “accident or disaster”), may be continued if all of the following conditions are met:

- a. The Use is reestablished or a building permit for such has been issued within twelve (12) months of such accident or disaster; and
- b. The Use is not more intense or is not less restrictive than the Use immediately prior to the accident or disaster;
- c. The Building or Structure associated with the Use is compliant with the height, setback, coverage, density and all other regulations of the zoning district in which they are located; and

- d. If the *Building* or *Structure* associated with a non-conforming *Use* was non-compliant prior to the accident or disaster, the *Zoning Board* may, by *Special Permit* approval, permit non-compliant height, setback, coverage, density or other *Building* regulations of the zoning district in which it is located if it finds that:
- (1) Such non-compliance is necessary for the proper functioning of the *Use*; and
  - (2) The proposed *Building* or *Structure* will be more compliant than the *Building* or *Structure* extant prior to the accident or disaster.

### **10.C. NON-COMPLIANT BUILDINGS**

Non-compliant *Buildings* and *Structures* may remain and may be modified, provided they are not extended, enlarged, or otherwise modified in a way that would increase their existing non-compliance or non-conformance or result in a new non-compliance or non-conformance.

#### **10.C.1. Modification of Non-Compliant Buildings**

Any modification of a non-complying *Building* or *Structure* shall be made with the goal of achieving more compliance with the applicable zoning district regulations. For the modification of non-complying *Buildings* or *Structures*, the following rules shall apply.

- a. ***Building Coverage***. If a *Building* or *Structure* exceeds the permitted *Building Coverage*, then the footprint of that *Building* or *Structure* may only be enlarged or expanded if required to provide access, or meet health, safety or other legal requirements such as the Americans with Disabilities Act. Unenclosed areas under an existing permanent roof may be enclosed and converted to *Floor Area* notwithstanding that the *Building* or *Structure* already exceeds the permitted *Building Coverage*.  
Notwithstanding non-compliance with *Building Coverage*, the *Building Height* or *Permitted Density* may be increased if it would not result in a new non-compliance or increase an existing non-compliance.
- b. ***Setbacks or Yards***. If a *Building* or *Structure* encroaches on required setbacks or *Yards*, such encroachments may only be increased if required to provide access, or meet health, safety or other legal requirements such as the *Americans with Disabilities Act*. Unenclosed areas under an existing permanent roof encroaching on required setbacks or *Yards*, may be enclosed and converted to *Floor Area* notwithstanding that the *Building* or *Structure* already encroaches on required setbacks or *Yards*. This subsection shall not apply to building features that are *Permitted Obstructions* pursuant to Section 3.B. of these Regulations. Notwithstanding non-compliance with setbacks or *Yards*, a *Building* or *Structure* may be expanded or enlarged if the enlargement or expansion is within the required *Setbacks* and *Yards* and it would not result in a new or increased non-compliance with other zoning regulations (e.g., *Permitted Density* or *Coverage*).
- c. ***Height***. If a *Building* or *Structure* exceeds the permitted *Building Height*, then the *Height* may only be increased to the extent that is necessary for health, safety or other legal requirements

such as the *Americans with Disabilities Act* or to allow for the installation of green roofs or solar panels. This subsection shall not apply to building features exempt from the *Building Height* regulations pursuant to Section 3.B. of these Regulations. Notwithstanding non-compliance by a portion of a *Building* with respect to *Building Height*, the *Height* of another portion of the *Building* may be increased if the resulting *Height* does not exceed the permitted *Building Height* and if it would not result in a new or increased non-compliance with other zoning regulations (e.g., *Permitted Density* or *Coverage*).

- d. **Density – Floor Area.** If an existing *Building* or *Structure* exceeds the permitted *Floor Area Ratio (FAR)*, its *Floor Area* may only be increased if required to provide access, or meet health, safety or other legal requirements such as the *Americans with Disabilities Act*. Unenclosed areas under an existing permanent roof may be enclosed and converted to *Floor Area* notwithstanding that the *Building* or *Structure* already exceeds the permitted *FAR*.
- e. **Density – Units per Acre.** In zoning districts where *Permitted Density* is defined in units per acre, an existing *Building* or *Structure* may exceed such *Permitted Density* where the applicable conversion factor in Section 3.B. results in more units per acre than permitted and the *Floor Area* of the *Building* or *Structure* is not increased.
- f. **Demolition.** If a *Building* or *Structure* is completely **demolished**, then the new *Building* or *Structure* must be fully compliant with the respective zoning district regulations. For the purposes of this definition, “completely demolished” shall mean that more than 50% of the outside building volume is removed. Reduction to core and shell that does not affect the outside volume of a *Building* or *Structure* shall not be considered a demolition for the purposes of this Section 10.
- g. **Partial Demolition.** If a *Building* or *Structure* is **partially demolished** (i.e., 50% or less of the outside building volume is removed) then the remaining parts of the *Building* or *Structure* may remain non-complying, provided, that any non-compliance is not increased or result in any new non-compliance. All new construction must comply with the respective district regulations. Reduction to core and shell that does not affect the outside volume of a *Building* or *Structure* shall not be considered a partial demolition for the purposes of this Section 10.
- h. **Subdivision Not Permitted.** *Lots* containing non-compliant *Buildings* or *Structures* shall not be subdivided if such subdivision would increase the non-compliance or result in any new non-compliance.

