

**CITY OF NEWPORT  
PLANNING BOARD  
Zoning Amendment**

**STAFF REPORT**

Meeting: August 21, 2019  
Initially Received: July 23, 2019  
Applicant: Admiral Newport, LLC  
Petition: Mixed-Use Planned Overlay District

**Issue:**

The applicant has applied to create a Mixed-Use Planned Overlay District “that would permit a mixed-use development.” It is believed that Admiral Newport, LLC is a subsidiary of the Carpionato Group, who has proposed a large mixed-use development on plats 4 lots 12 and 81 and plat 9 lot 421. Currently, the Commercial-Industrial District does not allow residential uses and the applicant would need to submit a zoning amendment or use variance to allow the project, due to its residential component.

The applicant is correct that the Comprehensive Plan encourages flexible zoning techniques (p.3-22) and specifically calls for a floating zone with Policy LU-1.5. This allows the directly elected, prime public body to comprehensively review individual large-scale developments and their potential impacts on the community. If there is not community support for a project, it is denied with little recourse for the applicant. A project approved inconsistent with the Comprehensive Plan approved by the Council offers objectors the same appeals process to decisions by the Zoning Board of Review., Newport County Superior Court and the Rhode Island Supreme Court. Thus, it is effectively an additional layer of protection against development.

Additionally, it is worth noting that City staff (with the exception of the City Solicitor) work for the City Manager, who in turn works for the City Council, not the City’s independent boards and commissions. A Council vote on a project provides clear direction to City staff with regard to additional permitting procedures.

A similar process has been effectively implemented with regard to street alterations whereby a staff-led Traffic Committee is charged with providing input to the City Council, who adopt an ordinance (after a public hearing) implemented by City staff. At its core, Zoning is a police power of local government, created by the legislative body, the City Council. Legislative review of individual projects can therefore provide a more direct connection between the electorate and large-scale projects that impact the community as a whole.

Flexible zoning allows uses and dimensions to be considered with full discretion together. Designers, who undergo extensive education and must maintain licensure with the state of Rhode Island, often design to the law rather than pursue what is best for the user and the community. In this way, flexible zoning allows greater opportunity for designers to utilize their full skillsets to design great places for

people and the public to opine about the project as a whole and its elected leaders to make a discretionary approval that maintains objector rights.

As part of the review of zoning amendments outlined in Rhode Island General Law (RIGL) § 45-24-50 through 53, and Section 17.120 of the Newport Code of Ordinances, the Planning Board “shall report to the city council within forty-five (45) days of the receipt of the petition giving its findings and recommendations.” As part of this review, the Planning Board shall “include a statement on the general consistency of the proposal with the comprehensive plan including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and Include a demonstration of recognition and consideration of each of the applicable purposes of zoning, as outlined in RIGL § 45-24-30 and Section 17.04.020 of the Newport Code of Ordinances.

**Analysis: Required findings**

The amendment effectively affects the Admiral Newport and RK Center properties. The only other contiguous parcels larger than 20 acres are owned by the Navy; they would be subject to a drawn-out Base Realignment and Closure (BRAC) process if they were ever turned over to private ownership.

General consistency of the proposal with the Comprehensive Plan including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan

As mentioned by the applicant, the Comprehensive Plan specifically calls for a floating zone with Policy LU-1.5 and encourages flexible zoning techniques (p.3-22). Additional relevant goals, policies, and actions include:

*Goal LU-1 – To provide a balanced city consisting of residential, commercial and employment uses consistent with the character, environmental resources and vision of the community*

*Policy LU-1.1 – The City shall support implementation efforts to diversify, redevelop, and enhance the city’s north end in collaboration with appropriate federal, state, regional, and private stakeholders, with a focus on developing employment opportunities, especially for young adults.*

*Policy LU-1.6 – The City shall encourage the upgrading, beautification, revitalization, and environmentally appropriate reuse of commercial areas.*

*Policy LU-1.7 – The City shall protect the existing character of residential neighborhoods while encouraging local neighborhood business.*

*Action LU-1A – Update City’s Zoning Ordinance to add Mixed Use designations compatible with the designations included in this Comprehensive Plan,*

*Action LU-1B – Actively pursue implementation of all North End redevelopment projects and related initiatives.*

*Goal LU-2 – To develop a planning framework that helps the city respond to the impacts of sea level rise, storm surge, and increased flooding.*

*Policy LU-2.1 – The City shall identify specific areas possibly impacted by these threats, assess and understand the economic, social, and other roles these land uses play.*

*Policy LU-2.2 – The City shall play a leadership role in advocating responsible public and private responses to impacts of these threats at both the local, state and federal levels.*

Action LU-2F – Upon completion of the Shoreline Change SAMP, incorporate, as appropriate, its recommended tools for planning and land use permitting into applicable plans, regulations, programs and procedures.

