

MEMORANDUM

To: Planning Commission

From: Anne McClung, Director, Planning and Building Department

Date: October 1, 2021

Subject: RZN 21-0003 – Request to Amend RZN 17-0006 and RZN 20-0002 for the Midtown Development on 21 ± acres at 501 South Main Street by Steve Semones (agent) on behalf of Midtown Development Partners LLC (applicant/owners) and Town of Blacksburg.
UPDATE MEMO

KEY ELEMENTS

Below is an **updated** summary of key elements to provide guidance to Planning Commission and Town Council for discussion at work sessions.

- **Evaluation of proposed changes in comparison to the adopted 2020 rezoning**
- **Increase in residential density on DC zoned portion of the development**
- **Measurement of density on DC zoned portion of development by bedrooms, eliminate unit count**
- **Changes in uses and configuration of uses on Parcels DC #2 and DC #4**
- **Reduction in parking ratio for Parcel DC #6**
- **Change in timeline for traffic signal installation and impacts of development prior to signal**
- **Cumulative impact of changes on mixed-use character of the development**
- **Residential development as driver of mixed-use project**

BACKGROUND/INITIAL REZONING 2019

At the work session on September 21, 2021, the Planning Commission discussed the August 23, 2021 submitted changes to the Midtown development. The applicant indicated prior to, and at the work session, that further changes would be proposed and some changes may be withdrawn. The applicant has submitted revised materials dated September 28, 2021. Staff is providing updates below on each topical item that was discussed in the September 17, 2021 staff report.

Staff has noted updates as falling in one of the four following categories:

- **Further Revisions**
- **No Further Revisions**
- **Changes Withdrawn**
- **New Revisions**

Further Revisions indicates that a change was proposed in the August 23rd application and the wording of said changes has been further revised. **No Further Revisions** indicates that the changes from the August 23rd application stand and have not been further revised. **Changes Withdrawn** indicates that the changes that were proposed in the August 23rd application have been withdrawn and that the text and exhibits revert to the adopted wording from the 2020 rezoning (RZN 20-0002). **New Revisions** indicates a change from the adopted 2020 rezoning that was not proposed as part of the August 23rd application.

Staff has provided updates in this memo specific to a comparison of the August 23rd application to the September 28th application. However, Planning Commission should refer to the original September 17th staff report for full analysis.

The Midtown Development is governed by Ordinance #1933 approved in 2020. The approved application materials can be found on the web at www.blacksburg.gov/midtown under Applications and noted as FINAL. The 2020 proffer statement was provided as an attachment to the September 17th staff report.

DOWNTOWN COMMERCIAL ZONING

RESIDENTIAL USES IN DC

The changes in residential density for the DC zoned portion of the site now proposed by the applicant include:

- Adding 57 more bedrooms in DC; new maximum of 400 bedrooms
- Regulating density in DC by bedroom and not units
- Allowing residential uses on lower floors on Parcel DC #2, remove requirement residential be above 3rd floor
- Changing how residential, commercial, and office uses are allocated by building on Parcel DC #2
- Adding some occupancy restrictions to units in DC

The changes are explained in the following text. Staff continues to be concerned that the residential uses are now becoming more of the driver on the development of Parcels DC #2 and DC #4, which was not the case when the rezoning was originally approved. The development as a whole is a mixed-use project with the non-residential components developed on the front 10.59 acres of the site zoned Downtown Commercial. The economic development aspect of the non-residential development was an important part of the consideration of the original 2019 rezoning and the construction of the parking garage.

Density Increase – *No Further Revisions*

No further revisions are proposed with respect to the requested increase in residential density in the DC zoned portion of the site. The application adds 57 bedrooms to allow a maximum of “400 bedrooms over the 10.59 acres of DC zoned land to occur on Parcels DC #5, DC #2A, DC #2B and DC #4.” With the density already used on Parcel DC #5, the available density for Parcels DC #2A/2B fronting on Main St. and DC #4 on Eheart St. with the amendment would be 57 additional bedrooms for a total of 222 bedrooms for the development, representing a 16.6% increase in density. With the September 28th submittal, this density would be subject to some of the same restrictions related to occupancy as the Planned Residential (PR) portion of the site. See Residential Restriction and Occupancy in DC.

