

02-24-2021 Town Council Meeting

Responses to Council Questions

ITEM #9: Consider an Application for Conditional Zoning for 1200 & 1204 Martin Luther King Jr. Blvd.

Council Question:

If I am understanding the rezoning request correctly, they are asking that the conditioned self-storage facility be considered as an accessory use to the Manufactured Home Park (as a residential use). Given this, would the applicant be in violation of the zoning if the MHP was removed or no longer in operation or can the MHP be change to another residential, office, commercial, or institutional use in order to continue to meet that zoning requirement?

Staff Response:

If the Mobile Home Park were to be redeveloped or changed to another use, it would require a new Conditional Zoning. If the Mobile Home Park were to cease operation but remain on site, the Self-Storage would still be a conforming use until such time that the Mobile Home Park was redeveloped.

Council Question:

Since addition of homes in the RCD has been removed, is the total number now 73? If not, where would the additional 10 homes be placed and what impact would the additions have on spacing and privacy of current homes? Are there any regulations or guidelines on minimum spacing between mobile homes?

Staff Response:

The applicant has requested to reserve the right to 83 units, in the event that they are able to find space on-site (not in the RCD) to fit additional units. The revised plan sheet, C202 Alternate Unit Relocation Exhibit, shows the proposed location of the additional units. The building code includes spacing requirements and fireproofing of walls depending on spacing between structures.

Council Question:

Is there a legal definition of "commercially reasonable"? Does this sentence (below) make the covenants stronger or weaker, in the Town attorney's opinion?

The developer and its successors shall use commercially reasonable efforts to maintain the occupancy of the mobile home park at full occupancy for the full fifteen (15) year period of this condition.

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Staff Response:

Prior to the last draft of the Covenants and Conditions, the documents specified that the owner would maintain a mobile home park as a use for 15 years, but there was no express language requiring that use to be kept occupied by tenants during time. This sentence added by the applicant is designed to make that requirement more explicit. The “commercially reasonable efforts” standard is often seen in business contracts, and it imposes an objective standard on the owner’s conduct. It is interpreted different ways by courts in different contexts, but in general it would require the owner to have made the same (or qualitatively equivalent) diligent efforts that another reasonable manufactured home park owner would make when attempting to keep full occupancy.

Council Question:

The application materials provide the total impervious surface and total RCD incursion by zone, but I don't see that it provides the requested new impervious surface and new RCD incursion amounts (vs. existing) - could those numbers be provided?

Staff Response:

Information from the applicant to be provided.

Council Question:

Item 28 in the revised ordinance states that there will be 8 additional manufactured home pads added, while 10 additional in other locations?

Staff Response:

Condition #28 will be corrected – it should read:

Manufactured Home Park Lot Layout: Prior to issuance of Zoning Compliance Permit, the developer shall provide details for review and approval by the Town Manager for the additional mobile home lots. The additional ~~eight (8)~~ ten (10) lots shall be located outside of the Resource Conservation District, with no additional impervious surface or land disturbance than provided in this Ordinance.

Council Question:

Are there lighting plans/requirements in place to ensure that lighting from the storage and gas station do not interfere with the residents, i.e. shining into windows at night, etc. or can that requirement be added to the ordinance?

Staff Response:

The Town requires that light not exceed 0.3 footcandles at the perimeter of the development, to

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avoid spillover into adjacent properties. There is no requirement for regulating on-site light levels, however. This requested requirement could be added into the ordinance if desired.

Council Question:

The packet included the email from the Planning Commission but not the official Recommendation report - could you please share that?

Staff Response:

The recommendation is attached.

Council Question:

My recollection is that at the January 27th meeting Mr. Jewell said that the applicant was withdrawing his request for 10 additional pads. Why has that now changed, and the applicant is requesting 83, even if none of the new ones will be in the RCD?

Staff Response:

The applicant has requested to reserve the right to 83 units, in the event that they are able to find space on-site (not in the RCD) to fit additional units.

Council Question:

In the CDC statement, they requested information from the applicant. Have they received all of the information that they requested?

Staff Response:

The information provided to the CDC was provided to all the advisory boards. Staff is not aware of a request for additional information.

Council Question:

Pg. 88: The last sentence of stipulation 6 would appear to largely negate all that comes before it, i.e., although they need to notify the Town and accept applicants, they have no obligation to accept them. Is that true? Would they be able to fill empty pads with applicants from elsewhere instead?

Staff Response:

The Town Attorney has interpreted this condition to require them to notify the Town of a vacancy, so the Town can then opt to inform the other mobile home park residents. (The Town Manager would have discretion as to whether and how to resource and administer this notification process.) The notification appears designed to provide a fuller opportunity for the other mobile home residents to become applicants. It does not require the owner to accept any

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particular applicant as a resident, and it does not prevent other members of the public from applying to become (or being accepted as) park residents. Note that in a separate condition the applicant has agreed to use commercially reasonable efforts to keep the park at full occupancy for the 15 years.

Council Question:

Pg. 90: In stipulation 26 there is a requirement for a displacement plan with approval from the Town Manager required. What happens if the Town Manager rejects the plan? Should there not be some minimum requirements for such a plan?

Staff Response:

Any reduction in the first 15 years would be subject to the Displacement Mitigation Plan. The requirements for the Displacement Mitigation Plan are provided in the condition.

Council Question:

Pg. 90: Stipulation prohibits using the park for STRs. Would that prohibition apply to individual residents for any STR use? If so, is that appropriate?

Staff Response:

The stipulation broadly prohibits STRs in the Mobile Home Park.

Council Question:

Pg. 91: In stipulation 32, to which uses/structures do the bicycle parking requirements apply?

Staff Response:

Bicycle parking is required for the gas station and self-storage buildings.

