



**SILVA, THOMAS, MARTLAND & OFFENBERG, LTD.**  
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July 23, 2019



Guy Weston, Zoning Official  
Zoning and Inspections Division  
City of Newport  
43 Broadway  
Newport, RI 02840

Re: Petition to Amend Zoning Ordinance  
Mixed-Use Planned District

Dear Mr. Weston:

As you know, we are representing Carpiato Properties, Inc. and Admiral Newport, LLC in the redevelopment of the Newport Grand site. In connection therewith, we are proposing a district wide zoning amendment that would permit a mixed-use development.

Enclosed herewith are the Petition for Amendment and the proposed form of Mixed Use Planned District Ordinance. We look forward to working with the City in creating this new overlay district.

Please let me know when this matter will be scheduled for consideration by the City Council and Planning Board.

I await hearing from you and remain,

Very truly yours,

**SILVA, THOMAS, MARTLAND  
& OFFENBERG, LTD.**

David P. Martland, Esq.

DPM:slm  
Enclosures

**TO THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL  
OF THE  
CITY OF NEWPORT**

**PETITION TO AMEND ZONING ORDINANCE**

WHEREAS, your Petitioner Admiral Newport, LLC, owns real estate located in the City of Newport and identified Lots 12 & 81 on Plat 4 and Lot 421 on Plat 9 of the Newport Tax Assessor's Plats, as presently constituted (the "Property"); and

WHEREAS, the Property is the site of the now defunct and vacant Newport Grand;

WHEREAS, your Petitioner has acquired the Property and is seeking to make a substantial investment in the redevelopment of the site;

WHEREAS, your Petitioner desires to create a vibrant development which will provide for a mix of uses including commercial, office, medical, research, technology, residential, community and other uses;

WHEREAS, it is necessary to amend the zoning ordinance to allow for a mixed-use development;

WHEREAS, the City's Comprehensive Plan encourages the use of flexible zoning techniques including floating zonings to provide for mixed use development;

WHEREAS, the proposal is consistent with the goals and policies of the City's Comprehensive Land Use Plan which provides as follows:

Policy LU-1.5 The City shall encourage the use of the Floating Zone Overlay in the Waterfront Business, Traditional Maritime, or Commercial/Industrial zoning districts including the Innovation Hub Area. This could include the use of alternative performance-oriented development standards, mixed uses, and other development and planning techniques that will support a vibrant and flexible economic opportunity area.

WHEREAS, the proposed zoning amendment and transformation of the Property into a mixed-use development is in keeping with the goals and policies of the Comprehensive Community Plan, will compliment the existing land uses in the general vicinity thereof and will help spur the need for investments in the North End; and

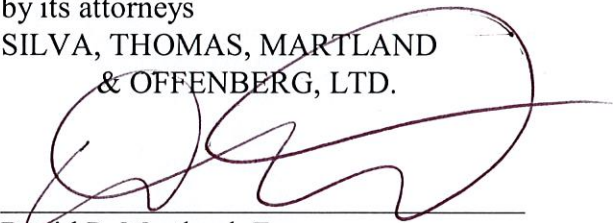
WHEREAS, for the foregoing reasons and for other good cause, your Petitioner respectfully requests that the City Council amend the zoning ordinance as provided for in Exhibit "A", attached hereto and made a part hereof, as said zoning amendment is in the general public interest and of benefit to the residents of the City of Newport for the foregoing reasons:

1. It is in keeping with the character of the district and will compliment other existing land uses in the general vicinity thereof;
2. It is and will be in keeping with the City of Newport's Comprehensive Community Plan;

3. It will promote the public health, safety and general welfare of the community; and
4. It will encourage the most appropriate use of the Property.

NOW THEREFORE, your Petitioner respectfully requests that this Honorable City Council set a date for a public hearing on the proposed amendment to the Zoning Ordinance of the City of Newport; that the same be advertised for public hearing by newspaper publication, all in accordance with Rhode Island General Laws, 1956 (1991 Reenactment) §45-24-53, as amended; and that at such public hearing, the proposed amendment attached hereto and made a part hereof as Exhibit "A" be considered by this Honorable City Council and adopted thereafter.

Respectfully Submitted,  
Admiral Newport, LLC  
by its attorneys  
SILVA, THOMAS, MARTLAND  
& OFFENBERG, LTD.



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David P. Martland, Esq.  
1100 Aquidneck Avenue  
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(401) 849-6200

## EXHIBIT A

### Chapter 17.71 – MIXED USE PLANNED DISTRICT

#### 17.71.010 – Legislative Intent.

The mixed use planned district is an overlay district applicable to planned developments consisting of one or more lots in the Commercial-Industrial District. The intent of this district is to allow an appropriate mix of residential, commercial, business, retail, medical, recreational, technology, educational, defense, community, entertainment, and other uses in a single development in the Commercial-Industrial District where the planned development comprises 20 or more acres.