Residential Density by Bedrooms vs. Unit in DC – *No Further Revisions*

No further revisions are proposed with respect to the method for how to regulate density. The amendment proposal removes the “whichever is less” wording in the density calculation of the number of bedroom or number of units, whichever is less. One of the impacts of the current requirement has been discouraging the inclusion of efficiency or 1-bedroom units in the development. These types of units are very difficult to find in Blacksburg and increasing the supply of this unit type is desirable.

Ground Floor and Upper Floor Uses in DC – *Further Revisions*

Under the 2020 rezoning, residential units are limited to upper floors on Parcel DC #2. Residential uses must occur on the 4th floor and above. Given the elevation change, the 2nd floor will be at the ground level facing the Commons. The existing limitations are shown in the excerpt from Proffer Statement Exhibit B below.

Allowed Uses

- Multi-Use: Commercial, Office, Civic and Residential
- Multi-use commercial on ground related levels with residential allowed above the third level.
- No more than 25% of the ground floor accessed off South Main Street shall be office uses.

For DC #2, the August 23rd submittal allowed any floors above the first floor on Main Street to be comprised of residential units which is a significant departure from the original commitment. In particular, the ground floor on the Commons could be residential. At the work session, Planning Commissioners inquired about the suitability of residential uses on the 2nd floor facing the Commons. In response, the applicant has indicated that the 2nd floor would not have units facing the Commons as shown below in the excerpt from revised Proffer Statement Exhibit B. However, residential units could still be on the 2nd floor of the building facing South Main Street and on all other floors above. This change does not address staff concerns and still represents a significant departure from the current commitment in the adopted rezoning.

September 28th Proffer Statement Exhibit B:

Allowed Uses

- Multi-Use: Commercial, Office, Civic and Residential*
- Multi-use commercial on ground related levels on South Main Street.
- Only a commercial or office use may face the Old School Common on the second floor.
- No more than 25% of the ground floor accessed off South Main Street shall be office uses.

Allocation of Land Uses by Building in DC – *Further Revisions*

The August 23rd application included changing the way non-residential and upper floor residential uses are allocated on the parcel fronting Main St. (DC #2) and the parcel fronting Eheart St. (DC #4). Parcel DC #4 will also be visible from Main St. Under the adopted rezoning, the ground floor on DC #2 (on South Main St.) must be commercial uses. The 2nd floor, which faces the Commons, and the 3rd floor must also be commercial or offices uses.

The September 28th application reverts to the approved language for uses on DC #4 and further revises the requirements for DC #2. Proffer Exhibit C on page 12 for DC #4 does not include a uses note but does still include an asterisk. This should be removed for consistency and clarity. Proffer Exhibit B for DC #2 on page 11 of the revised application has the following note added:

“Uses note: In buildings located on DC parcels 2A and 2B, the Main Street ground level shall be retail and office, as provided above. The second floor shall not have residential uses facing the Commons, but otherwise this level and the above floors will not be required to stack more than one use vertically. If either DC 2A or 2B has residential uses on the upper levels, then the other DC2 parcel shall only have office uses on the upper levels.”

For DC #2, the revision prohibits residential uses on the 2nd floor facing the Commons but allows residential uses on the 2nd floor facing South Main Street. The applicant indicated this change was primarily driven by difficulties in financing, building design, and construction costs for buildings with three uses. The September 28th revised language now allows for three uses in one building reflecting a change from the August 23rd limitation of only two uses in a building.

The development could occur in two separate buildings or in one building with a common core in the middle. Staff does have concerns that one building with residential uses could occur and the second building not be constructed. There is no timing mechanism. There is also no governance on the sizes or

proportionality of the two buildings, which could result in a much larger commercial/residential building and a much smaller commercial/office building.