Goal ED-1 – To develop a robust and diverse economy, providing suitable employment opportunities for residents, and a stable tax base

Policy ED-1.1 – The City shall support key economic drivers while also seeking to attract and grow its technology sector and businesses that represent new and innovative concepts and technologies.

Policy ED-1.2 – The City shall work to implement the Innovation Hub plans.

Policy ED-1.5 – The City shall build upon thriving sectors to develop of [sic] a more substantial year-round tourism economy.

Policy ED-1.6 – The City shall evaluate the economic impacts of sea level rise and climate change and seek to develop and implement plans and strategies to mitigate impacts and leverage opportunities short term mitigation and long term trends. [sic]

Action ED-1A – Pursue coordinated implementation of the Pell Bridge re-alignment, the Westside Master Plan, the Innovation Hub, Navy Hospital site, Hope VI housing completion, the Sheffield Incubator, CCRI, and other north end economic development projects and initiatives.

Policy ED-1B – Continue to aggressively pursue opportunities to leverage climate change and resiliency as a key part of the City's economic development and diversification initiatives.

Goal H-1 – To preserve and protect existing housing resources in the community.

Policy H-1.1 – The City will support on-going programs to educate property owners of City plans, codes, standards and other applicable information.

Policy H-1.3 – The City shall continue to promote the repair, revitalization, or rehabilitation of residential structures and neighborhoods.

Goal H-2 – To preserve and enhance existing moderate workforce and low moderate income (LMI) housing.

Policy H-2.5 – The City shall work with neighboring towns, state and federal governmental agencies and other public and private organizations to take full advantage of funding opportunities and initiatives in support of workforce and LMI housing.

Goal H-3 – To reduce the percentage of seasonally vacant homes and increase neighborhood stability and vitality.

Action H-3A – Continue aggressive efforts to accomplish economic diversification goals as a means of increasing full time residential occupancy.

Goal T-2 – To link to the overall regional multi modal transportation network on Aquidneck Island.

Policy T-2.6 – The City shall support public/private planning that would improve the appearance of Newport's four primary entry ways, creating a greater sense of arrival and welcome.

Policy T-3.3 – The City shall explore traffic impact revenue associated with appropriate developments.

Action T-4D – Promote the development of strategically located mixed use nodes (i.e. North End and the City's historical urban core area).

Goal T-5 – To provide sufficient and suitably located parking, designed to eliminate, mitigate or reduce impacts.

Policy OSR-1.1 – The City shall protect and enhance its open spaces for public enjoyment and benefit.

Action OSR-2A – Seek opportunities to improve and/or expand open space and recreation in the City's north end.

Policy NR-2.5 – The City shall protect scenic vistas.

*Action NR-5A – Fully integrate the City’s natural resources into the City’s developing Innovation Hub and related economic diversification plans and activities.*

*Goal EN-1 – To make Newport a leader in energy conservation and renewable energy use.*

*Goal EN-2 – To enhance the understanding of City staff and community members on energy efficient practices.*

*Policy EN-2.2 – The City shall make Newport a leader and innovator in energy efficiency.*

*Action EN-3C – Provide targeted zoning incentives for the use of renewable energy where such use does not conflict with other City goals, policies and objectives.*

*Policy WA-9.2 – The City will strive to implement innovative measures, such as Green Infrastructure, to manage storm water.*

*Goal WA-10 – To meet all applicable Federal, State and other laws, regulations, standards and other requirements of stormwater quality.*

*Policy WA-10.1 – The City shall achieve and maintain compliance with all applicable storm water standards.*

*Action WA-10A – Continue to find creative ways to integrate the requirements of the City’s RIPDES (MS4) permit into City operations, programs and activities leveraging storm water as a positive catalyst for both economic and ecological transformation.*

*Goal NHCC-1 – To be a resilient community, protecting its citizens, property and economy from the evolving threat of climate change and its associated hazards.*

*Policy NHCC-1.2 – The City shall take local actions to implement to both adapt to and mitigate impacts [sic] climate change and its impacts.*

Additionally, the Mixed Use, Innovation Land Use Designation on page 3-17 outlines the goal for future land use in this area.

