

NOTICE

Pursuant to a call of the Chairman Ray Negrelli
a meeting of the **PLANNING COMMISSION** will be held on:

Wednesday May 28, 2025 at 5:30 PM
Bratenahl Community Center
10300 Brighton Rd. Bratenahl, OH 44108

AGENDA

1. **Call to Order**
2. **Roll Call: Negrelli, Benjamin, Burke-Jones, Turner, Grushetskiy**
3. **Approval/Correction of Minutes**
4. **Old Business:**

To consider a request by Newport Harbor Association for a zoning text amendment to **amend the regulations for Planned Residential Developments (PRD)** as follows:

A. Section 1162.04(c)(1): Private Boat Facility:

Subsection A: To **eliminate** the requirement that a private boating facility accessory to a Planned Residential Development be controlled by the residents of the PRD, and to **eliminate** the requirement that a minimum of 25% of the boat slips be owned by Village residents; and

Subsection M: to **eliminate** the requirement that the facility annually renew its special permit; and

B. Section 1162.04(c)(2): Private Club:

Subsection A: To **eliminate** the requirement that residents of the PRD make up a minimum of 25% of the membership at a private club accessory to the PRD; and

Subsection K: to **eliminate** the requirement that the private club annually renew its special permit and to **eliminate** the verbiage that declares the private club to be an accessory use and not a principal use.

C. To consider amendments to the Newport Harbor development plan pursuant to Section 1164.13 to:

1. Increase the maximum number of permitted docks to 114.
2. Revise the plans and HOA documents to be consistent with the requested amendments to Sections 1162.04(c)(1) for Private Boat Facility and 1162.04(c)(2) for Private Club noted above.

5. New Business:

SL 6 220 Lakehurst Dr. – New Single-Family Dwelling

And any other business that may properly come before This Municipal Body may be considered and acted upon.

memorandum

to: Keith Benjamin, Mayor, and Bratenahl Planning Commission
from: Kristin Hopkins, FAICP, Village Planner
subject: **Proposed Revisions to PRD Regulations, Section 1162.04 Pertaining to Newport Harbor and Shoreby Club**
date: **May 21, 2025** (*update to April 21, 2025 memo, based on discussion at April 23, 2025 Planning Commission meeting*)

The Newport Harbor Association (NHA), which is an approved “Conditional Accessory Use” (Section 1162.04(c)) within the Newport Planned Residential Development (PRD), has submitted an application to amend specific sections of Chapter 1162 Planned Residential Development regulations pertaining to Conditional Accessory Uses in a PRD.

UPDATED RECOMMENDATIONS

At the Planning Commission’s April 23, 2025 meeting, there were a number of modifications suggested for the proposed zoning code text edits as well as a requirement that the Harbor’s Development Plan be amended. Based on previous changes to the Harbor’s Development Plan, it is also recommended that the PRD’s Declaration of Restrictions and Covenants be updated to reflect the changes.

1. Zoning Code Text Edits. The specific text edits to Section 1162.04(c) Conditional Accessory Uses, with the suggested modifications shown in ***ITALICS***, include:

A. Section 1162.04(c)(1): Private Boat Facility:

Subsection A: To revise the subsection to:

- Eliminate the requirement that a private boating facility accessory to a PRD be controlled by the residents of the PRD;
- ***REDUCE TO 20% FROM 25% eliminate*** the required minimum percentage of boat slips that must be owned and used by Village residents; and
- ***REQUIRE A GOOD FAITH EFFORT BE MADE TO RESELL A DOCK TO A VILLAGE RESIDENT.***

Subsection I: ***TO LIMIT THE MAXIMUM NUMBER OF DOCKS PERMITTED PER THE FINAL DEVELOPMENT PLAN.***

Subsection M: To ***REVISE THE delete the entire*** subsection to:

- Delete the requirement that the facility annually renew its special permit;