As part of the September 28th submittal, the applicant provided a letter from Cushman & Wakefield/Thalhimer stating concerns about the current market. Staff's concerns remain regarding the expansion of residential uses in the most visible and prominent building in the Downtown Commercial portion of the site, anticipated to be a key economic development component of the mixed-use project. The rezoning was adopted in 2019 and a longer-term perspective may be needed regarding market conditions that would ensure the project meets the vision established in the existing rezoning. One would anticipate a longer build out with a project of this scale.

Building Extension in DC – *No Further Revisions*

The applicant has noted that the building on Parcel DC #4 may now be extended over the surface parking lot approved in Midtown Amendment #1. Staff supports consideration of this change but notes that extension of the building over the parking lot will require a change to the approved architectural renderings for Parcel DC #4 and that revised architectural renderings should include a corner element.

Allocation of Land Uses in DC on Parcel DC #6 – *Changes Withdrawn*

Parcel DC #6 is shown for a hotel use in the approved Proffer Statement and Pattern Book. The applicant has withdrawn changes to allow Parcel DC #6 to be developed similar to Parcel DC #5 with non-residential uses on the ground floor and multiple stories of residential units. This represents a return to the existing commitment in the approved 2020 rezoning.

Residential Restriction and Occupancy in DC - *Further Revisions*

The existing wording in the Proffer Statement never addressed the types of units or other restrictions in the DC zoned portion of the site as compared to the PR zoned portion. The August 23rd application added a prohibition on 4-bedroom units in the DC zoned portion of the site. The September 23rd application includes the same language in Section 3.1.2 as shown below:

“3.1.2 Density and Occupancy

The Downtown Commercial District shall have a maximum overall residential density of 400 total bedrooms. The construction of this density shall be limited to DC Parcels 2A, 2B, 4A and 5. Residential units will be limited to Studio, one (1) bedroom, two (2) bedroom or three (3) bedroom units. No four (4) bedroom units shall be permitted. Any residential unit shall have a maximum occupancy of a family, plus two unrelated to the family; or no more than three unrelated persons.”

One of the issues of concern in the original rezoning was potential student occupancy. To address this issue, Section 3.2.5 of the application contained language applying to the PR portion of the development entitled Encouragement of Long Term Residents with limitations and requirements applying to both rental and for sale residential products. Under the approved 2020 rezoning, this wording does not apply to the Downtown Commercial zoned portion of the site.

The September 28th application includes new language in Section 3.1.5 as follows:

“In order to encourage these goals, the following additional steps shall also be taken:

1. All leased communities and multi-use buildings on Downtown Commercial Parcels 2A, 2B and 4A shall adopt the following criteria:

- No “four (4) bedroom and four (4) bath” product be offered for lease.*
- All leases shall be by the unit. “By-the-bedroom” leases shall not be permitted.*
- Onsite management shall be provided to all owners during office hours of 9:00 am to 5:00 pm Monday through Friday; and 24 hour on-call emergency maintenance service. One office in the OBMS Site may manage all properties located in the PRD.*

- *A Resident and Guest parking policy will be adopted for the OBMS Site which shall issue parking permits/stickers to residents and visitor passes for visitors. Parking passes shall be visibly displayed in a location determined by the parking policy.*
2. All “for sale” residential units and developments on Downtown Commercial Parcels 2A, 2B and 4A (excluding transfers by the developer to related and/or subsidiary entities), whether apartment or condominium unit, shall be part of a Residential Homeowners Association or Property Owners Association (“HOA”) that must adopt the following rules and regulations prior to the sale of any units:
- *All purchasers shall be required to represent to the seller in an affidavit, at the time of purchase that they are not acquiring the property primarily for investment purposes or as a “rental property”.*
 - *In the event a residential unit is rented, the owner shall provide to the HOA the name and contact information of each tenant and each person residing in the unit, unless prohibited by law. In the alternative, the owner shall provide the name and contact information for the person responsible for communicating with each tenant and each person residing in the unit.*
 - *The initial term of any lease shall be at least twelve (12) months. Short term tenancies of less than twelve (12) months shall not be permitted.*
 - *All leases must contain a clause notifying the tenants of the obligations to abide by all covenants and bylaws, as well as the Town’s occupancy limitations.”*