In developing its statement regarding general consistency with the Comprehensive Plan, the Planning Board should perform investigations as to:

- The proposed amendment:
  - How the creation of a new process for large developments in the commercial-industrial district will provide a balanced city...consistent with the character, environmental resources and vision for the community, or not
  - How the new process focuses on developing employment opportunities for young adults, or not
  - How the new process will encourage upgrading, beautification, revitalization, and environmentally appropriate reuse of commercial areas, or not
  - How the process will protect the existing character of residential neighborhoods while encouraging local neighborhood business, or not
  - How the process will help the city respond to the impacts of sea level rise, storm surge, and increased flooding, how areas affected by these issues will be identified and how the economic and social (and other) roles of these areas will be satisfied, and how responsible this is, or not
  - How the process incorporates the Shoreline Change Special Area Management Plan, or not
  - How the process helps to develop a robust and diverse economy, providing suitable employment opportunities for residents, and a stable tax base, or not

- How the process leverages climate change and resiliency for economic development and diversification, or not
- How the process will attract and grow the city’s technology sector and businesses that represent new and innovative concepts and technologies, or not
- How the process implements the Innovation Hub plans, or not  
[https://www.cityofnewport.com/CityOfNewport/media/City-Hall/Departments/Planning%20Zoning%20Inspections/Planning/Planning%20Documents/Matrix-Vision-Plan-Exec-Summ-\(color\)-4-2015.pdf](https://www.cityofnewport.com/CityOfNewport/media/City-Hall/Departments/Planning%20Zoning%20Inspections/Planning/Planning%20Documents/Matrix-Vision-Plan-Exec-Summ-(color)-4-2015.pdf)
- How the process builds upon thriving sectors to develop a more substantial year-round tourism economy, or not
- How the process mitigates impacts and leverages opportunities with regard to sea level rise and climate change, or not
- How the process will preserve and protect existing housing resources in the community, or not
- How the process will educate property owners, or not
- How the process will continue to promote the repair, revitalization, or rehabilitation of residential structures and neighborhoods, or not
- How the process will preserve and enhance existing moderate workforce and Low- and Moderate-Income housing (LMI), or not
- How the process will take full advantage of funding opportunities and initiatives in support of workforce and LMI housing, or not
- How the process will reduce the percentage of seasonally vacant homes and increase neighborhood stability and vitality, or not
- How the process will continue aggressive efforts to accomplish economic diversification goals as a means of increasing full-time residential occupancy, or not
- How the process will link to the overall regional multi modal transportation network on Aquidneck Island, or not
- How the process will support public/private planning that would improve the appearance of Newport’s four primary entry ways, creating a greater sense of arrival and welcome, or not
- How the process will explore traffic impact revenue associated with appropriate developments, or not
- How the process will promote the development of strategically-located mixed-use nodes (i.e. North End) or not
- How the process will provide sufficient and suitably located parking, designed to eliminate, mitigate or reduce impacts
- How the process will protect and enhance open spaces for public enjoyment and benefit, or not
- How the process will seek opportunities to improve and/or expand open space and recreation in the City’s North End, or not
- How the process will protect scenic vistas, or not
- How the process will fully integrate the City’s natural resources, or not
- How the process will make Newport a leader in energy conservation and renewable energy use, or not

- How the process will enhance the understanding of City staff and community members on energy efficient practices, or not
- How the process will make Newport a leader and innovator in energy efficiency, or not
- How the process provides zoning incentives for the use of renewable energy, or not
- How the process strives to implement innovative measures, such as green infrastructure, to manage stormwater, or not
- How the process meets all applicable Federal, State and other laws, regulations, standards and other requirements of stormwater quality, or not
- How the process helps the City achieve and maintain compliance with all applicable stormwater standards, or not
- How the process finds creative ways to integrate the requirements of the City's Municipal Separate Storm Sewer System (MS4) permit and leverages stormwater as a positive catalyst for both economic and ecological transformation, or not
- How the process protects citizens, property, and economy from the evolving threat of climate change and its associated hazards, or not
- How the process takes actions to mitigate climate change and its impacts, or not
- How the process supports a vibrant and flexible economic opportunity area, or not
- How the process includes areas with a minimum of three (3) contiguous acres, or not
- How the process provides a net benefit to the City and citizens of Newport from the underlying zoning, or not
- How the process makes the Planning Board responsible for the actual review and negotiations with the developer, or not
- How the process allows 6 to 12 months for the Planning Board to process and submit its recommendation to the City Council, or not
- How the process allows for a rejected plan to be returned to the Planning Board with Council recommendations for changes, or not
- How the process requires analysis of economic impact on the city as a whole, tax revenue and cost projections, impact on city services, environmental impacts, traffic and parking impacts, impacts on recreation activities, or not
- How the process provides for density, building height, open space, and parking requirements to be negotiated or not
- How the process allows for publicly accessible site amenities, or not
- How the process supports the development of incubator/accelerator type businesses focused on resilience/climate change, ocean, alternative energy, systems, defense (underwater, maritime, and cyber security), and digital industries, their support sub-sectors, associated training and job creation centers, as a well as ancillary financial, commercial, and retail/hospitality support services, or not.