- **REDUCE THE DOCUMENTATION THAT MUST BE SUBMITTED ANNUALLY** to the names and addresses of all owners to verify the minimum percentage of residents **AND THE NAMES AND ADDRESSES OF THE HARBOR'S BOARD OF MANAGERS;**
- **REQUIRE THAT RECORDS BE MADE AVAILABLE TO THE VILLAGE AT THE BUILDING COMMISSIONER'S REQUEST;** and
- **NOTE THAT ANY CHANGE/RECONFIGURATION IN THE NUMBER OF DOCKS REQUIRES AN AMENDMENT TO THE HARBOR'S FINAL DEVELOPMENT PLAN.**

B. Section 1162.04(c)(2): Private Club:

Subsection B: To **REPLACE** the requirement that residents of the PRD and dock owners make up a minimum of 25% of the membership at the private club **WITH REQUIREMENT THAT CLUB MEMBERSHIP IS MANDATORY FOR ALL PROPERTY OWNERS;** and

Subsection K: To **REVISE THE** ~~delete the entire~~ subsection to:

- Eliminate the requirement that the private club annually renew its special permit, and
- **REQUIRE THAT CLUB MEMBERSHIP, BOARD MEMBERS AND INSPECTION RECORDS BE MADE AVAILABLE TO THE VILLAGE AT THE BUILDING COMMISSIONER'S REQUEST;** and
- Eliminate the verbiage that declares the private club to be an accessory use and not a principal use.
- **MOVE TO THE OPENING PARAGRAPH OF SECTION 1162.04(C) THE STATEMENT THAT THE PLANNING COMMISSION AND COUNCIL MAY IMPOSE ADDITIONAL CONDITIONS.** *(NOTE, this is standard language for conditional uses and applies to both the docks and the club.)*

The complete text of Section 1162.04(c) Conditional Accessory Uses in a PRD, with the suggested edits, is found at the end of this report.

2. Development Plan Amendment. In addition, it is necessary to amend the Newport Harbor Preliminary and Final Development Plan to note the current number and configuration of the docks. The Village's records indicate the following:

- The original Newport Development Approval (dated July 25, 1989) indicated in the Newport Harbor General Statement, item 2 (page 20) that "the Boat Basin is designed to contain approximately 96 Boat Slips, including 4 Boat Slips to be used for guest accommodations."

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- At its Public Hearing on August 5, 1992, the Planning Commission approved a modification to the length and number of boat slips: to delete 6 of the larger docks and replace with 17 smaller docks, for a net increase of 11 docks, and a total of 117.
- Since then, as noted by Mr. Jim Travarca, Harbormaster for Newport Harbor, the number of docks was reduced to 114 when a member bought four docks and consolidated them into one. The date this occurred was not noted but was during Mr. Travarca's tenure as Harbormaster.

Per the Village Solicitor, the change in the number and configuration of the docks requires an amendment to the PRD's Development Plan. The proposed amendment should

- A. Limit the maximum number of boat slips to the current 114.
- B. Eliminate the allowance that the developer may install two (2) slips for each lot that is sold. This is contrary to the Village's desire to cap the number of docks to the current number (114).

3. Amendments to the Declaration of Restrictions and Covenants. As with previous changes to the Harbor's requirements regarding the minimum percentage docks owned by Village residents, if the Village amends its Ordinance as noted above, the association should amend the Declaration of Covenants and Restrictions to be consistent (see letter from Village Solicitor Stephen O'Bryan, 12/4/1991). Any amendment to the Declaration requires approval by Bratenahl Village Council.

Aerial photos of the existing development and an image of the initial project plan of the entire Newport PRD are found on pages 4 through 6. The complete text of Section 1162.04(c) Conditional Accessory Uses in a PRD, with the suggested edits, is found at the end of this report.

If you have any questions or require any additional information, please feel free to contact me.

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Figure 1. Newport Harbor and Shoreby Club, with adjacent residential lots.



* Indicates Residential Zones included in Newport PRD.