The September 28th application was further revised to pull forward the wording from the PR into DC with the notable exception of the requirement for renters to provide an affidavit that their income is two times the monthly rent for the unit. While application of such requirements might prove problematic on DC #5 which is further along in the development process, this requirement could apply to parcels DC #2 and #4 to alleviate concerns about student housing. The rental limitation, more so than any other limitations in Section 3.2.5, addresses concerns expressed by Town Council and Planning Commission regarding occupancy and should be considered.

PLANNED RESIDENTIAL ZONING

COMPREHENSIVE PLAN – RESIDENTIAL INFILL GUIDELINES (Section 8.3) – New Revisions

The 2020 approved rezoning includes the following sentence regarding open space in Section 8.3:

“In addition, the residential development will feature a clubhouse with a pool and a small neighborhood park with trail connections to Willard Drive and the other portions of the site.”

One new revision has been proposed in the September 28th submittal to this language (page 60) related to open space as seen below:

“In addition, the residential development will feature a small neighborhood park with trail connections to Willard Drive and the other portions of the site.”

The applicant is proposing to remove the clubhouse and pool from the residential portion of the development. The applicant is now further along in the design and development process and is anticipating much of the residential portion of the site will be in the form of townhouses. Removing the clubhouse and pool is likely due to the prevalence of this form of development rather than multi-family apartments, which often have such amenities. The applicant should review the remaining application text to determine if any other changes are needed regarding the clubhouse and pool for consistency now that a change is proposed in Section 8.3.

PARKING

Parking proposed for Midtown is a combination of surface lot parking, a structured parking garage, residential garage parking and on-street parking. The uses in the PR portion of the site provide all parking on-site. For the DC portion of the development, the hotel use on DC #6 has a dedicated surface lot and DC #5 has a combination of surface and under building parking to serve ground floor commercial and office and 3 stories of residential uses. There is also surface parking around the Old School Commons. The parking garage is anticipated to have 339 spaces. The loop drive, including the new parking lot on Church St., will contain 127 spaces. On-street parking is not included in parking calculations for the development except on the private portion of Midtown Way.

The August 23, 2021 letter from Steve Semones details the anticipated parking allocations and usage for the DC development. No further revisions have been proposed to the parking in the September 28th submittal. Further analysis is provided in the September 17th staff report.

PARKING IN DC - *No Further Revisions*

The 2020 Proffer Exhibits and Pattern Book give parking ratios for residential and non-residential uses in the DC zoned portion of the development. There are standards but the wording below explains how the parking provided is actually determined. For Parcels DC #2 and DC #4 the parking ratio is ultimately whatever is available in the parking garage.

"1 per 300 square feet (non-residential)

1 stall per 1 bedroom unit

2 stalls per 2 or more bedroom units

In the event the parking Facility cannot provide enough parking spaces to meet the required parking standard for both residential and non-residential uses in DC parcels 2A, 2B, and 4A, then the required parking standard for DC parcels 2A, 2B, and 4A shall be reduced to match the number of parking spaces the parking facility can provide. "

The Hotel use on Parcel DC #6, however, does have a defined and required parking ratio of 1 space per room and is intended to self-park.

The applicant added parking spaces around the loop drive by reconfiguring the parking spaces and replacing parallel spaces with pull-in spaces totaling 129 spaces. The applicant also added a small surface parking lot at the corner of Eheart St. and Church St. with the 2020 rezoning amendment. The applicant, through the Development Agreement, has the right to lease 200 spaces in the garage and the option to lease another 50 spaces to serve the Midtown Development.

In the August 23rd submittal, the applicant proposed a reduction in the parking ratio for the hotel from 1 space per room to 0.5 spaces per room. The applicant anticipates that the parking garage or other off-site parking area will handle any overflow during peak times. The applicant provided a parking estimate of 215 spaces to serve the anticipated 65,000 square feet of retail/office use for DC #2 and DC #4. According to the letter, these spaces would be around the Commons Loop and the parking area on DC #4 as well as in the parking garage. The remaining 170 spaces in the garage would be reserved for residential and public use.

