

**CITY OF NEWPORT
PLANNING COMMISSION MEETING
NEWPORT CITY HALL
April 12, 2022 5:30 P.M.**

Commissioner:	Anthony Mahmood	City Administrator:	Deb Hill
Commissioner:	Brandon Leyde	Asst. to the City Admin:	Travis Brierley
Commissioner:	Maria Bonilla	City Planner:	Sherri Buss
Commissioner:	Tami Fuelling	City Planner:	Nathan Fuerst
Commissioner:	Michael Kermes	Council Liaison:	Marvin Taylor

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. PLANNING COMMISSION NOMINATIONS
 - A. Chair
 - B. Vice-Chair
4. MEETING MINUTES
 - A. February 8, 2022
5. 910 12th STREET LAND USE
6. MRCCA IMPERVIOUS COVER LIMITS
7. IMPERVIOUS COVER DEFINITION
8. FOUNDATION WALL SETBACK
9. ACCESSORY STRUCTURES PERFORMANCE STANDARDS
10. BIOLAWN
11. AUGUST/NOVEMBER PC MEETINGS
12. COMMISSION REPORTS
13. ADJOURNMENT



**CITY OF NEWPORT
PLANNING COMMISSION MEETING MINUTES
NEWPORT CITY HALL
February 8, 2022**

1. CALL TO ORDER

Vice Chair Leyde called the Planning Commission meeting to order at 5:30 p.m. on February 8, 2022.

2. ROLL CALL

Present (3): Vice Chair Brandon Leyde, Commissioner Maria Bonilla, and Commissioner Tami Fuelling.

Not Present (2): Chairman Anthony Mahmood, and Commissioner Michael Kermes.

3. PLANNING COMMISSION NOMINATIONS

A. Chair

B. Vice-Chair

Vice Chair Leyde requested to hold off on the Planning Commission nominations as there are two members missing from tonight's meeting.

4. MEETING MINUTES

A. December 14, 2021

Commissioner Fuelling motioned to approve the Planning Commission Minutes from December 14, 2021. Seconded by Commissioner Bonilla. Approved 3-0.

5. PUBLIC HEARINGS- 2040 Comprehensive Plan Amendment

A. Transit Site/Outlot A

City Planner Nathan Fuerst gave a presentation to the Planning Commission on the proposed comprehensive plan amendment items for the Newport Transit Station area. The amendment corrects the inconsistencies with respect to the 2040 future land use map and the city's adopted zoning map. The amendments include a map amendment as well as two text amendments to align the zoning districts /future land uses and align the permitted densities. The next step would be for the City Council to review and approve. After that, it would go to the Met Council for review and approval.

Vice Chair Leyde inquired if the current zoning includes residential in the transit area. Planner Fuerst stated the current zoning is transit oriented design which permits residential uses, however the guidance in the comprehensive plan is what prevents a residential development from occurring.

Commissioner Bonilla inquired about the urgency for expediting this process. Planner Fuerst stated when you apply for a comprehensive plan amendment there is an adjacent review period of 60 days for the surrounding communities. When a change is well within the city's boundary and does not impact those surrounding communities, then the review period can be shortened or not required.

Planner Fuerst stated the city received a concept plan for the area next to Red Rock Crossing that includes two buildings as well as a parking area.

Vice Chair Leyde opened the Public Hearing at 5:48 p.m. on February 8, 2022.

No public comments were presented.

Vice Chair Leyde closed the Public Hearing at 5:49 p.m. on February 8, 2022.

Vice Chair Leyde motioned to move the 2040 Comprehensive Plan Amendment to Council for review and approval. Seconded by Commissioner Bonilla. Approved 3-0.

B. 910 12th Street

Planner Fuerst stated the next comprehensive plan amendment is for the future land use map. The property at 910 12th Street was initially rezoned in June, 2011 from R-1 Residential Single-Family to MX-1 Mixed Use Downtown. During the 2040 planning process the property should have been guided to reflect the Mixed-Use zoning district designation. If the Planning Commission recommends this amendment, it would go to City Council and then to the Met Council for review and approval. At that point it would come back to the Planning Commission to rezone the parcel.