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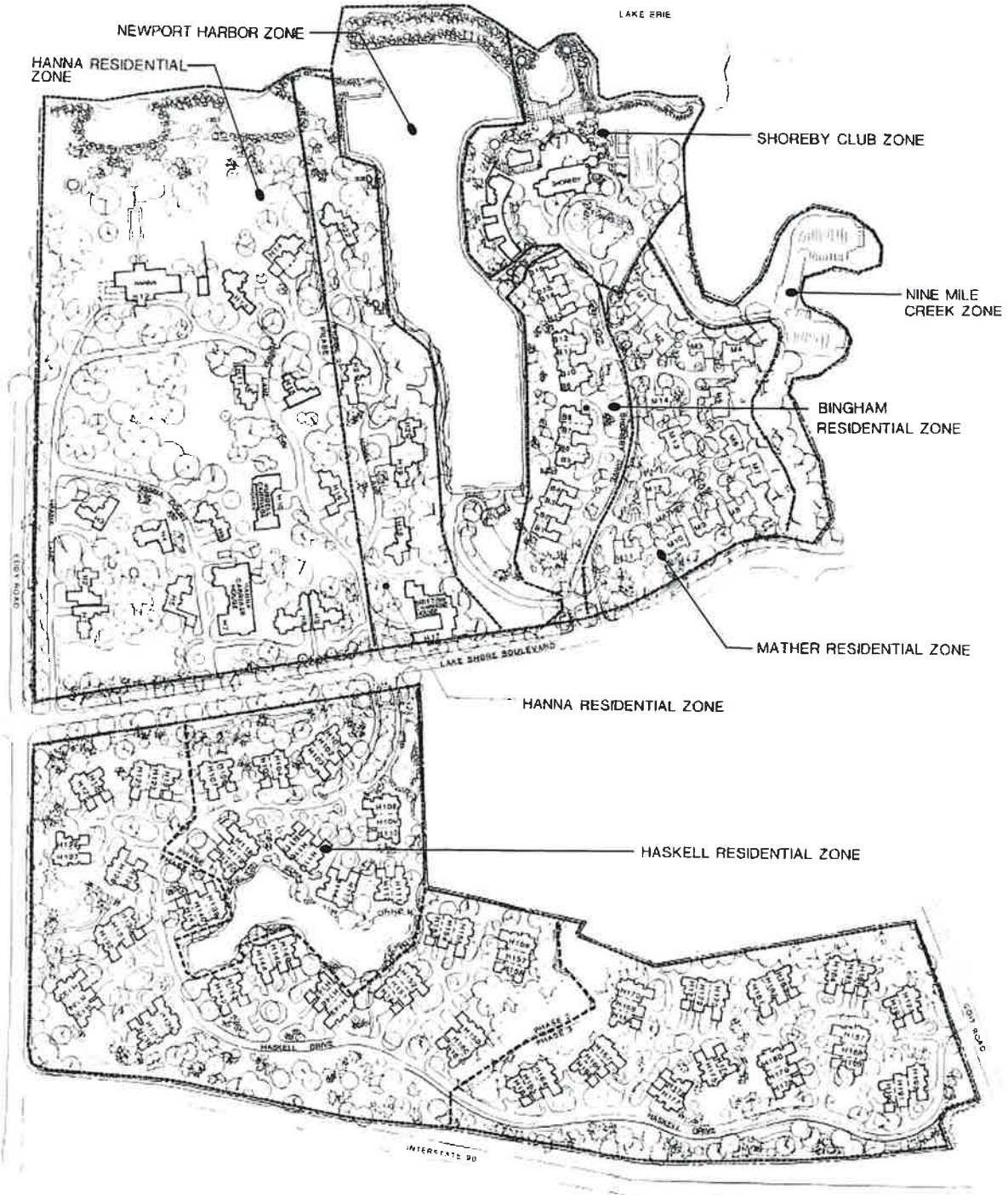
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Figure 2. Newport Harbor and Shoreby Club, with adjacent residential lots. Spring 2023 Aerial



Figure 3. Newport PRD Early Sketch of Proposed Development, (6/1/1989)



RECOMMENDED ZONING CODE TEXT EDITS TO SECTION 1162.04(c)**1162.04 USES PERMITTED.**

Because a primary purpose of the Planned Residential Development District is to encourage innovative and high-quality design, which shall preserve and enhance the unique residential environment of the Village, all types of dwellings as set forth in subsection (a) below are permitted in the Planned Residential Development District.