Parking should be planned to serve a mixed-use development and not overly driven by parking for residential uses, which is the current market. Owners or renters of residential units will want guaranteed parking spaces. While not every bedroom will equate to the need for a parking space, there does need to be adequate parking for all uses at build out. Staff would encourage the applicant to limit or incentivize

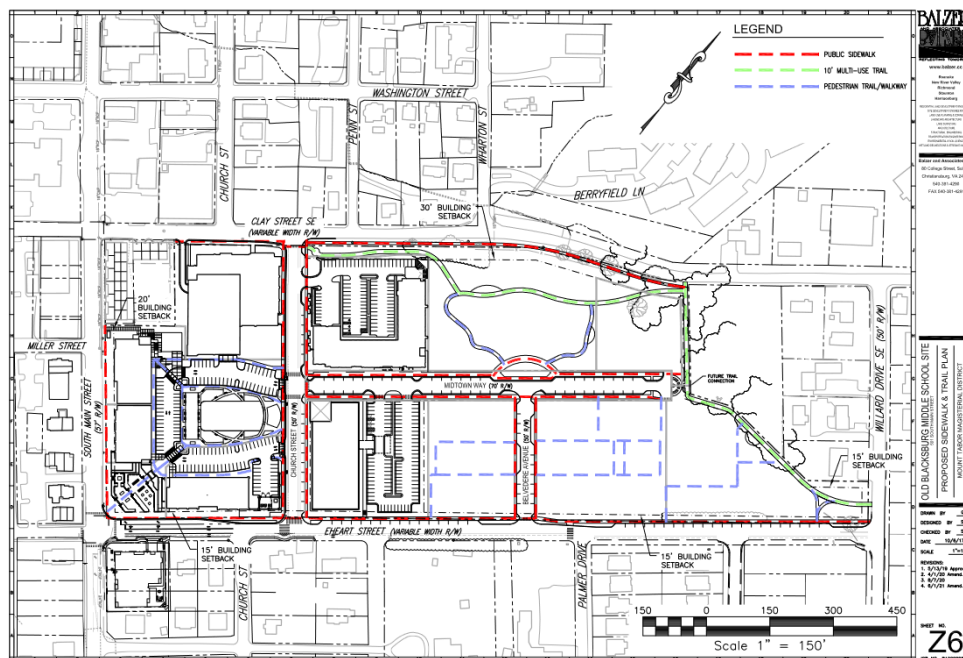
less parking for residential units given the urban setting of the development; however not to the extent, that it would impact adjacent neighborhoods. Hotel employees and other hotel visitors will also need parking. Staff does not want to see future commercial and office tenants uninterested in leasing space in the buildings because the parking is inadequate for their employees or patrons. There is no specific commitment to reserve any of the 250 spaces in the garage specifically for non-residential uses. Staff is sensitive to the fact that parking may begin to occur in the surrounding neighborhood if parking in the development is not sufficient.

PEDESTRIAN AND BIKEWAY SYSTEM

Trail System – *Changes Withdrawn*

The approved rezoning shows a sidewalk and trail system serving the overall Midtown development. The network is best illustrated on Sheet Z-6. The applicant has withdrawn the proposal to eliminate the portion of the trail that connects to Church St. The applicant has also withdrawn the change to reduce the width of the trail in its entirety from the 10-foot wide asphalt that is the town standard to a 5-foot wide asphalt trail. This represents a return to the existing commitment in the approved 2020 rezoning.

Approved Sheet Z-6



INFRASTRUCTURE

Traffic Signal Installation – *Further Revisions*

Existing Proffer #2, shown below, outlines the applicant's commitment to install a traffic signal at the South Main St./Eheart St. intersection before any Certificates of Occupancy are issued for the development. The existing proffer wording is as follows:

"2. To address the increased traffic resulting from the approved development, the Owner will construct at no cost to the town (i) a new traffic signal, including signal lights & poles, electrical signal boxes, engineering analysis and signal timing, and (ii) all associated road improvements at the intersection of South Main Street and Eheart Street, no later than the issuance of the first certificate of occupancy in the project."

