

**12-09-2020 Town Council Meeting**  
**Responses to Council Questions #1**

**ITEM #10: Public Hearing Continued: Conditional Zoning for 1200 & 1204 Martin Luther King Jr. Blvd. from Residential-4 (R-4) and Neighborhood Commercial (NC) to Office/Institutional-2-Conditional Zoning District (OI-2-CZD) and Neighborhood Commercial Conditional Zoning District (NC-CZD) (Project #19-065)**

**Council Question:**

Signs that say “no access to loading dock from 7:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends” - Is there anything to stop someone from accessing the dock outside of the allowable hours anyway, either intentionally or unintentionally?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

“Developer will retain a NC licensed real estate broker to survey lot rents in the greater Raleigh and Charlotte markets for comparable mobile home park lot rents. If their report determines that lot rents at this mobile home park are more than 15% higher than comparable properties, the developer will modify rents to conform to this standard within 30 days.”- Can we request a survey of Orange County rates instead? Charlotte and Raleigh clearly are higher priced markets. Also, how was the 15% determined?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

“Existing leaseholders will be offered an option to convert to annual leases within 30 days of entitlement and have 30 days to accept or decline.” Does the management company intend to offer annual leases beyond this? What about future residents?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

## 12-09-2020 Town Council Meeting

### Responses to Council Questions #1

**Council Question:**

"Allow mobile homes to be moved around the site for the proposed configuration." Could you please elaborate on this? What will be the impact on those residents? Will this be at the developer's cost?

**Staff Response:**

*The majority of homes proposed to be relocated have already been moved. There are some that remain, however, and a few new locations proposed. Staff believes that the nonconformity language in LUMO needs to be modified to continue allowing the homes (which are nonconforming) to be moved into the final configuration as shown on the plans. This is at the developer's cost, and the impacts will be the same as the relocations that have already occurred.*

**Council Question:**

Would the applicant consider closing the gas station between 11pm and 6am?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

The storage building is too close to the mobile homes in the southeast corner - can you ask the applicant what can be done to address that?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

What material will be used for the fence and how high will it be?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

We heard from current residents that the management company has not made already identified needed improvements and repairs (potholes, traffic safety, trees, play spaces, etc.) - can we require the applicant to make these within the first 60 days as part of the agreement?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

## 12-09-2020 Town Council Meeting

### Responses to Council Questions #1

**Council Question:**

Am I reading the plans accurately that the playground is proposed to be in the RCD?

**Staff Response:**

*The playground is proposed to be in the "Upland Zone", which is the outermost 50 feet of the RCD. This is a permitted use in the Upland Zone.*

**Council Question:**

Will the leaseholders only have that one opportunity (30 day window) to switch to an annual lease?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

Why not just make the it right-only from the beginning instead of waiting until BRT completion?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

Do we have an effective, consistent means of reaching and communicating with other mobile home owners in town? How long of a window would the town have to notify other mobile park residents in town before the applicant puts it on the broader market?

**Staff Response:**

*Staff has addressed information for residents of all of mobile home communities that we use for direct mailings. Staff also has partnered with EmPOWERment, Inc. and the Family Success Alliance to build relationships with existing residents to assist in communicating and engaging the communities. These strategies have worked successfully in previous engagement efforts.*

*North Carolina law states that the owner of a manufactured home community shall give each owner of a manufactured home and the North Carolina Housing Finance Agency notice of the intended conversion at least 180 days before the owner of a manufactured home is required to vacate and move the manufactured home, regardless of the term of the tenancy.*

## 12-09-2020 Town Council Meeting

### Responses to Council Questions #1

**Council Question:**

How often will the retained real estate agent be surveying comparable lot rents? Why was Raleigh and Charlotte markets chosen as comparables?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

Did the applicant commit to building a play space for the children in the mobile home community? The packet said that moving the units removes the open recreational space in the park, where would the play space go?

**Staff Response:**

*The applicant has shown a playground area on the latest plan set, included in your packet. This is located on the northern part of the site.*

**Council Question:**

Is there any legal concern that these commitments/requirements won't hold up in court under the new 160D rules?

**Staff Response:**

*Enforceability of conditions related to the type of use of the property is not a high concern in the conditional zoning context, assuming they are accepted by the applicant as required by statute. Restrictions imposing a requirement that the owner promise to continue a use for a certain duration (such as an extended number of years), or maintain a certain rent rate during that duration, is not as common and is less certain because the law is less developed. Other more tangential restrictions are case-by-case, but here's an example: Requiring the owner to impose a local residency restriction on tenants could raise constitutional arguments (e.g., equal protection) by potential non-local residents that they are not being allowed equal access to the private housing market.*

**Council Question:**

Has there been any additional follow-up or communications with the mobile home owners since the meeting on 11/19?