(a) Principal Uses in a PRD District.

(b) Permitted Accessory Uses in the PRD District.

(c) Conditional Accessory Uses in the PRD District. Within the PRD District, the Planning Commission and Council may approve as elements within a specific planned residential development area certain conditional accessory uses which because of their unique nature and special characteristics are not permitted by right. Such uses may be permitted if certain conditions are met, if such uses are planned as an integral part of a planned residential development area, and if such uses are designed to complement and enhance the principal residential uses and the surrounding community. The following accessory uses may be approved as part of a development plan for a planned residential development area, pursuant to Chapter 1164 of this Code, provided that they meet the conditions enumerated hereunder and are deemed by the Planning Commission and Council to complement and enhance the principal residential uses of the planned residential development area, and the surrounding community and will not adversely affect the objectives of this chapter. **The Planning Commission and Council may impose such additional conditions to the approval of a conditional accessory use as they deem necessary to ensure that the facilities are operated as an accessory use to the overall planned residential development area in which it is located.**

(NOTE: moved for clarity, from last paragraph after subsection (c)(2)K.)

(1) Private boat basin facility. A private boat basin facility provided that:

A. The facility is operated as a non-profit private organization, association, or facility **for the benefit of the members** ~~which is controlled by the residents of the planned residential development area~~ and twenty-five percent **(20%)** ~~(25%)~~ of the docks or slips are owned and used, both initially and on a continuing basis, by Village residents.

1. Whenever a dock owner seeks to sell ownership of his/her dock, the dock owner shall make a good faith effort to sell the dock to a Village resident.

2. The facility shall maintain a list of interested purchasers, from which the facility shall notify all Village residents on such list and shall provide 14 days for the resident to submit a written offer to purchase before a dock may be put up for sale to the general public.

B. No dockage, retail sales or services to the general public shall be offered or permitted.

- C. No storage of boats out of water shall be permitted, and no ramp shall be permitted.
- D. Adequate parking space shall be provided as determined by the Planning Commission and Council.
- E. The size and location of all facility parking lots and required facility setbacks shall be determined by the Planning Commission in accordance with acceptable industry standards as recommended by the Village Planner.
- F. Access to the facility shall be controlled and limited to owners or members and their guests. Access to the facility shall be by a separate street or private way which shall not be an integral part of an access way to residential dwellings.
- G. No signs other than identity sign and directional graphics shall be permitted.
- H. Structures, parking areas, and other ancillary elements of the facility shall conform with all applicable provisions of this chapter.
- I. Prior to commencement of any construction of the facility, all required outside governmental agency approval shall be secured, and it shall be demonstrated to the Planning Commission that the requirements of subsection 1162.04(c)(1)A., above, have been met for the approved construction phase. In addition, two docks may be installed for each new dwelling unit that is completed in the planned residential development, **however, in no case shall the number of docks exceed the maximum number of docks permitted per the approved Final Development Plan.**
- J. Final development plans shall include a detailed statement of the name and form of ownership, the form of ownership of the docks or slips, requirements for membership, and operating agreements. All final development plans, **including amendments thereto,** shall be subject to the approval of the Planning Commission.
- K. All plans for such a facility, including any breakwall, shall be prepared by a qualified engineer and shall be reviewed and approved by an engineer employed by the Village, at the developer's expense. The Village's engineer shall also provide for ongoing site inspections, at the developer's expense, throughout the construction period. The Village's engineer shall be required to provide a final approval for the entire facility, including any breakwall, prior to its use.
- L. Once construction of the boat basin or breakwall commences and in order to ensure and guarantee the developer's performance, the developer shall be required to file with the Village financial guarantees, in the form of a performance bond, letter of credit, funds or other surety approved by the Solicitor, in an amount equal to the Village engineer's estimate of the total cost of material and labor required to construct the facility. Upon the Village engineer's recommendation, such guarantee shall be reduced by an amount equal to the estimated cost of the completed portion.
- M. Upon completion of the facility and **on an annual basis,** ~~prior to its use,~~ the owner shall **provide: 1) a list of the names, addresses and slip numbers of boat slip lessees, and 2) names and addresses of the Board of Managers of Newport Harbor Association to the Bratenahl Building Department. The facility shall**

at all times maintain the above records as well as copies of all inspection reports made by any governmental body relating to the facility and shall make such records available for the Village's inspection at the request of the Building Commission.