#### 17.71.020 – Use Regulations.

A. Permitted Uses. Permitted uses shall be all uses allowed by right or by special use permit at the time of application for re-zoning within the city, provided that the developer's specific proposed mix and orientation of developments is approved by the City Council subsequent to recommendation by the city Planning Board.

#### 17.71.030 – Development Standards.

In addition to the development standards set forth in Section 17.100.010 of this zoning code, the following shall be the minimum standards for all mixed use planned districts. Where deemed necessary, the city council may impose stricter standards in order to serve the purposes of this zoning code.

A. Frontage and Setbacks. Requirements for frontage and setbacks within the site shall be determined by the City Council subsequent to Planning Board recommendation with the following stipulation: The minimum setback requirements are: a) Front line, zero (0') feet to a public street; b) Side line, ten (10) feet to properties not part of the mixed use development; and c) Rear line, ten (10) feet to properties not part of the mixed use development. These restrictions shall not apply to an existing public street where the developer can secure city approval to abandon said street prior to construction of the phase(s) or section(s) within which the street is located.

- B. Minimum Lot Requirements. An individual lot for each structure is not required but may be provided at the developer's option. There is no minimum area requirement and lot boundaries may coincide with structure boundaries. If individual lots are provided, there shall be no requirement that the lot front on a street except as provided for above.
- C. Maximum Coverage. Maximum coverage for all mixed use planned districts shall be sixty percent (60%).
- D. Building Height. The height limitation shall be ninety (90) feet.
- E. Building Spacing. The minimum distance between buildings shall be twenty-five (25) feet except where the lot boundary coincides with the structural boundary, in which case, an approved firewall shall be provided. Single and two-family dwelling structures shall be exempt from this requirement.
- F. Drainage. All mixed use planned districts shall provide for the adequate drainage of all surface waters in accordance with any applicable provisions of the city code. Any drainage facility shall conduct water to an approved location and in a manner approved by the director of public works.
- G. Buffers. All applications for mixed use planned district zoning shall show, on the site plan, a ten (10) foot buffer strip at the perimeter of the property. Location of structures is prohibited in this area and landscaping is required with the following exceptions:
1. Where the proposed land use is sufficiently similar to the surrounding land uses, the setback requirements set forth in the underlying zone shall prevail. In such case, a ten (10) foot buffer strip shall be provided on the site where this land use abuts another which is distinctly different.
  2. Where an existing building is located within ten (10) feet of the property boundary but is specifically planned for renovation and reuse in the overall district plan.
  3. Where provision of a ten (10) foot buffer would not further the goals of creating a harmonious and integrated development, the city council may, subsequent to Planning Board recommendation, reduce or waive this requirement.
  4. Where a planned building is located within the area of the buffer strip and meets the building setback requirements of the underlying zoning district.
- H. Landscaping. Appropriate landscaping shall be provided in all mixed use planned districts. Wherever practicable preservation of the existing vegetation and such unique

features as stone walls is encouraged. Additional screening for aesthetic purposes or noise reduction may also be required.

1. Peripheral Buffer Areas. All peripheral buffer areas shall be landscaped by use of trees, shrubs, walls, berms or any other appropriate material to:
    - a. Adequately screen the mixed use planned district from adjacent or nearby developments, or
    - b. Enhance the visual aesthetics of the overall development.
  2. Parking Lots. Off-street parking areas of five thousand (5,000) square feet or more shall be landscaped in accordance with the following minimum requirements:
    - a. Trees. Shall be provided at the ends of each parking row and at one hundred fifty (150) foot intervals within each row. The minimum caliper of each tree shall be three inches with a minimum clear trunk of five (5) feet to the first branch. All required trees shall be at least twelve (12) feet in overall height when planted. All planting areas containing trees shall be curbed and have a minimum width of four (4) feet.
  3. Guarantee. The developer shall guarantee all introduced vegetation through one full winter and shall replace any and all plantings determined by the building inspector to be dead or irreversibly damaged.
- I. Parking and Loading. The off-street parking and loading requirements of this code shall apply with the following exception:

Where the applicant can document differing parking schedules of two or more closely sited land uses, the City Council, subsequent to Planning Board recommendation, may relax the parking requirements in the mixed use planned district to allow for shared parking facilities among those uses shown to have most of their parking need at significantly different times of the day or week. In such cases, the parking requirement during the overlap hours must be satisfied.