Vice Chair Leyde inquired why the comprehensive plan omitted this parcel for the Mixed Use. Assistant to the City Administrator Travis Brierley stated the property owners were looking to move their business to their property. The Murr's went through this process in 2011 and everything was approved to change this parcel to MX-1. Currently this is a rental property that is being used as a single family. There is a large accessory structure that has been used for storage for the property owners.

Vice Chair Leyde opened the Public Hearing at 5:57 p.m. on February 8, 2022.

Vicky Murr, residing at 910 12th Street, stated the information presented by staff was accurate.

Vice Chair Leyde closed the Public Hearing at 5:59 p.m. on February 8, 2022.

Planner Fuerst stated there was a staff report from the rezoning in 2011. The Murr's had a plumbing business and were storing materials on their property. The recommendation at the time from staff was to approve the resolution to rezone the parcel to MX-1. Planner Fuerst stated the Planning Commission needs a motion to recommend the change to the future land use map. This change would allow for the property to be rezoned at a future date.

Vice Chair Leyde motioned to recommend the City Council approve the change in the future land use map with the stipulation that staff try and determine if there was a valid recommendation as to why this parcel was zoned the way it was in the comprehensive plan. Seconded by Commissioner Bonilla. Approved 3-0.

6. PROPOSED FUTURE USE MX-3

Planner Fuerst stated the city received an inquiry from an interested business that is looking to purchase the old imperial camper site parcels. The interested business consists of four different DBA's: BioLawn, BioTree, BioHome, and BioLights. The city needs to look at the use of the property and how will that fit into our zoning. BioLawn provided a site plan that consists of office space, storage, shop space, mechanic area, parking, and an area they would sell off for redevelopment. Staff reviewed the allowed uses in this area. A few of challenges with this site included building encroachment, nonconforming uses, multiple properties, and redevelopment of southern parcels. Planner Fuerst stated the next steps would be determination of the acceptability of the use.

Vice Chair Leyde motioned to recommend to City Council that this business would be an acceptable use. Seconded by Commissioner Fuelling. Approved 3-0.

7. COMMISSION REPORTS

None.

8. ADJOURNMENT

Commissioner Bonilla motioned to adjourn the Planning Commission Meeting. Seconded by Commissioner Fuelling. Approved 3-0.

The Planning Commission Meeting was adjourned at 6:25 p.m. on February 8, 2022.

Respectfully Submitted:
Jill Thiesfeld,
Administrative Assistant II

Signed: _____
Brandon Leyde, Vice-Chairman



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12224 Nicollet Avenue
Burnsville, MN 55337-1649

Ph: (952) 890-0509
Fax: (952) 890-8065
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MEMORANDUM

Memo Date: April 5, 2022
Meeting Date: April 12, 2022
To: City of Newport, Planning Commission
From: Nathan Fuerst, City Planner
Subject: Comprehensive Plan Amendment - 910 12th Street
Action Requested: Make a determination on the proposed Comprehensive Plan Amendment.

Applicant: City of Newport

Proposed amendment: This amendment will re-guide the parcel at 910 12th Street from a Single Family Detached designation to Mixed Commercial/Residential.

Overview

This item is being brought back to the Planning Commission after discussion at the regular City Council meeting on March 3rd, 2022. The council reviewed the request to change the future land use on the subject property and referred this item back to the Planning Commission for discussion. It was determined that there was discussion during the comprehensive planning process centered on the future land use designation for this parcel and those immediately surrounding.

The subject property was initially rezoned in June, 2011, from R-1 Residential Single-Family to MX-1 Mixed Use Downtown. During the 2040 planning process which occurred between 2018 and 2019, the property was ultimately re-guided to reflect the existing land uses which are residential in nature. Following that, the property was rezoned as residential to ensure consistency between the zoning and future land use maps.

Meeting Minutes from the November 14, 2019 Planning Commission Meeting indicate that the Commission was told that: *...the suggested changes to the zoning map have been made but the 3 properties at the intersection of 9th Avenue and 12th Street which were labeled as mixed use but will be corrected to R-1 as they are single family homes.*

The zoning district designation was identified by City Staff and the property owners, Jim and Vicky Murr, who then submitted a rezoning request to the City seeking to bring the property back to a Mixed-Use District zoning. In recognition of the issue, and to correct an inconsistency between the adopted future land use map and desired zoning district, the City has initiated this Comprehensive Plan Amendment Process.