This issue was discussed at length in the original rezoning. There are concerns about the need for the residents, employees and patrons of the Midtown development to have the ability to come out to a

signalized intersection at Main St. and Eheart St. It is anticipated that the Clay St. signalized intersection will back up. It may be difficult to exit from Church St. and turn left onto Clay St. and then turn left at the traffic signal. If development occurs without the new traffic signal, it will be difficult and potentially dangerous for drivers to turn left from Eheart St. onto South Main St. It is likely that drivers will seek alternative routes through the neighborhood to a signalized intersection; probably the Country Club Dr. and South Main St. intersection.

The August 23rd application proposed to allow development to occur prior to the traffic signal installation and switched the proposed timing mechanism for installation to 24 months after the first Certificate of Occupancy is issued. This timeline would allow any amount of construction on any parcels prior to the installation deadline regardless of the impacts. Staff did not support the August 23, 2021 changes in signal timing installation. The applicant has responded with further revisions that provide a more definitive approach for the signal installation and is proposing Certificates of Occupancy (COs) remain as the gating mechanism. The proposed proffer wording is below:

“2. To address the increased traffic resulting from the approved development, the Owner will construct at no cost to the town (i) a new traffic signal, including signal lights & poles, electrical signal boxes, engineering analysis and signal timing, and (ii) all associated road improvements at the intersection of South Main Street and Eheart Street. The traffic signal shall be installed prior to the issuance of the twenty-third certificate of occupancy within the private development portion of the project. A certificate of occupancy may be issued for the Town’s Public Safety building and garage prior to signal installation. If there are COVID-19 related supply issues with equipment manufacturing, delivery, etc. that could negatively impact this schedule, the applicant and the Planning Director may come to an agreement on modifying the timing of signal installation if sufficient evidence is provided that adequately demonstrates a supply chain shortage or challenge.”

The proffer as now proposed would allow a CO for the police station and for the 22 units in Phase I of the townhome project (Parcel PR #3). Staff is supportive of reverting to using COs as the gating mechanism, consistent with the adopted rezoning. Staff does have concerns about enforcement of this proffer, as worded, if an agreement cannot be reached between the applicant and the Planning Director regarding requests for building permits and Certificates of Occupancy after 22 COs are issued (as referenced in the proffer). If the applicant orders the equipment in a timely manner, this provision should not be necessary. If this relief mechanism is included, staff recommends modifying the language to address what happens if the Planning Director and applicant cannot come to an agreement. Changes to the timing of the signal installation should be at the sole discretion of the Town.

SUMMARY

PROFFER STATEMENT – *Further Revisions*

The proffer statement has been further revised and the most recent submittal by the applicant is dated September 28, 2021 and is contained on pages 3-33 of the application. There are 17 proffers (pages 3-9) and attached Exhibits A-N. Exhibits A-I (pages 10-24) are individual cut sheets that summarize the binding elements from the Pattern Book for each road frontage and parcel. Exhibits L-N are renderings of potential residential architectural styles (page 29-33). The changes in the Proffer Statement are covered in the staff report by topic. There are small changes for internal consistency in the Proffer Statement. Changes are outlined in the applicant’s letter dated August 23, 2021 and further changes are detailed in the applicant’s letter dated September 28, 2021.

PROCESS SUMMARY

Planning Commission is asked to make a recommendation on the proposed rezoning amendment request. If approved, the revised documents including the application, Pattern Book and Proffers offered by the applicant and approved by the Town Council, will replace and supersede the existing approvals. If denied, the development will continue to be bound by the ordinance, application, proffers, and Pattern Book approved in August of 2020. The decision to grant or deny the rezoning request is a discretionary decision, and should be made according to the criteria outlined in §1151, and with the analysis provided.