

03-02-2022 Town Council Meeting Responses to Council Questions

ITEM #1: Discuss Redevelopment of the Police Station Property at 828 Martin Luther King Jr., Boulevard

Council Question:

It is stated that the Town will fund all costs associated with the MSC. Does that include relocation costs, and would those costs be part of the cost base upon which Belmont will be paid a management fee? Also, has a venue for the relocation been identified or is that still to take place?

Staff Response:

The development team will assist in identifying a temporary location. For the purposes of the proforma, we have estimated a cost of \$1M for rent and relocation. Until a location is identified, we will not know the full cost of temporary rent payments or how that cost will be paid. The temporary relocation site is yet to be determined. The development team has had conversations with Police staff to understand their unique space needs. No lease for temporary space will be executed until an EDA is authorized by Council and development is expected to proceed.

Council Question:

My assumption is the Town will select the A/E team for the MSC and approve all plans? Is that correct or will features of the site require at least the engineering team be shared?

Staff Response:

The Town will directly contract with the general contractor and architect, who will be directly responsible to the Town for their services. The Town is outsourcing limited design/construction responsibilities to Belmont. Some common site costs like geotechnical/engineering costs are proposed to be shared on a to-be-determined prorata basis.

Council Question:

What are the Town's decision rights over the EMP?

Staff Response:

The Environmental Management Plan (EMP) is overseen and approved by NCDEQ and details the site safety measures to be conducted during construction. This document is typically prepared by experts in environmental engineering and brownfield redevelopment and we intend to follow this practice. Belmont-Sayre will be responsible for preparing the EMP, with our environmental consultants and legal counsel providing input.

03-02-2022 Town Council Meeting Responses to Council Questions

Council Question:

Is it reasonable to assume that the EDA can be entered into before a Brownfields agreement is in place? Won't the final cost of the EMP affect the EDA and pour decisions regarding it?

Staff Response:

Yes, we believe the EDA can be entered into before the BFA is in place. Belmont, at its expense, will be responsible for preparation of a development environmental management plan ("EMP") under the brownfields agreement, per DEQ's requirements, with input from the Town's environmental consultants and counsel.

Council Question:

We have discussed having a third party review our agreement with Belmont for fairness. Should we have a stipulation in the MOU that Belmont agrees to provide necessary information to the third party and assist in the review in whatever way is reasonable, i.e., open their books?

Staff Response:

Yes, this could be included in the MOU.

Council Question:

The MOU states that Belmont will manage the MSC project even if their separate project does not go forward. If the project becomes solely the MSC, shouldn't we bid out the PM services?

Staff Response:

An Economic Development Agreement allows for the sole sourcing of a project manager. As the qualified firm selected from the RFQ process, Belmont-Sayre has substantial experience in NC Brownfield redevelopment. If Council prefers to pursue a bid process for project management, that can be discussed.

Council Question:

On page 449, there is a statement that "hard" design and construction costs will be allocated. Aren't design costs typically considered "soft" costs. How does this affect the allocation?

Staff Response:

We can adjust this language to improve clarity and include design as a "soft" cost.

03-02-2022 Town Council Meeting Responses to Council Questions

Council Question:

The MOU states that the Brownfields agreement will allow commercial uses in order to accommodate the MSC. Should those also be designated institutional, as I believe that is how this use would be considered under the LUMO?

Staff Response:

The MOU language is consistent with the NC Brownfields land use descriptions and should not impact LUMO definitions. For consistency, we can use "institutional" in the MOU.

Council Question:

If a CZP for Belmont's project is not approved, do they have any recourse to the Town to recover any of their costs?

Staff Response:

This will be an EDA negotiation topic.

Council Question:

When reviewing the EDA I believe that it will be necessary for the Town to see a complete allocation of costs so that it is known what the total cost to the Town will be and what the total value we are receiving for the property is.

Staff Response:

Yes. A comprehensive project proforma will be shared with Council during the EDA review to show total costs to the Town and property value.

Council Question:

What incentives, if any, does Belmont have for minimizing the Town's costs on the MSC and common site work, as Belmont receives a management fee based on total costs, i.e., their fee goes up if costs go up?