**Staff Response:**

*The Town has not had any additional communication with the mobile home park residents since the 11/19 meeting.*

## 12-09-2020 Town Council Meeting Responses to Council Questions #1

**Council Question:**

Why did the applicant transition from meeting with the whole community to one-on-ones in September 2019?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

What is the definition of “Upland” and “Managed Use” RCD zones, referenced on p. 107?

**Staff Response:**

*The Upland Zone is the outermost 50 feet of the RCD. The Managed Use Zone is the middle 50 feet. The Stream Side zone is the innermost 50 feet.*

**Council Question:**

Existing leaseholders would be offered an option to convert to annual leases. What kind of leases would new leaseholders be offered?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

How long do residents have to choose whether to remain on-site?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

Stipulation 7 (pg. 139) appears to be incorrect. Shouldn't it state that access to the loading docks is permitted only during the hours shown, not prohibited?

**Staff Response:**

*That is correct. The stipulation will be revised to reflect that the hours are permitted access only.*

## 12-09-2020 Town Council Meeting

### Responses to Council Questions #1

**Council Question:**

Stipulations 68 and 69 appear to be incorrect, as the functions/responsibilities shown are that of the park owner, not the residents?

**Staff Response:**

*These stipulations are part of the Town's Standard Stipulations, which are included with each Conditional Zoning but are not specific to any particular project. The stipulations may or may not be applicable depending on the project.*

**Council Question:**

Is the applicant proposing 10 additional units over the current 73 (although we have been told only 65 are currently there) and that those additional ten would be in the RCD?

**Staff Response:**

*The applicant is proposing 10 additional units (for a total of 83), of which 7 would be placed in the RCD.*

**Council Question:**

I believe stipulation may be deficient. As currently written, it could allow the owner to charge high rents for almost four years before a correction is made. And allowing a 15 percent corridor after review means that residents could be paying \$75 or more over market based on current rental rates?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

There's a new proposal that a periodic survey of mobile home park rent rates be done and the rents at this site capped accordingly. Why are the rates surveyed in Greater Raleigh and Charlotte, and not Orange County or Durham?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

**Council Question:**

How would property-tax pass-throughs be handled as part of the agreement? Subject to the 15% cap on rent, or separate?

**Staff Response:**

*We have forwarded this question to the applicant and will share their response when available.*

## 12-09-2020 Town Council Meeting

### Responses to Council Questions #1

**Council Question:**

Is there a typo on slide 2? Should it be no access to loading docks between 7pm and 9am?

**Staff Response:**

*That is correct. The stipulation will be revised to reflect that the hours are permitted access only.*

**Council Question:**

If the owner decided to shut down the trailer park, how long by law would the residents have to relocate? Would they be covered by any current COVID eviction restrictions?

**Staff Response:**

*North Carolina law states that the owner of a manufactured home community shall give each owner of a manufactured home and the North Carolina Housing Finance Agency notice of the intended conversion at least 180 days before the owner of a manufactured home is required to vacate and move the manufactured home, regardless of the term of the tenancy.*

*In response the second question, all renters are covered by current COVID eviction restrictions, so yes if someone is renting a mobile home, they are covered under the moratorium.*

**Council Question:**

The applicant is proposing an agreement whereby he would cap rents according to some market metric. Is this agreement enforceable, or would the state construe it as a form of illegal rent control?

**Staff Response:**

*Restrictions imposing a requirement that the owner promise to continue a use for a certain duration (such as an extended number of years), or maintain a certain rent rate during that duration, is not that common in the conditional zoning context and enforceability is less certain because the law is less developed than with other types of restrictions like type of use.*

## 12-09-2020 Town Council Meeting Responses to Council Questions #2

### **ITEM #10: Public Hearing Continued: Conditional Zoning for 1200 & 1204 Martin Luther King Jr. Blvd. from Residential-4 (R-4) and Neighborhood Commercial (NC) to Office/Institutional-2-Conditional Zoning District (OI-2-CZD) and Neighborhood Commercial Conditional Zoning District (NC-CZD) (Project #19-065)**

#### **Council Question:**

Signs that say "no access to loading dock from 7:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends" - Is there anything to stop someone from accessing the dock outside of the allowable hours anyway, either intentionally or unintentionally?

#### **Applicant Response:**

*Someone could potentially miss or ignore the sign and drive around back, but the rear door and loading area will be closed and they wouldn't be able to enter the building.*

#### **Council Question:**

"Developer will retain a NC licensed real estate broker to survey lot rents in the greater Raleigh and Charlotte markets for comparable mobile home park lot rents. If their report determines that lot rents at this mobile home park are more than 15% higher than comparable properties, the developer will modify rents to conform to this standard within 30 days."- Can we request a survey of Orange County rates instead? Charlotte and Raleigh clearly are higher priced markets. Also, how was the 15% determined?