Newport's adopted 2040 Future Land Use map guides this property for Single Family Detached. In these areas, the Comprehensive Plan only provides residential land uses along with *parks and open space, places of worship, day care facilities, public facilities, public utilities, group homes, and bed and breakfast uses.*

This discrepancy between the Comprehensive Plan and desired zoning district will need to be corrected if the use of the property is to align with the former and desired zoning designation.

Planning Commission Review & Recommendation

The item was reviewed by the Planning Commission at its regular meeting on February 8, 2022. A public hearing notice was posted for this item and the hearing held at that meeting. The only members of the public present for the discussion were the property owners who found staff's presentation of this case to the commission suitable. The Planning Commission discussed the proposed change and ultimately voted unanimously to recommend the item for City Council approval. The Commission asked staff to research this item in greater detail to ensure that the discrepancy was not an intentional part of the Comprehensive Planning Process.

Comprehensive Plan Review:

Image below from adopted 2040 Comprehensive Plan:



Allowed Uses in Future Land Use Categories:

Single Family Detached:

Allowed and permitted uses in the Single-Family Detached areas include single-family residential, parks and open space, places of worship, day care facilities, public facilities, public utilities, group homes, and bed and breakfast uses.

Mixed Commercial/Residential

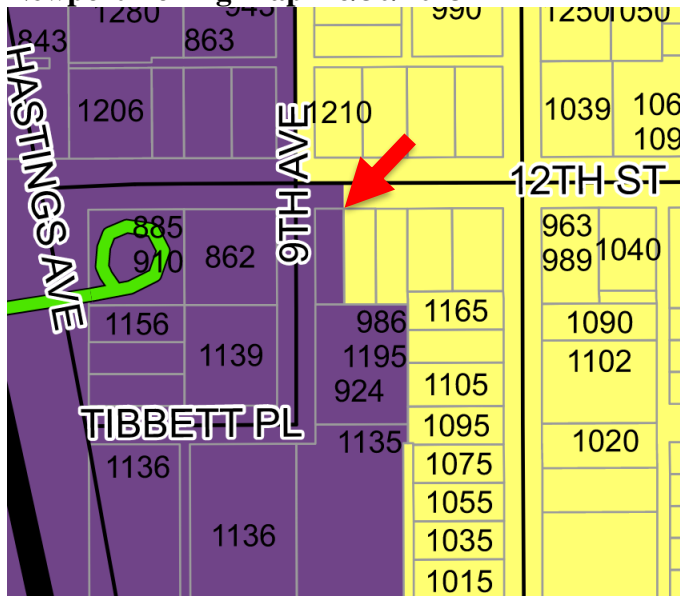
Allowed and permitted uses in the Mixed/Commercial/Residential Districts include single-family homes, two-family homes, townhomes, and multifamily residential uses. These areas also allow a wide range of commercial, retail, office, civic, institutional, park, and public uses that are compatible in type and scale with residential uses.

2040 Comprehensive Plan Figure 12-1 – Future Zoning Map



The subject property is included in the Comprehensive Plan’s Future Zoning Map as MX-4 General Mixed Use. This is different from the property’s present zoning, R-1, and the MX-1 designation established in the 2011 rezone.

Newport Zoning Map – 6/30/2013



-  R-1 Low Density Single Family Residential
-  R-1A River Residential
-  R-3 High Density Residential
-  MX-1 Downtown
-  MX-2 Commercial
-  MX-3 Transit-Oriented Design
-  MX-4 General
-  B-1 Business Park/Office/Warehouse

Newport Zoning Map – 2/19/2021



Consistency with the Comprehensive Plan

Similar to updating any ordinance, a Comprehensive Plan Amendment needs to consider how the proposed changes will impact various sections, tables, or figures in the Plan.