### **10.C.2. Reconstruction of Non-Compliant Buildings after Accidents or Disasters**

Any non-compliant *Building* or *Structure* which has been damaged or destroyed by fire, flood, explosion, earthquake, war, civil unrest, or any accident, act of God or act of any governmental authority (collectively, “accident or disaster”), may be rebuilt if all the following conditions are met:

- a. A building permit has been issued within twelve (12) months of such accident or disaster.



- b. The non-compliance of the *Building* or *Structure* is not increased as compared to immediately prior to the accident or disaster.
- c. The *Building* or *Structure* is in conformance with the *Use* regulations of the zoning district in which it is located; or if the *Use* was non-conforming, then such non-conforming *Use* may continue, or another non-conforming use may be established, provided that such *Use* is not less conforming or more intense than the *Use* extant immediately prior to the accident or disaster.

## **10.D. OTHER CONFORMANCE OR COMPLIANCE RELATED REGULATIONS**

### **10.D.1. Parking and Loading**

Where a *Lot* is non-complying with regard to the minimum parking or loading requirements, extant parking or loading shall not be reduced.

Where a *Lot* is non-complying with regard to the minimum parking or loading requirements, then parking or loading, to the extent possible, shall be brought into compliance; provided, however, that it does not conflict with setback, *Yard*, *Lot Coverage* or location or design of *Parking Areas* pursuant to Section 12 of these Regulations.

Parking not compliant with the design and location requirements of Section 12 may only remain if it is necessary to meet the parking requirements.

### **10.D.2. Additional Provisions for Residential Conversions**

All conversions of *Buildings* from non-residential *Uses* to residential *Uses* shall also be subject to the following requirements and regulations:

- a. All residential conversions shall be subject to the *BMR* requirements for new developments pursuant to Section 7.4. of these Regulations, based on the zoning district they are located in.
- b. Residential conversions shall not be required to meet the *Light and Air* requirements pursuant to Section 3.B. of these Regulations, provided that any non-compliance with these requirements is not increased or results in any new non-compliance.
- c. Residential conversions shall be subject to the Sidewalk, Bike Parking and *EV* Parking requirements of Section 12.
- d. Not less than seventy-five (75) square feet of *Usable Open Space* shall be provided per *Dwelling Unit*. Such space shall be satisfied at grade, on balconies and/or on roof decks. Up to 25% of required open space may be satisfied with interior amenity areas. Except as set forth in this subsection, *Usable Open Space* shall comply with the requirements of Section 3.B, *Open Space, Usable*.

### **10.D.3. Application of Premium and Bonus Provisions**

All zoning *Bonus* and *Premium* provisions pursuant to these Regulations, including but not limited

to the provision of on-site BMR units or Historic bonus shall only be applied if the use of such bonuses or premiums does not decrease conformance of a Use or compliance of a Building or Structure.

#### **10.E. MODIFICATION OF REQUIREMENTS**

The Zoning Board may, by *Special Permit* approval, modify the requirements of this Section 10 as follows:

1. **10.D.1. Parking.** The number of non-compliant parking spaces may be further reduced if it brings the parking area into compliance with the parking lot design standards in Sections 12.A.-12.C.
2. **10.D.2.d. Bike Parking.** The number of non-compliant parking spaces may be further reduced if required to meet the bicycle parking requirements pursuant to Section 12. J.
3. **10.D.2.e. Usable Open Space.** The required *Usable Open Space* may be reduced if physical conditions limit the amount that can be provided; provided, such reduction shall not exceed 50% of the required amount.

**ADD new Section 19.C.5.d. as follows:**

- a. Expiration of *Special Permit* Uses. If a Use requiring a *Special Permit* is discontinued for a continuous period of 365 days or more, such Use shall not be resumed but a new *Special Permit* application and approval for such Use shall be required.