#### **Applicant Response:**

*The Chapel Hill Rates are comparable to Raleigh and Charlotte, but because there are so many more parks in Raleigh and Charlotte, we thought it would be better for getting a wider sampling of market rental rates 15% is a number that the Owner feels is reasonable.*

#### **Council Question:**

"Existing leaseholders will be offered an option to convert to annual leases within 30 days of entitlement and have 30 days to accept or decline." Does the management company intend to offer annual leases beyond this? What about future residents?

#### **Applicant Response:**

*Current residents can enter into annual leases, and then renew every year as annual leases. New tenants would be offered monthly leases.*



## 12-09-2020 Town Council Meeting Responses to Council Questions #2

**Council Question:**

Would the applicant consider closing the gas station between 11pm and 6am?

**Applicant Response:**

*The Store operator requires a 24-hour operation.*

**Council Question:**

The storage building is too close to the mobile homes in the southeast corner - can you ask the applicant what can be done to address that?

**Applicant Response:**

*We can look at creating some additional separation during the ZCP design phase, including ensuring that adequate fire truck access and circulation is maintained.*

**Council Question:**

What material will be used for the fence and how high will it be?

**Applicant Response:**

*The final design has not yet been determined, but likely wood and 4' – 6' high.*

**Council Question:**

We heard from current residents that the management company has not made already identified needed improvements and repairs (potholes, traffic safety, trees, play spaces, etc.) - can we require the applicant to make these within the first 60 days as part of the agreement?

**Applicant Response:**

*Yes to potholes, trees and play spaces. These 3 have already been started. The new playground equipment is already stored on-site. Our understanding from the meeting notes is that the traffic safety issue is where the main driveways connects to MLK, which after a CZ is approved would then require ZCP, Construction Plan, and NCDOT Driveway Permit approvals prior to being allowed to construct, but we would definitely make the new driveway implementation a first phase of the project construction.*

**Council Question:**

Will the leaseholders only have that one opportunity (30 day window) to switch to an annual lease?

**Applicant Response:**

*Yes. That is the Open Enrollment period for converting to annual leases. Current leaseholders will be given plenty of notice in advance that they will have that option if they choose to do so.*

## 12-09-2020 Town Council Meeting Responses to Council Questions #2

**Council Question:**

Why not just make the it right-only from the beginning instead of waiting until BRT completion?

**Applicant Response:**

*From a business development/customer service standpoint the Convenience Store operator has long experience that the right in is important to their success. Removing the right in later is slightly less problematic from them, and the proper thing to do in order to safely accommodate the BRT. Also, to clarify, the right in would be removed upon notification from the Town that construction of the BRT platform has been scheduled...not BRT Completion.*

**Council Question:**

How often will the retained real estate agent be surveying comparable lot rents? Why was Raleigh and Charlotte markets chosen as comparables?

**Applicant Response:**

*We are proposing every 4 years. The Chapel Hill Rates are comparable to Raleigh and Charlotte, but because there are so many more parks in Raleigh and Charlotte, we thought it would be better for getting a wider sampling of market rental rates.*

**Council Question:**

Why did the applicant transition from meeting with the whole community to one-on-ones in September 2019?

**Applicant Response:**

*That was when the conversations turned to meeting with those residents whose homes would be moved, asking them what their needs were, to determine the feasibility of moving their unit, and then working through accommodating their relocation needs (including temporary housing).*

**Council Question:**

Existing leaseholders would be offered an option to convert to annual leases. What kind of leases would new leaseholders be offered?

**Applicant Response:**

*Monthly leases.*

## 12-09-2020 Town Council Meeting

### Responses to Council Questions #2

**Council Question:**

How long do residents have to choose whether to remain on-site?

**Applicant Response:**

*15 years minimum.*

**Council Question:**

I believe stipulation may be deficient. As currently written, it could allow the owner to charge high rents for almost four years before a correction is made. And allowing a 15 percent corridor after review means that residents could be paying \$75 or more over market based on current rental rates?

**Applicant Response:**

*That is certainly not the intent, and we would welcome the opportunity to discuss re-wording this to make you comfortable that it won't happen.*

**Council Question:**

There's a new proposal that a periodic survey of mobile home park rent rates be done and the rents at this site capped accordingly. Why are the rates surveyed in Greater Raleigh and Charlotte, and not Orange County or Durham?

**Applicant Response:**

*The Chapel Hill Rates are comparable to Raleigh and Charlotte, but because there are so many more parks in Raleigh and Charlotte, we thought it would be better for getting a wider sampling of market rental rates.*

**Council Question:**

How would property-tax pass-throughs be handled as part of the agreement? Subject to the 15% cap on rent, or separate?

**Applicant Response:**

*This would need to be separate. Orange County/Chapel Hill rates for mobile home lots are currently several times more than peer communities (including Raleigh and Charlotte) and as the Property Owner is not able control future tax increases by the County, can't be put into a potential situation where they have to "eat" tax increases imposed by the County.*