The proposed amendment is not anticipated to measurably impact the City’s density in Mixed Commercial/Residential or Single Family Detached Land Use areas. It is also not expected to reduce the City’s ability to meet its overall density goals. Lastly, the amendment is consistent with the General Land Use Goals established in the 2040 Comprehensive Plan.

Rezoning

If a Comprehensive Plan Amendment is approved, the subject property will ultimately also be rezoned to allow for the property to match the former zoning designation. If this comprehensive plan amendment is approved, a public hearing notice will be posted, and public hearing held with a final rezoning approval.

Comprehensive Plan and Rezoning Amendment Process and Next Steps

The Met Council will review the following process for Comprehensive Plan Amendments:

1. Planning Commission for review and approval of comp. plan amendment
2. City Council for review and approval of comp. plan amendment
3. Submittal to Met Council for review
4. Planning Commission review and decision on rezoning
5. City Council review and decision on rezoning
6. Met Council Review Determination
7. Review period for Adjacent Governments and Affected Districts (this may be waived)

Name: Newport Comprehensive Plan Amendment – 910 12th Street

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Action Requested:

Discuss the future land uses in this district to make a determination regarding the suitability of the request to amend the future land use on this parcel.

Suggested Discussion Questions:

1. If approved, how might the property be used differently than it is today?
2. If approved and the property redeveloped with a different use, how might such a development impact surrounding properties?
3. How is the subject property impacted by surrounding land uses?
4. What does the Planning Commission envision for the future of this area? What types of uses? How intensive should the uses be?

Resources Used:

- City of Newport 2040 Comp Plan – [link here](#)
- City of Newport Zoning Map – [link here](#)
- City of Newport Zoning Code – Article V, Nonresidential Uses – [link here](#)
- Metropolitan Council – Comprehensive Plan Amendment – [link here](#)
- City of Newport Planning Commission meetings, agendas, and packets – [link here](#)



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MEMORANDUM

Memo Date: August 3, 2021
Meeting Date: August 10, 2021
To: City of Newport Planning Commission
From: Nathan Fuerst, City Planner
Subject: Residential Performance Standard Amendments

Action Requested: Review the issues analyzed by staff herein and provide a determination on next steps for possible ordinance amendments.

Overview:

Recently staff were requested to review several standards in City Code section 36-208, or related thereto, with the suggestion that the City Code be amended to address several perceived issues. An overview of each issue is provided below with a staff assessment of amendments proposed to City Code.

Impervious Surface Requirements in the Mississippi River Corridor Critical Area (MRCCA):

It has been requested that staff review a requirement found in Section 36-208, the table containing performance standards for residential properties. Specifically, the requirement in question contains the impervious surface maximum for R-1 properties. This standard is written as follows:

*35 percent (25 percent in Shoreland AND MRCCA District *****)*

***** See Shoreland Management and MRCCA district regulations sections [36-328](#) and [36-360](#).*

This provision limits properties within both the MRCCA and Shoreland Overlay District to a maximum 25% impervious surface area.

Proposed amendment:

The suggestion is to remove the cross reference specifically only to the MRCCA district regulations. This is on the basis that those requirements do not actually contain a limit on impervious surface. Removing the cross reference to the MRCCA would still require R-1 Properties within the Shoreland Overlay to meet the impervious coverage limit. It would increase the maximum coverage for R-1 properties outside the Shoreland Overlay to 35%.

Staff Assessment:

This appears to be feasible as proposed. The DNR's Model MRCCA ordinance is written to reflect state and federal rules regarding land uses surrounding the Mississippi River. The DNR MRCCA Model does not contain language regarding an impervious surface coverage limit but does contain language regarding setbacks and placement.

Next Steps:

The Planning Commission should discuss this topic and provide staff guidance on whether a change in the definition should be made. To protect the City from any future enforcement action, the DNR Area Hydrologist and shoreland planners should be contacted to confirm this amendment will not violate any state rules prior to drafting and adopting any amendments.

Impervious Surface Definition:

It has been requested that staff review the definition of Impervious Surface in City Code, specifically, that the definition is the same between both the Zoning Ordinance's definitions ([Sec. 36-1](#)) and Shoreland Management District ([Sec. 36-330](#)):

Impervious surface: A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, or gravel driveways; and other similar surfaces.