Any increase in the number of docks shall require an amendment to the final development plan according to Chapter 1164.

obtain a special permit from the Village which provides:

1. The dock number(s) and size(s);
2. The names and addresses of all owners/lessors; and
3. Copies of all inspection reports made by any governmental body relating to the facility for the preceding twelve months.

Thereafter, all facilities shall be required to renew their special permit every twelve months for the facility's continued operation.

Failure to provide the required information shall result in the revocation of a facility's special permit. Thereafter, all facilities shall be required to renew their special permit every twelve months for the facility's continued operation. Failure to provide the required information shall result in the revocation of a facility's special permit.

- (2) Private club. One private club including dining, meeting, recreation, and limited lodging facilities, provided that:
- A. The facility shall be operated as a private nonprofit facility for the benefit of the members.
 - B. **Club** membership shall be **mandatory for each property owner and successive owner of a dwelling unit in** ~~open to all residents of the planned residential development.~~ **Such membership requirement shall be clearly stated in the HOA bylaws.** ~~area, but a substantial number of the dwelling unit owners within the planned residential development area shall automatically be members, such number to be determined by the Planning Commission based on the size of the planned residential development area, the size of the proposed club and other pertinent considerations. These dwelling units which carry automatic membership shall be designated on the planned residential development plan by the developer, and shall be approved by the Planning Commission. Not less than one-fourth of the total membership of the club, both initially and on a continuing basis, must be owners of dwelling units within the planned residential development area or docks or slips.~~
 - C. No retail sales or services to the general public shall be permitted.
 - D. The size and location of club parking lots and required setbacks shall be determined by the Planning Commission in accordance with acceptable industry standards as recommended by the Village Planner.
 - E. Access into the facility shall be controlled and limited to members and their guests. Access to the facility shall be by a separate street or private way which shall not be an integral part of an access way to residential dwellings.

- F. Lodging facilities shall be only for overnight or limited occupancy as guests of a member of the club and not on a commercial basis. Lodging facilities shall not include cooking facilities of any type.
- G. Outdoor dining terraces, swimming pools, tennis courts and similar facilities are permitted and shall comply with all applicable provisions and requirements of this chapter.
- H. Adequate parking space shall be provided as determined by the Planning Commission and Council.
- I. No signs other than an identity sign and directional graphics shall be permitted.
- J. Final development plans shall include a detailed statement of the form of ownership, of the private club, requirements for membership and operating agreements. All final development plans shall be subject to the approval of the Planning Commission.
- K. ~~Upon completion of the facility and prior to its use, the owner shall obtain a special permit from the Village which provides:~~ **The facility shall at all times maintain the following records and shall make such records available for the Village's inspection at the request of the Building Commission:**
 - 1. The names and addresses of all **club** members;
 - 2. **Names and addresses of the Board of Trustees.** ~~The number of memberships of each members; and~~
 - 3. Copies of all inspection reports made by any governmental body relating to the facility for the preceding twelve months.

~~Thereafter, all facilities shall be required to renew their special permit every twelve months for such facility's continued operation. Failure to provide the required information shall result in the revocation of a facility's special permit.~~

~~The Planning Commission and Council may impose such additional conditions to the approval of a conditional accessory use as they deem necessary to assure that the facilities are operated as an accessory facility to the overall planned residential development area in which it is located, and not as a principal use, and they shall also apply this standard in making the determinations set forth herein.~~ *(NOTE: moved for clarity, to end of paragraph (c).)*