


MEMORANDUM

To: Town Council

From: Anne McClung, Planning and Building Department Director 
Kali Casper, Assistant Planning Director

Date: February 11, 2022

Subject: **UPDATE** CUP21-0006 Conditional Use Permit Request for Townhomes on the Ground Floor in the GC General Commercial zoning district on 8.444 acres at 203 Country Club Drive SW (Tax Parcel No. 287-A 41A) by Steve Semones of Balzer and Associates, Inc. (applicant) for Diversified Investors XIII, LLC (property owner).

Town Council further reviewed this CUP application at its February 1, 2022 work session. In response to discussion at the work session, the applicant has submitted a revised application dated February 8, 2022. Staff has reviewed the revisions, updated the recommended conditions and provided analysis on the changes proposed in relation to the topics covered at the work session. It may be helpful to refer to the December 10, 2021 staff report, December 30, 2021 staff update memo, and January 28, 2022 staff update memo for more information and explanation on the various topics discussed below.

The applicant, Steve Semones, has summarized the changes to the application in his letter dated February 8, 2022. **There are six items discussed in the letter.**

Separation Between Units (Items #1 and #2)

The revised application provides a minimum of 20' separation between contiguous series of townhomes and so the request for an exception to § 4231(b)(3) has been removed. The applicant has achieved the compliant building separation by removing one unit from the row of units along the property line adjacent to Margaret Beeks Elementary School. The updated dwelling unit count is now 97 units and a total of 277 bedrooms. Condition #2 has been revised to reflect the new maximum number of bedrooms. The change in the unit and bedroom count did affect other calculations in the application and the CUP application has been revised accordingly. There were minor changes to open space and greenspace square footages but the total maintains approximately 21% open space and continues to meet the required 20% open space. The revised application shows that 2 parking spaces have been removed (driveway and garage of removed unit). The revised parking ratio is now 1.11 rather than 1.1 spaces per bedroom. The total number of spaces provided in the development is now 307; as opposed to the previous 309 spaces.

Exceptions to Use and Design Standards for Townhomes

The following is a summary of exceptions/modifications that are requested for the revised application. These were discussed on pages 10-12 of the staff report and in the staff update memos.

- § 4231(b)(1) No more than 2 contiguous townhouse series adjacent to each other
- § 4231(b)(5) Townhouse orientation to street or parking area

§ 4231(b)(6) Only 1 yard adjacent to a driveway or parking spaces

An exception to § 4231(b)(3) for reduced separation between units is no longer needed.

An exception to § 4231(b)(4) regarding sidewalk connectivity is no longer needed.

Landscaping/Buffering (Items #3 and #4)

The revised application includes a commitment to maintain a 15' natural buffer within the 25' Type C buffer adjacent to Margaret Beeks Elementary School. The natural buffer is depicted on sheets CUP2, CUP3, and CUP4. As discussed at work session, the 15' natural buffer overlaps with an existing public utility easement. Revised sheet CUP4 includes an aerial image to clarify the location of existing vegetation, in particular the larger pine trees. In order to address staff concerns regarding maintaining the buffer in a natural state, the applicant has proposed an additional 30' public utility easement. This creates a 45' public utility easement along the property line, which will help to ensure that the natural buffer is retained as additional easement area is now provided, along the trail, should any future utilities be needed. A small area of the nature buffer may be removed in the future if a utility connection were needed for Margaret Beeks Elementary School. The applicant has also clarified that installation of the fence along the property line will result in some minor vegetation removal.

Homeowners Association (HOA) Commitments (Item #5)

The application had already been revised to indicate that the HOA will be responsible for all the exterior maintenance of the grounds and the buildings and notes that "this includes, but is not limited to, parking areas, sidewalks, open space & recreational areas, landscaping, lawn maintenance, exterior building repairs, and roof repairs." The applicant also indicated a willingness to include wording in HOA documents to address other issues such as noise and large parties. The applicant is putting this forward as a way to address concerns regarding lifestyle conflicts that would otherwise be addressed by strong property management in a multi-family rental development. The changes proposed respond to the discussion regarding assurances to be included in HOA documents. The Town does not enforce HOA policies or regulations.

Condition #6 already addresses a requirement that the HOA documents advise owners of the Town's Homestay Regulations. The Town Attorney and the applicant have been working on revisions to the wording of the condition related to lifestyle issues that would also be included in the HOA documents. An update will be provided to Town Council at the February 15, 2022 work session.

Sustainability (Item #6)

As discussed at the last work session, the applicant is having a Home Energy Rating System (HERS) analysis performed on the proposed units to determine energy efficiency. The applicant is still awaiting the current HERS rating of the proposed units and anticipates being able to provide more information prior to, or at, the February 15, 2022 Council work session.

Given that the applicant has indicated a desire to provide greater energy efficiency, Council may want to consider codifying this with a condition regarding sustainability using the HERS rating. The HERS rating system refers mostly to the energy-efficiency of an occupied home, and includes factors such as HVAC, insulation, and other energy-efficiency systems. The HERS rating does not explore other facets of sustainable building such as building materials, solar, or other considerations that contribute to a building's environmental impact, such as programs like EarthCraft or LEED. If the HERS rating is found to

be an adequate measure of sustainability for this development, it should be included in a condition applied to the Conditional Use Permit.

In the recent Berewick rezoning, the applicant proffered using the HERS rating and committing to achieving a percentage score above the building code in effect at the time. The following language from the Berewick proffer statement may be useful for consideration in drafting a condition for the CUP. Staff, the applicant and the Town Attorney will continue to work on this item and will update Council at the work session.

Berewick Proffer Language:

“All dwelling units constructed pursuant to the approved rezoning shall achieve a Home Energy Rating System (HERS) Index equal to a 10% or greater improvement over the minimum requirement in the current Virginia Residential Code applicable to the permit, and subsequent updates. Qualification shall be demonstrated through documentation submitted to the Department of Planning and Building from a home energy rating service certified through the Residential Energy Services Network (RESNET) that demonstrates that each dwelling unit has attained qualification, prior to the issuance of the Certificate of Occupancy (CO) for each dwelling.”

UPDATED STAFF RECOMMENDED CONDITIONS

1. The property shall be developed in substantial conformance with the application dated November 1, 2021, and last revised February 8, 2022.
2. The maximum number of bedrooms shall not exceed 277. Unit types A1, A2, and C2 are limited to a maximum of 2 bedrooms per unit. Unit types A3, A4, B1, B2, and C1 are limited to a maximum of 3 bedrooms per unit. Any areas shown as attics, office/flex space, or similar shall not be used as bedrooms.
3. The maximum occupancy shall be limited to a family plus two unrelated individuals or up to three unrelated individuals per unit.
4. Bicycle racks in individual unit garages shall be a type specifically approved by the Town, shall be affixed to either the wall or the ceiling, and shall be installed prior to issuance of a Certificate of Occupancy.
5. The existing trail easement must be vacated and a new trail easement must be dedicated in the location shown on the Trail Relocation Exhibit (Sheet CUP4) prior to site plan approval.
6. The Homeowners Association (HOA) documents must include a provision requiring the HOA to provide notice to owners regarding the Town’s homestay regulations with any change in ownership for an individual unit.
7. The owner shall abide by the terms in the Sanitary Sewer Service Acknowledgement Agreement with the Town of Blacksburg.

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8. The internal loop road and Rugby Lane shall have a speed limit of 15 mph and be posted as such.

Attachments:

Revision Letter from Applicant dated February 8, 2022

Revised Application (including text and drawings) dated February 8, 2022