In making this finding of general consistency with the Comprehensive Plan, the Planning Board must recognize and consider the purposes of zoning, as presented in the Newport Zoning Ordinance, section 17.04.20 of the Newport Code of Ordinances, and Rhode Island General Law § 45-24-30:

*(A) Promoting the public health, safety, and general welfare.*

- How this process promotes the public health, safety, and general, welfare, or not

*(B) Providing for a range of uses and intensities of use appropriate to the character of the city and reflect current and expected future needs.*

- How this process provides for a range of uses and intensities of use appropriate to the character of the city and reflects current and expected future needs, or not

*(C) Providing for orderly growth and development which recognizes:*

*(1) The goals and patterns of land use contained in the comprehensive plan;*

- How this process provides for orderly growth and development which recognizes the goals and patterns of land use contained in the Comprehensive Plan (see Maps 3-1, 3-6, and 14-1 note #2), or not

*(2) The natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;*

- How this process provides for orderly growth and development which recognizes the natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution, or not. It should be noted that there was once an incinerator at the site of the transfer station.

*(3) The values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands;*

- How this process provides for orderly growth and development which recognizes the values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands, or not. It should be noted that the north end features a creek that flows from Malbone Road to Coastal Harbor.

*(4) The values of unique or valuable natural resources and features;*

- How this process provides for orderly growth and development which recognizes the values of unique or valuable natural resources and features (such as Miantonomi Park), or not

*(5) The availability and capacity of existing and planned public and/or private services and facilities;*

- How the process provides for orderly growth and development which recognizes that availability and capacity of existing and planned public and/or private services and facilities, or not. The Pell Bridge ramp realignment is the obvious example here.

*(6) The need to shape and balance urban and rural development; and*

- How the process provides for orderly growth and development which recognizes the need to shape and balance urban and rural development, or not. The North End is a transition between Newport's urban core and suburban commercial/industrial activities on Coddington Highway and residential areas off Maple Avenue. Opportunities exist to scale up or down.

*(7) The use of innovative development regulations and techniques.*

- The floating zone could be described as innovative.

*(D) Providing for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.*

- How the process provides for the control, protection, and/or abatement of air, water, groundwater, and noise pollution and soil erosion and sedimentation, or not

*(E) Providing for the protection of the natural, historic, cultural, and scenic character of the city or areas therein.*

- How the process provides for the protection of the natural, historic, cultural, and scenic character of the city or areas therein, or not. Miantonomi Park and the harbor are natural,

historic, cultural, and scenic resources. Pell Bridge is a historic and scenic resource. With the bridge realignment, these sites will be some of the first things visitors coming over the Pell Bridge see upon entering Newport.

*(F) Providing for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources, and open space.*

- How the process provides for the preservation and promotion of open space and aquaculture and the promotion of agricultural production, or not.

*(G) Providing for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.*

- How the process provides for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements, or not. Large sites present some of the greatest opportunities for on-site stormwater management. Miantonomi Park, providing recreation and open space, is nearby.

*(H) Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and sanitary housing.*

- How the process promotes a balance of housing choices, for all income levels and groups, to assure the health, safety, and welfare of all citizens and their rights to affordable, accessible, safe, and sanitary housing, or not

*(I) Providing opportunities for the establishment of low- and moderate-income housing.*

- How the process provides opportunities for the establishment of low- and moderate-income housing, or not

*(J) Promoting safety from fire, flood, and other natural or unnatural disasters.*

- How the process promotes safety from fire, flood, and other natural or unnatural disasters, or not

*(K) Promoting a high level of quality in design in the development of private and public facilities.*

- How the process promotes a high level of quality in design in the development of private and public facilities, or not

*(L) Promoting implementation of the comprehensive plan of the city adopted pursuant to Title 45, Chapter 22.2 of the General Laws.*

- How the process promotes implementation of the Comprehensive Plan, or not. See (C)(1) and the general consistency with the Comprehensive Plan analysis.

*(M) Providing for coordination of land uses with contiguous municipalities, other municipalities, the state, and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.*

- How the process provides for coordination of land uses with the state and other municipalities, or not

*(N) Provide for efficient review of development proposals, to clarify and expedite the zoning approval process.*

- How the process provides for efficient review of development proposals, or not

*(O) Provide for procedures for the administration of the zoning ordinance, including, but not limited to, variances, special-use permits, and, where adopted, procedures for modifications.*



- How the process provides for procedures for the administration of the zoning ordinance, or not

*RIGL § 45-24-30 (16) Provide opportunities for reasonable accommodations in order to comply with the Rhode Island Fair Housing Practices Act, chapter 37 of title 34; the United States Fair Housing Amendments Act of 1988 (FHAA); the Rhode Island Civil Rights of Persons with Disabilities Act, chapter 87 of title 42; and the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.*

- How the process provides opportunities for reasonable accommodations for individuals with defined disabilities, or not

The Board should also directly address whether or not they are satisfied by Peter LaPolla's report, urban planning expert for the applicant.

Staff: Peter Friedrichs, City Planner

Date: August 13, 2019