Staff Response:

Belmont benefits from reducing costs on the common site work because it is proposed that there would be a cost sharing agreement between both parties. Belmont would also pay higher costs if there are increases for common site work.

03-02-2022 Town Council Meeting Responses to Council Questions

Council Question:

Since the last meeting we had regarding the 828 redevelopment on January 26, how much has the Town of Chapel Hill paid our three consultants (Hart and Hickman, Poyner Spruill, and Business Street) for work related to the 828 redevelopment site?

Staff Response:

The Town has not yet received any invoices from Hart and Hickman or Business Street for work done since January 26. The Town recently paid a Poyner Spruill invoice for January 2022 work that included less than \$800 of fees at the end of January. Staff can share updated information with the Council as future invoices are submitted for this work.

Council Question:

Is there another recent example of a municipality constructing housing on top of a coal ash site?

Staff Response:

NC DEQ has compiled a map of known structural fill sites in the state, however, that list is only based on DEQ records and may not include all locations. The map is searchable and available here: <https://deq.nc.gov/about/divisions/waste-management/solid-waste-section/coal-ash-structural-fills>. Staff have not identified any historic coal ash sites that have been repurposed for residential development utilizing the resources on DEQ's website. In many cases, the only link is to a reuse permit held by a utility, but doesn't say what the property was used for at the time or now. The utility companies had blanket permits to use coal ash as structural fill for a number of uses, including as fill below "residential construction foundations".

Staff have identified historic coal ash sites in other states that have been repurposed for residential development. Mason Run in Monroe, Michigan is one such example. The 500 home community was built on a site containing coal ash and C&D materials and was redeveloped as a public-private partnership. Mason Run has received multiple awards for redevelopment excellence, including a 2008 Economic Development Excellence Award from the International Economic Development Council, and an Environmental Excellence Award from the Michigan Association of Environmental Professionals.

<https://www.sme-usa.com/project/from-urban-brownfield-to-thriving-500-home-community>

<https://www.mml.org/resources/publications/mmr/issue/march-april2010/monroe.html>

03-02-2022 Town Council Meeting Responses to Council Questions

Council Question:

Research shows children living near coal ash sites have significantly more health problems including ADHD, increased allergies, and gastrointestinal problems than children not living near such sites. [See e.g. Sears, C. G., & Zierold, K. M. (2017). Health of Children Living Near Coal Ash. *Global pediatric health*, 4, 2333794X17720330.

<https://doi.org/10.1177/2333794X17720330>] While I realize the idea is that our site would be capped in some way with the goal that this would reduce the chances of residents of the site contacting coal ash over the years, we obviously can't know what changes may happen over time. And as this research shows there is an increased level of risk for children on the site should we decide to allow housing to be built and the mitigation measures are less than 100% effective. I have read the environmental study, but I am interested in general what level of risk staff considers acceptable in regards to this project. Are the benefits from building housing instead of office/municipal space great enough in town staff's view to outweigh the increased health risks to children and others?

Staff Response:

The coal combustion products at the MLK site are currently covered in the fill area (except for a few minor areas along the embankment) which prevents generation of fugitive dust or other contact with the impacted media. Further, as part of redevelopment of the property, the coal ash would be capped with clean soil, pavement, and/or buildings which would preclude its exposure, and a Brownfields Agreement will require long-term inspections to ensure the coal ash remains capped and, if needed, that barriers are repaired to prevent exposure of occupants to underlying coal ash.

The staff is comfortable with redevelopment of the property under any land use scenario the Council decides is appropriate, including residential, provided it occurs pursuant to a Brownfields Agreement. It is the staff's understanding from our outside legal and technical experts that under a Brownfields Agreement: (i) as noted above, the coal ash fill on this property would have to be capped by clean soil, pavement and/or buildings, (ii) a retaining wall must be constructed as a further containment measure and to provide stability for the embankment, (iii) deed restrictions would be put in place preventing the disturbance of any coal ash fill and/or soil without DEQ's prior approval and restricting use of the groundwater, and (iv) additional mitigation measures would be required if any land use change occurs, new contaminants are found, or if new information is learned about any constituent of the coal ash fill. Whether any portion of the property is repurposed for residential use will of course be up to the Council, and its comfort level in these requirements of the brownfields program.