#### **~~10.B. [LIMITATIONS TO THE CONTINUATION OF NON-CONFORMING USES]~~**

~~The total structural repairs and alterations that may be made in a *Structure* which is non-conforming in *Use* only shall not exceed fifty percent (50%) of its replacement value at the time of application for the first structural change, unless changed to a conforming *Use*. The foregoing provision in this Subsection with reference to limitations on structural repairs and alterations need not apply to that part of any *Building* used for residence purposes located in any Business or Industrial District, not conforming to the SCHEDULE OF REQUIREMENTS FOR AREA, HEIGHT AND BULK OF BUILDINGS in APPENDIX B, except that no additional Dwelling Units shall be permitted in any such *Building* in which structural repairs or alterations are undertaken unless the density provisions of SCHEDULE OF REQUIREMENTS for minimum number of square feet of *Lot Area* per family can be complied with for the district in which such *Building* is located.~~

#### **~~10.C. [REBUILDING OF NON-CONFORMING USES AFTER DISASTERS]~~**

~~Any non-conforming *Building* or *Structure* or one or more of a group of non-conforming *Buildings*~~

or *Structures* which has been or may be damaged by fire, flood, explosion, earthquake, war, riot, act of God or act of any governmental authority, may be reconstructed and used as before, if reconstruction is started with twelve (12) months of such calamity, provided that the restored *Building* covers no greater area or has no greater cubic content and has equal or greater front, side and *Rear Yards*.

**10.D. [EXPIRATION OF GRANDFATHERED NON-CONFORMING USES]**

A *Building Structure* or portion thereof, non-conforming as to *Use*, which is, or hereafter becomes vacant or remains unoccupied for a continuous period of one (1) year shall not thereafter be occupied except by a *Use* which conforms to the *Use* regulations of the district in which it is located.

**10.E. [GRANDFATHERED STATUS FOR BUILDINGS AND LOTS IN EXISTENCE PRIOR TO 1955]**

Any *Building* constructed prior to July 1, 1955, or any *Plot* for which a *Building* permit has been issued prior to that date having area, front, side and/or *Rear Yard* insufficient to comply with the Regulations then in effect shall nevertheless be deemed to be lawfully non-conforming with respect thereto and may be continued.

**10.F. [PROHIBITION OF SUBDIVISION FOR NON-CONFORMING USES IN RESIDENTIAL DISTRICTS]**

Any *Lot* located within a residence district and supporting a commercial *Use* of land or *Use* of a *Structure* that is non-conforming with respect to the *Permitted Uses* of Appendix A – LAND USE SCHEDULE, where such non-conforming commercial *Use* exceeds either 50% ground coverage or a *Floor Area Ratio* of 0.30 of such *Lot*, shall not be reduced with respect to the original acreage, frontage, width, or configuration of such *Lot* existing at the time that the *Use* first became non-conforming. Such *Lots* may however be modified or combined with adjacent lands provided that the non-conforming *Use* shall not be expanded, intensified or extended into adjacent lands. No new *Permitted Uses*, *Structures* or *Buildings* shall be established on any *Lot* supporting a *Use* of land or *Use* of a *Structure* that is non-conforming with respect to the *Permitted Uses* of Appendix A that would increase the degree of non-conformity or exceed the maximum intensity of *Use* permitted for the district. Intensity of non-residential *Uses* shall be equated on a residential density basis of not more than 800 square feet of gross non-residential floor area per Dwelling Unit, or such lesser amount deemed appropriate based on the character of the non-residential *Use*. (86-015)

**10.G. [DORMITORY USE FOR CERTAIN HISTORIC BUILDINGS IN R-10 DISTRICTS]**

In order to preserve historic and legally non-conforming *Buildings* that contribute to the character

of the neighborhood, *Building(s)* in the R-10 District originally designed and used for religious and/or educational purposes for a period in excess of forty (40) years may be used for dormitories serving children high school aged or younger with accessory onsite staff living quarters pursuant to a *Special Permit* granted by the Zoning Board. *Incidental Uses* may also be allowed, such as school or educational *Uses*, tutoring and extra-curricular classroom and lecture areas, and art studio space, and other supplemental *Uses* provided that:

1. ~~No structural change is made to the exterior of the *Building* except as is necessary to provide access for handicapped persons, for code compliance, or for customary repair and maintenance; and no increase in legally nonconforming floor area.~~
2. ~~Where the existing number and design of *Parking Spaces* and access thereto is legally nonconforming, the Zoning Board may (a) allow such nonconformities to remain, and/or (b) approve an alternate design that decreases the nonconformities and where the Zoning Board makes a determination that the proposed plan provides for adequate parking. Drive aisles serving fifteen (15) or fewer spaces may be not less than ten (10) feet in width for one way access.~~
3. ~~The *Building* is connected to the city sanitary sewer system~~
4. ~~On *Corner Lots*, ground mounted mechanical equipment may be located in a *Front Yard* provided such equipment is not less than ten (10) feet from a property line and suitably screened from public view.~~
5. ~~For applications under this Section 10.G, the requirements of Section 19.C.2.e. shall not apply, provided that: total ground coverage shall not exceed 52.5%; any new *Parking Spaces* shall be a minimum of 20 feet away from the longest street frontage and 10 feet away from all other street frontages and residential properties; and not less than 50% of the total perimeter of all *Buildings* shall satisfy the landscape buffer requirement. (87-028, 214-36)~~

#### **~~10.H. [CONVERSION OF COMMERCIAL BUILDINGS TO RESIDENTIAL BUILDINGS IN CERTAIN DISTRICTS]~~**

~~Subject to *Special Permit* Approval by the Zoning Board, any existing *Building* located within any commercial zone listed in Appendix A Table II or in the R-MF or R-H Zone, and used for commercial purposes including *Buildings* that are non-conforming with respect to Appendix B—SCHEDULE OF REQUIREMENTS FOR AREA, HEIGHT AND BULK OF BUILDINGS, may be converted, in whole or in part, to residential purposes provided that (218-14):~~

1. ~~Notwithstanding the limitations of Appendix B, residential density shall not exceed one (1) Dwelling Unit per 800 square feet of converted gross commercial floor area. Residential density may not to exceed one (1) Dwelling Unit per 600 square feet of converted gross commercial floor area provided that all required *BMR Units*, except for fractional units, are provided on-site. *Below Market Rate* Housing shall be provided pursuant to Section 7.4 of~~

these Regulations. (206-54; 210-27; 220-13)

- ~~2. The number of *Parking Spaces* provided shall satisfy the standards of Section 12 of these Regulations provided that the Zoning Board may authorize a reduction in the number of spaces in accordance with the standards of Section 12.D.1(b), and such spaces may include any *Parking Space* originally serving the commercial *Use* including offsite spaces within 500 feet of the site, and spaces that are nonconforming. The Zoning Board may reduce the required parking in the Downtown Core to one (1.0) space per *Dwelling Unit* of one bedroom or less. (208-31; 210-27; 214-22)~~
- ~~3. Existing *Loading Spaces*, ramps and drive aisles which may or may not conform to the dimensional standards of Sections 12.A, 12.B and 12.C may continue to be used. (218-14)~~
- ~~4. Expansion of usable *Floor Area* shall be limited to the infill of unenclosed areas that are below the existing perimeter walls of the *Principal Building*, or to the conversion of portions of Structured parking garage floors for tenant storage, amenity space or *Uses* to further below market rate housing objectives. Expansion beyond the walls of the existing *Building* shall be limited to exterior stairways, canopies, architectural features to enhance the residential character, *Usable Open Space*, or other improvements necessary to comply with Building Codes or other Municipal, State or Federal Public Safety Codes, not to exceed two and one-half percent (2.5%) *Building Coverage*. (207-06, 218-14)~~
- ~~5. Notwithstanding standards set forth elsewhere in these regulations, useable open space shall be provided on site, with the amount, location and design of such open space subject to determination and approval of the Zoning Board. (93-011; 94-005)~~
- ~~6. Notwithstanding paragraph 10.H.4. above, expansion of a commercial building to be converted, in whole or in part, to residential *Use* shall be permitted under the following conditions: (220-13)~~
  - ~~a. A parcel is contiguous to, under common ownership with, and in the same zoning district as the commercial building to be converted. (218-31)~~
  - ~~b. The residential density, in addition to that derived from conversion per paragraph 1 above, shall not exceed the permitted density of the contiguous lot. Residential density in addition to paragraph 1 above shall not exceed the as-of-right density of the combined parcels. Building coverage of the expansion shall not exceed that as-of-right for the contiguous parcel. (218-31)~~
  - ~~c. The height of the expansion shall not exceed one additional Story in case a building is nonconforming with respect to height, but in no event greater than one (1) Story above the height permitted in Appendix B, excluding roof-top structures as permitted pursuant to Section 8-B of the Zoning Regulations; provided that any such addition is set back not less than ten (10) feet from each face of the existing building facing a public street. (218-31)~~
  - ~~d. The contiguous parcel shall be merged with the lot of the converted commercial building~~

prior to the issuance of a Certificate of Occupancy. (218-31)