Proposed amendment:

The request is to add flexibility to this definition in areas outside of the shoreland overlay district by exempting decks from the Zoning Ordinance's definition of impervious surface while retaining them in the Shoreland Management District.

Staff assessment:

This is feasible as proposed, as Cities have discretion to define impervious surface. However, the Planning Commission should consider that at one time, the definition for impervious surface was different between the general zoning and shoreland definitions. This was corrected upon adoption of the City's current Shoreland Management District requirements to reduce confusion on the issue.

Next Steps:

The Planning Commission should discuss this topic and provide staff guidance on whether a change in the definition should be made.

Foundation Wall Setbacks:

It has been requested that staff review a standard found at the end of Section 36-208 which contains a clarifying footnote. This provision is below:

** Regardless of the setback standards noted in this table, the distance between a proposed foundation wall and an existing foundation wall on an adjacent lot may not be less than 15 feet.*

The asterisk associated with this requirement does not actually connect it to any specific provision in Section 36-208. The intent is clearly for it to apply to the table, and therefore all residential districts.

Proposed amendment:

The suggestion is to remove the setback requirement above on the basis that it does not directly address any known issues with setbacks. Rather, this provision appears that it could be intended to provide protection to structures that abut properties under construction.

Staff assessment:

This is feasible as proposed. Provisions that are concerned with the construction process may already be addressed by the building code or should be adopted in City Code Chapter 8, Buildings and Construction.

Next Steps:

Name: Fence Code Update
Date: August 10, 2021
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The Planning Commission should discuss this topic and provide staff guidance on whether a change in the definition should be made. If a change is recommended, then staff will research to determine the best way to amend the provision.

Recommendation:

Staff recommends the Planning Commission discuss the proposed ordinance language changes. If a determination is made to move forward with amending the City Code, then Staff will begin the process to amend the zoning ordinance in line with next steps identified for each item.

Resources:

- City Zoning Map
- City Code – [Section 36-1](#) – Definitions (link only)
- City Code – [Section 36.208](#) – Residential lot area, depth, width, coverage, setbacks and heights (link only)
- City Code – [Section 36-328](#) – Shoreland Management District (link only)
- City Code – [Section 36-360](#) – Mississippi River Critical Corridor Area (link only)



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MEMORANDUM

Memo Date: April 5, 2022
Meeting Date: April 12, 2022
To: Newport Planning Commission
From: Nathan Fuerst, City Planner
Subject: Accessory Structure Rules – Ordinance Interpretation Discussion

Action Requested: Review and discuss the staff interpretation regarding Accessory Structures and provide a determination regarding suitability.

Overview

The City of Newport has recently received a proposal for a detached garage on a single-family property which prompted discussion among staff regarding an interpretation of the performance standards for such uses and structures. In a review of this request, staff have identified that the configuration of an accessory structure is not specifically contemplated by the city code.

It is not uncommon for interpretations of code to be made by staff as not every situation can be anticipated. In cases where some clarification regarding the intent is desired, staff have the ability to ask the Planning Commission for a determination.

An overview of the code section and analysis are followed by discussion questions which will help the Planning Commission determine the suitability of the staff's interpretation.

Issue

A property owner currently has a single-family home with an attached garage. The home is built on a grade allowing for a two-story attached garage. Both floors of the garage share the same square footage and footprint. The lot has enough area for a detached garage to be constructed within setbacks, buildable area, etc.

To interpret whether constructing the detached garage is permissible, and how large it can be, there are two questions which staff are seeking to provide specific interpretations on:

1. Does the current structure count as one or two accessory structures?
2. How does the space in the current structure count against the overall limit on accessory structure area? Is it the footprint or the floor area of the two floors?