Council Question:

Pg. 93: Is stipulation 53 the standard CDC requirement or is it unique to this project?

Staff Response:

This is the standard CDC condition.

Council Question:

Questions have been raised about a crown sign on the building. Can we ensure that if, such signage (or any other illuminated signage) is used, it does not face the mobile homes?

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Staff Response:

Staff has discussed the proposal of limiting the self-storage building to one crown sign. The applicant did not agree to this condition, so it was not included.

Council Question:

The applicant has stated that the rules and regulations that they have promulgated are standard on all of their properties (and may be common for the entire industry). Have we verified this?

Staff Response:

Staff has not verified this statement. A copy of the rules and regulations, provided by the applicant, is attached.

Council Question:

Under the Community Rules & Standards, who is responsible for power washing the mobile homes?

Applicant Response:

Residents are responsible for power-washing their own homes.

Council Question:

What kind of fencing then would be erected between the self-storage and mobile homes?

Staff Response:

The ordinance prohibits chain-link fencing, but otherwise does not specify. The applicant may be able to provide additional details regarding the intended fence design.

Council Question:

Did the applicant not commit to removing the 10 additional dwelling units on-site? Why is it still on the application? It says that the units in the RCD have been removed, so is the applicant planning on adding the 10 units within the current footprint of the park?

Staff Response:

The applicant has requested to reserve the right to 83 units, in the event that they are able to find space on-site (not in the RCD) to fit additional units.

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Council Question:

Is there any national data around new manufactured housing and appreciation/depreciation over time?

Staff Response:

Yes, there have been studies on the appreciation or depreciation of manufactured housing. The data in this [Urban Institute article](#)¹ suggests there is evidence that manufactured homes can appreciate similarly to site-built homes. The University of New Hampshire's Carsey Institute also released [this study](#)² with a key finding that manufactured homes in resident owned communities can see the value of their homes increase over time. Not all manufactured housing is shown to appreciate though. The data seems to suggest there are several factors that influence whether a manufactured home appreciates in value or depreciates, including the regional housing market, the desirability of the specific community, and the home.

Council Question:

The CDC resolution mentions a mobile home HOA, does one exist?

Staff Response:

No HOA is included in the proposal.

Council Question:

Has the applicant come back with an answer on being willing to reduce the 15% down to 10% in terms of rental price range compared to other MHP's and doing the rent market comparisons more frequently than every 4 years? Is there anything stopping the applicant from raising the rents above the 15% threshold between the 4 year "checks"?

Staff Response:

The applicant has not agreed to modify the terms of the market rate rental comparison process.

Council Question:

Is the PIL of \$15,000 for BRT stop improvements sufficient? What will that get us?

Staff Response:

The \$15,000 payment-in-lieu will provide for a standard bus shelter. Staff is estimating that the cost of future BRT stations will be approximately \$585,000.

¹ <https://www.urban.org/urban-wire/new-evidence-shows-manufactured-homes-appreciate-well-site-built-homes>

² <https://scholars.unh.edu/cgi/viewcontent.cgi?article=1009&context=carsey>

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Council Question:

On pg. 90, if the Town Manager finds the Displacement Mitigation Plan insufficient, what happens? Do we have an enforcement mechanism or some sort of minimum requirements for such a plan?

Staff Response:

Any reduction in the first 15 years would be subject to the Displacement Mitigation Plan. The requirements for the Displacement Mitigation Plan are provided in the condition.

Council Question:

Where in the stipulations are the street improvements for safety within the park that the applicant agreed to (i.e. installing a speed table or some other speed reduction device)?

Staff Response:

The work is not included in the conditions. The work is part of the on-going updates to the park that the Owner is doing. The potholes have already been filled, and a more comprehensive resurfacing and in some cases widening will take place upon issuance of a ZCP. Any widening will entail an increase in impervious surface (which is accommodated in the pre-post impervious calculations) and can't be done until a ZCP is approved.

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Council Question:

The closest map that I see for the 3 new parcels in the slide #9 of the staff presentation. However there is a txt box near lower left corner "New gas station" that blocked that area. Can we resend the GIS map without the text box?

Staff Response:

See diagram below:



Council Question:

From what I can see now, parcel 2 and 3 don't seem to have exit/entrance to access the public right-of-way without going through parcel 1, or construct new road in the RCD area. How could these work as independent parcels? Are there regulations on criteria to establish an independent parcel?

Staff Response:

Each of the proposed lots does meet the dimensional standards of the Land Use Management Ordinance as shown in the table below:

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	Zoning District	Minimum Lot Size	Proposed Lot Size	Minimum Frontage	Proposed Frontage
Parcel 1	NC	5,500 sf	68,739 sf	40 ft	264 ft
Parcel 2	OI-2	5,500 sf	75,124 sf	40 ft	63 ft
Parcel 3	OI-2	5,500 sf	462,379 sf	40 ft	262 ft

It is fairly common for developments consisting of multiple parcels to have a joint access, where the access driveway goes through one or more parcels. Typically, an access easement is created to allow all properties to have use of the driveway. A condition has been included in Revised Ordinance A for cross-access easements through the site. There is no requirement for each parcel to have independent access, but they must meet the minimum requirements for street frontage and lot width.

Council Question:

According to LUMO Table 3.7-1: Use Matrix, Manufactured Home Park is "--" Not Permitted for OI-2. So, is it against our LUMO to designate manufactured home park to be the primary use for New Parcel #3 (OI-2-CZD)?

Staff Response:

While it is true that manufactured home parks are not allowed as a primary (or accessory) use in OI-2, they are not allowed in the existing R-4 zoning district either. The applicant is requesting a modification to regulations to allow the existing nonconforming use (the manufactured home park) to continue.