Parking areas must be located within reasonable proximity to the uses they are intended to serve.

#### 17.71.040 – Administration.

The granting of approval of a mixed use planned district consists of two actions:

- A. An amendment to the zoning map which must comply with all provisions for rezoning set forth in Section 17.120.010 of the zoning code as well as all other pertinent procedural and administrative city regulations.
- B. City Council approval of the final overall district plan.

17.71.050 – Rezoning Procedure.

- A. Preapplication Conference. The applicant shall request that the city planning department arrange a pre-application conference with representatives of the planning department, building inspections office and city engineer’s office prior to submission of a request for rezoning to mixed use planned district. The applicant shall submit a preliminary sketch or description of the mixed use planned district proposal at the time of the request for the preapplication conference. The city planning director may also notify other city departments or agencies deemed appropriate at the time, date and location of said conference. The purpose of the preapplication conference is for the applicant and city officials to review the preliminary overall district plan, its land use components, development phasing, unique features, public benefits, covenants, easements and potential impacts on the surrounding neighborhood areas. This conference shall be conducted as a work session with the main objective being refinement of the overall district plan. Within twenty-one (21) days after the conference, the city planning department shall provide the applicant with a written summary of the meeting, including recommendations designed to inform and assist the applicant in the preparation of the final overall district plan.
- B. Overall District Plan Contents. The applicant is required to present the preliminary overall district plan at the pre-application conference. General requirements of this plan are noted under Section 17.71.050(B)(1) below. General requirements of the final overall development plan shall include all items noted under Section 17.71.050(B)(1), (2) and (3) below.
  - 1. Site Plan. The applicant shall provide a proposed site plan for the entire development project, whether or not intended for phased construction, showing:
    - a. Name of project, name of owner, name of the engineer or surveyor, date, north point and scale. Recommended scale is forty (40) feet per inch. If it is more

convenient to the developer, project plans may be drawn to the scales of ten (10), twenty (20), thirty (30), fifty (50), sixty (60), eighty (80) or one hundred (100) feet per inch;

- b. Boundary lines;
- c. Lots, including lot lines, approximate dimensions, approximate area and lot numbers;
- d. Existing and proposed streets, including location, name and right-of-way widths for streets on entire tract and on abutting property; point of access to the mixed use planned districts parking and loading areas; and text defining proposed ownership of streets and parking areas;
- e. Utilities, including location and size of existing water and sewer lines on plat and on adjacent property; proposed utility extensions; text defining ownership and maintenance plans.
- f. Existing and proposed easements, including location, width and purpose;
- g. Topography, including contours at intervals no greater than five (5) feet; the planning director may require contours at intervals of two (2) feet if conditions are such as to make such detail necessary;
- h. Surface water, including the location of any lakes or ponds, watercourses or swamp areas and the proposed drainage pattern; if any portion of the proposed development is located within a flood hazard area as identified by the Federal Emergency Management Agency's "Flood Insurance Rate Map" and "Flood Boundary and Floodway Map" as may be amended, base flood elevation data shall be provided;
- i. Subsurface conditions, except that on a plat to be served by a public water or public sewer system, the location and results of percolation tests, ground water elevation determinations, and statements of subsoil conditions shall be performed at the expense of the developer;
- j. Other conditions, including the location of rock outcrop, wooded areas, existing structures, embankments or retaining walls, railroads, power lines and significant physical features on the plat and on adjacent land that may have an influence on the development of the plat;



- k. Public land, including parcels of land, if any, proposed to be dedicated for public use;
  - l. Zoning showing existing zoning on proposed plat and on all abutting properties;
  - m. Names and addresses of property owners within two hundred (200) feet of applicant's property boundaries;
  - n. The stamp of a registered professional engineer or land surveyor; all overall development plans and phase plans shall be prepared by a registered engineer or land surveyor;
  - o. Location and orientation of all structures and their proposed uses identifying gross square footage of floor area for the following categories:
    - i. Commercial retail sales;
    - ii. Commercial office including professional offices, medical and pharmaceutical offices and facilities, research and development facilities, and technology-based offices and facilities;
    - iii. Other commercial services; eating and drinking establishments, hotels, motels, banks, barber shops, beauty shops, tailors, health clubs, etc.;
    - iv. Heavy commercial/industrial;
    - v. Residential (residential uses shall be identified in gross square footage for multi-family developments).
  - p. Proposed location and treatment of any public or private common areas or structures including open spaces, park or recreation areas. Applicant shall include a statement addressing long term maintenance of such areas.
  - q. The general treatment proposed for the periphery of the site, including the approximate amount, location and type of buffering and/or landscaping and lighting proposed.
  - r. The boundaries of each proposed construction phase or section, if appropriate.
  - s. Building elevations.
2. Statement of Purpose. The applicant shall provide a statement of how the purpose and intent of this chapter will be achieved by the proposed mixed use planned district possibly including additional graphics of the proposed character of the development, a description of how the mixed use planned district will relate to

surrounding land uses and an analysis of the proposed development's impact on existing public facilities such as the roadway network, sewers, water facilities, school system, police and fire services.