Relevant City Code Definitions

- *Building* means a structure with two or more outside rigid walls and a fully secured roof and affixed to a permanent site. When separated by dividing walls without openings, each portion of such a structure shall be deemed a separate building.
- *Building, accessory*, means a subordinate building or structure on the same lot as a principal building, **or part of the principal building**, exclusively occupied by or devoted to a use incidental to the main use of the property.
- *Building, principal*, means a building or structure occupied by or devoted to the principal or main use of the property.
- *Floor area* means the **sum of the gross horizontal areas of the several floors** of a building, measured from the exterior faces of the exterior walls, or for a structure without walls (e.g., a carport), the total ground area covered by roof, not including area under a typical overhang dimension.
- *Floor area, livable*, means the floor area of a dwelling excluding all areas occupied by basements, garages, porches, attics, stairways, storage, utility and heating rooms.
- *Use, accessory*, means a use subordinate to the principal use on a lot and exclusively used for purposes incidental to those of the principal use.

Relevant City Code Performance Standards

1. *Single-family residential garage, accessory structure and driveway standards.*
 - a. *Generally.* The following standards shall apply to all garages and accessory structures for single-family homes and duplexes in all zoning districts, and shall be in addition to the standards in [section 36-208](#) and article VII, divisions 2 and 4 of this chapter. **The intent of these standards shall be to reduce the impact of multiple vehicles and of large accessory structures on the residential character of the city.**
 - i. *Construction.* No accessory building or structure shall be constructed on a lot prior to construction of the primary structure. Building permits are required for all accessory structures.
 - ii. *Number.* A residential lot, other than a river riparian lot, **may have no more than two accessory structures.** A river riparian lot may have a guest cottage and a water-oriented accessory structure as regulated in article VII, division 2 of this chapter.
 - iii. *Height.* No garage, whether attached or detached, nor any accessory structure shall be taller than the principal structure on the lot as measured by the building height definition from [section 36-1](#).
 - iv. *Location.* A detached accessory building shall not be located in any required front yard.
 - v. *Square footage.* Except in the RE District, **the total footprint of all garage space**, whether attached or detached, and of all accessory structure space for single-family residential uses **shall be no larger than the footprint of the principal structure** and shall total a maximum of 2,000 square feet; except that a residential lot shall be allowed at least 500 square feet of garage space regardless of the house size, as long as the required setbacks and other standards are met.

Zoning Interpretation

Question 1 - Does the current structure count as one or two accessory structures?

The garage will count as one accessory structure.

This is not specifically spelled out in the code's definition of an accessory building, which only refers to "*part of the principal building*". In this case, the garage areas are contiguous. In most cases, attached garage area is on the ground floor and contiguous which would count as one. The intent of the code is to allow for both attached and detached garage areas provided that certain zoning requirements are met.

Question 2 - How does the space in the current structure count against the overall limit on accessory structure area?

The total floor area of current garage space would count towards the accessory structure total area.

The City code specifically calls out the total footprint of **all** garage space, and calls out total square feet. Using the same logic as in Question 1, any configuration other than garage areas being directly on top of each other would result in both areas counting against the maximum area of permitted accessory structure.

Suggested Action:

Review the staff interpretation regarding how the existing garage areas in this example will be counted. Ask any questions and hold a discussion to decide on the suitability of the zoning interpretations above.

Discussion questions:

1. Does the zoning interpretation meet the intent of the ordinance? If not, why?
2. Would an interpretation one way or the other create any unintended consequences? How might they be mitigated?



MEMO

TO: Newport Planning Commission

FROM: Travis Brierley, Assistant to the City Administrator

DATE: April 12, 2022

SUBJECT: PC Meeting Dates

Background: The Primary Election and General Election are being held on the same day as the August and November Planning Commission meetings. Minnesota Statute (240C.03) prohibits public meetings on election days between 6:00pm and 8:00pm.

Discussion: The Planning Commission should consider options to adjust the meeting time.

Option 1- Move the meeting to either 8:00pm or have the meeting start earlier with the meeting ending no later than 5:59pm

Pros: Meets the law and doesn't change the date of the meeting

Cons: If the meeting has a public hearing or greater in-depth discussion items, those items may not fully be discussed and would be moved to the next meeting. Or the meeting starts at 8:00pm and it runs late. Not all staff would be able to attend.

Option 2- Move the meeting date to the following week (3rd Tuesday).

Pros: Simple notice with ample time to adjust schedules. Allows for a normal meeting to commence.

Cons: Potential quorum issues.

Recommendation: Staff recommendation is for the Planning Commission to motion and approve Option 2.