- e. ~~New Dwelling Units constructed by expansion of the converted commercial building shall follow the same density standards as defined in Subsection 10.H.1. above.~~
- f. ~~All required BMR Units, except fractional units, shall be provided on-site pursuant to Section 7.4 of these Regulations. (210-27)~~

#### **10.I. [~~CONVERSION OF NON-CONFORMING BUILDINGS IN RM-1 DISTRICTS TO RESIDENTIAL USE~~]**

Subject to *Special Permit* Approval by the Zoning Board, any existing *Building* located in the RM-1 Zone that is ~~non-conforming with respect to Appendix A — LAND USE SCHEDULE and Appendix B — SCHEDULE OF REQUIREMENTS FOR AREA, HEIGHT AND BULK OF BUILDINGS,~~ may be converted to residential purposes provided that:

1. ~~Notwithstanding the limitations of Appendix B, residential density shall not exceed one (1) Dwelling Unit per 2,000 square feet of converted Gross Floor Area.~~
2. ~~The number of Parking Spaces provided shall satisfy the standards of Section 12 of these regulations, and may, subject to determination and approval of the Zoning Board, include existing Parking Space serving the nonconforming Use including offsite spaces within 500 feet of the site, and spaces and aisle widths that are nonconforming;~~
3. ~~No expansion of nonconforming Building(s) shall be permitted, except modifications not exceeding two and one half percent (2.5%) coverage shall be limited to exterior stairways, canopies, or other improvements necessary to comply with the Building Code or other Municipal, State or Federal Public Safety Code;~~
4. ~~Notwithstanding standards set forth elsewhere in these regulations, useable open space shall be provided onsite, with the amount, location and design of such open space subject to determination and approval of the Zoning Board.~~
5. ~~Below Market Rate Housing shall be provided pursuant to Section 7.4 of these Regulations. (220-13)~~
6. ~~The non-conforming Use shall not be extended, expanded or changed to a less restrictive Use. (202-08)~~

#### **10.J. [~~ADAPTIVE REUSE OF NON-CONFORMING BUILDINGS IN C-N DISTRICTS~~]**

Subject to *Special Permit* Approval by the Zoning Board, sites located in the C-N zoning district, that as of November 28, 2005 have a minimum of two acres containing an existing non-conforming *Building* or *Building(s)*, may be adaptively reused or redeveloped in whole or in part, provided the following special standards are satisfied:

1. ~~All non-conforming *Uses* with respect to Appendix A shall be eliminated and office *Use* shall not exceed 0.1 *FAR* for the entire property. (208-42)~~
2. ~~The existing amount of floor area in excess of 0.30 *FAR* shall be reduced by not less than fifty percent (50%).~~
3. ~~*Building Coverage* may be increased by one square foot for every two square feet of reduction of *Building* floor area in excess of 0.30 *FAR*, provided that total *Building Coverage* shall not exceed forty-five percent (45%).~~
4. ~~Not less than fifty percent (50%) of required parking shall be located beneath the *Building* or integrated into the *Building* and screened from sensitive views to the satisfaction of the Zoning Board.~~
5. ~~Vehicle access and egress shall both be limited to State Highways.~~
6. ~~Individual *Uses* and changes of *Use* with a floor area in excess of twelve thousand (12,000) square feet shall require administrative approval by the Zoning Board. (205-26)~~

#### **10.K. [EXPANSION OF NON-CONFORMING BUILDINGS IN C-B AND C-WD DISTRICTS]**

Subject to *Special Permit* approval by the Zoning Board and notwithstanding the limitations in Section 10, any non-conforming *Building* located within the C-B or C-WD Zoning District may expand usable Floor Area provided the following standards are satisfied:

1. ~~Any increase in total Floor Area shall not result in an increase in new or additional *Building Coverage* or height; and~~
2. ~~Any additional Floor Area shall be devoted to collaborative work space, common areas or lobbies and shall be in furtherance of *Adaptive Reuse* or *Redevelopment* of the *Building* for modernization, aesthetic, safety, efficiency, and technological capability or sustainability purposes. (218-39)~~

~~Expansion beyond the *Building* envelope of the existing *Building* shall be limited to canopies and architectural features which enhance the aesthetic appearance of the *Building*. Said improvements shall not be considered new or additional *Building Coverage* provided same do not exceed two and one-half percent (2.5%) *Building Coverage*.~~

~~Conditions placed on granting of a *Special Permit* pursuant to this subsection by the Zoning Board shall be deemed to supersede and replace any conditions or limitations previously imposed by the Zoning Board or Zoning Board of Appeals. (210-21)~~