3. Narrative Outline. The applicant shall provide a narrative outline of the proposed mixed use planned district stating:

a. Land use allocation, by type in the following land use categories:

i. Commercial retail sales;

ii. Commercial office including professional offices, medical and pharmaceutical offices and facilities, research and development facilities, and technology-based offices and facilities;

iii. Other commercial services; eating and drinking establishments, hotels, motels, banks, barber shops, beauty shops, tailors, health clubs, etc.;

iv. Heavy commercial/industrial;

v. Residential:

b. A statement of how necessary services will be provided and whether said services will be publicly or privately owned and operated.

c. If the mixed use planned district is proposed for phased development, a description and timing plan for individual phases.

d. The beneficial aspects of the proposed site layout, including a description of any land proposed for open spaces, park or recreation areas.

C. Rezoning. Following the preapplication conference, and subsequent to receipt of the planning department's recommendation report, the applicant may initiate the application phase for rezoning the subject property to mixed use planned district. The applicant shall submit the required documents for a zone change to the city clerk accompanied by a revised overall district plan, complete with graphic and narrative explanation of all alterations made subsequent to the preapplication conference. All standard procedures relative to zone change applications and hearings, as established and amended by the city council, shall be followed.

D. City Council Action.

1. Approval. City Council approval of the mixed use planned district application shall include approval of the final overall development plan. This approval shall bind

the developer to construction of the development in substantial conformance with the elements of the final overall development plan. This approval shall not hereafter supersede the city's subdivision approval process as specified in the city code. Whether or not subdivision is necessary, the applicant shall submit proper applications and documentation for approval by the planning commission for every phase or section of the final overall development plan, as they are proposed for development.

2. Rejection. City Council rejection of the mixed use planned district application shall be binding upon all facets of the application and overall development plan. All regulations and options relevant to a typical zone change rejection apply.

E. Alterations Following Mixed Use Planned District Approval. Subsequent to City Council approval of the mixed use planned district, certain alterations to the final overall development plan may be made without requiring further action by the City Council. Such alterations may be authorized by the planning commission and shall be limited to those which may be defined as minor in nature. Minor alterations are those which result in little or no significant impact on surrounding properties or on the safe and efficient flow of traffic through nearby city roadways.

1. Minor Alterations. For a proposed alteration to be deemed "minor" in nature, it shall meet one or more of the following conditions. The proposed alteration shall:
  - a. Alter the land use mix of the approved overall development plan by a cumulative total of less than ten (10) percent in any land use category defined in subsection (B)(1)(o) of this section.
  - b. Decrease the overall density of the overall development plan.
  - c. Allow minor reorientation of one or more points of vehicular access, the internal roadway network and/or the parking plan, made necessary due to actions taken by the city or state subsequent to the approval date of the final overall development plan.
  - d. Allow minor changes in location, orientation and/or design of parking facilities, provided such changes do not decrease the total number of parking spaces.
  - e. Allow minor changes in building location made necessary by previously unforeseen natural conditions.

- f. Allow changes in landscaping materials, lighting plan and siting of pedestrian and accessory facilities as made necessary by other approved alterations.
  - g. Allow other site design modifications which would not substantially alter the final character of the approved final overall development plan.
2. Major Alterations. Alterations which would substantially alter the final character of the approved final overall development plan shall be deemed “major” alterations. Any proposal exceeding the limits identified in subsection (E)(1) of this section for minor alterations shall be considered a major alteration proposal. Additionally, any proposal requesting one or more of the following alterations to the overall development plan shall be considered a major alteration proposal.
- a. Construction of additional structures for residential, commercial or industrial purposes;
  - b. Introduction of a land use type not approved in the final overall development plan;
  - c. A change in land use type proposed for any structure directly adjacent to or abutting a residential structure;
  - d. Any excavation, filling or other alteration of the property’s natural systems not previously approved in the final overall development plan;
  - e. Any addition or deletion of vehicular access points and parking areas or significant reorientation of the internal roadway network of the site;
  - f. Any change in the phasing plan of the overall development plan, including size, boundaries and timing of construction of one or more sections of the development.

All such alterations shall be requested through the same procedure outlined herein for new projects. No major alteration shall be allowed without the approval of the city council.