

MEMORANDUM

To: Planning Commission

From: Kinsey O'Shea, AICP; Senior Town Planner *KO*

Date: August 12, 2022

Subject: RZN 22-0002/ORD 1994-Request to rezone 3.08 acres at 1800 Whipple Drive (Tax Map Nos.197-1 50A, 51C, 5; 197-a 51B, 52B, 5; 197-1 51A, 52A, 5; 167-24 53A and 197-1 46A) from R-5 Transitional Residential to PR Planned Residential by Balzer and Associates (applicant) on behalf of JJB Properties LLC (property owner).

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The Planning Commission reviewed the above-mentioned application dated June 1, 2022 at the July 19, 2022 work session. Planning Commission discussed a number of topics pertinent to the analysis of the application including those found in the July 15, 2022 staff report Key Elements. Following the July 19 work session, staff informed the applicant on July 20, 2022, that staff could not commit to providing analysis of revisions prior to the public hearing given the tight turnaround time. The applicant submitted a revised application on Friday, July 22, 2022, and requested to remain on the public hearing agenda for August 2, 2022.

At the August 2, 2022 Planning Commission Public Hearing, staff presented the analysis of the June 1, 2022 application, because there had not been enough time to review the July 22, 2022 materials. The Planning Commission acted to continue the public hearing to allow staff, the Planning Commission, and the public to review the materials submitted on July 22, 2022.

As Planning Commission may recall, the staff memo dated July 29, 2022 identified issues raised at the Planning Commission work session on July 19, and the Key Elements from the original July 15 staff report, and indicated that staff had not had sufficient time to review the July 22 materials. ***The items below are the identified issues from the July 29 memo, the July 15 Key Elements, and analysis of the submitted revisions.***

- *Solar photovoltaic systems:*
  - *Need for clarity regarding ownership and maintenance*
  - *Need for clarity regarding the amount of solar panels provided and the impact on the energy use/consumption in the units*
  - *Need for clarity on the commitment in the proffer language regarding "photovoltaic solar power system installed at the time of construction"*
  - *Conflict with trees shading the systems in the long term*

The applicant made changes to the proffer regarding solar to add that the solar units would be maintained in perpetuity by the HOA. However, no additional information regarding the function of the systems was provided. There was significant discussion at the July 19, 2022 work session and at the August 2, 2022 public hearing regarding ownership, maintenance, and performance of the solar power systems. At a minimum, the applicant should provide a measurable performance standard for the solar systems. In consultation with the Town Attorney on the proffer statement, not enough information has been provided to evaluate the proffer, or to ensure its enforceability.

While species selection is not required at this time, the applicant has indicated that a “medium columnar tree” is planted in some of these locations to minimize conflict with the PV systems, while still providing some landscaping. There is a balance to strike between providing landscaping, and providing solar access. Landscaping and shade trees can help keep energy costs low in the summer time, and prevent stormwater runoff in developed sites. The layout of a new development should consider, and provide accommodations for, both landscaping appropriate to the development and solar access.

- *Landscaping and Buffering (also Key Elements—Appropriateness of proposed district standards; Intensity of Development/Proposed layout of development; and Adequacy of area for rear yards/perimeter buffer)*

The revised landscape plan shows fewer trees overall, but specifically there are several notable changes: there are fewer trees along the rear of the units on the south property line where the development abuts a vacant property; and additionally, the application has been revised to remove all front yard trees, except the required street trees along Whipple Drive. There was discussion at the work session and the public hearing regarding landscaping as it relates to compatibility with the neighborhood. No buffer yards are proposed with this development. There are a significant number of existing mature trees on the property, which will likely be removed during construction. Replacing landscaping, especially in consideration of additional density and intensity of development, should be evaluated for whether or not the proposed development adequately mitigates negative impact, and is compatible with the neighborhood. In order to provide the appropriate landscaping for a particular development with consideration given to solar access, additional modifications could be considered such changes to the development layout, reduced overall intensity of the proposal, or additional open space areas that could be more heavily landscaped.

- *Accessibility (also a Key Element—Consistency with intent of PR to provide housing to fill identified need):*
  - *Need for clarification of whether any units are fully-accessible including zero-step entry, and if this is a commitment in the application*
  - *Concerns that some paving/surface materials may not meet accessibility requirements*

No changes to the application or proffer have been made. There is no commitment to accessibility. Furthermore, there is no commitment that any of the townhomes will include a bedroom and bathroom on the main level. There was lengthy discussion at the August 2, 2022 public hearing regarding the opportunities to provide accessible units because as it was stated by the applicant, there are noted to be several townhomes that will have a zero-step entry. The application indicates that the main-floor bedroom is an option in units, but the applicant has not committed to providing any units with this feature. The application indicates that “the units are not technically ADA accessible” but they “have features that are encouraged and promoted in Universal Design.”

- *HERS/Energy Efficiency*
  - *Need for clarification of whether the HERS rating verbally provided at the meeting is a commitment, and if the rating is sufficient to address energy efficiency goals*

The applicant has included a new proffer that the townhomes will be “built to achieve a minimum HERS rating of 55.” No additional information has been provided to demonstrate the effectiveness of this proffer in achieving sustainability goals. The applicant has not indicated how this HERS rating may compare to minimum building code standards, and whether or not this is a significant commitment. Furthermore, the proffer is not specific and enforceable because it does not provide any assurance regarding how this will be measured or confirmed. As written, the proffer only addresses the design of the units, and does not address construction to meet this rating. For comparison, the Berewick rezoning proffer indicated that the HERS rating would be 10% or better than the minimum building code standards, with the understanding that a long-term buildout may allow for energy code changes. The Berewick rezoning proffer provides further specificity in how the units will be

certified by a third-party consultant, and how documentation will be submitted to the Town for compliance. The applicant should coordinate with staff and the Town Attorney regarding the proffer language.

- *Electric Vehicle Chargers*

There was discussion at the August 2, 2022 public hearing regarding the opportunity to provide EV chargers for the units. No commitment has been made to provide chargers.

- *Adequacy of bicycle parking, and whether there are opportunities for more covered parking*

The application did not include any changes to bike parking or covered bike parking. Corridor Committee and staff recommended additional covered bike parking be added as there may be insufficient covered bike parking if residents are not bringing bikes into their units or porches, as many units have stairs to the door.

- *Encroachments into setbacks & public utility easements (also Key Elements—Adequacy of area for rear yards/perimeter buffer; Appropriateness of proposed district standards compared to surrounding neighborhood; and Request for variance to reduce PUE)*

The layout of the development was revised to show that there are no longer porches or steps encroaching into easements or setbacks. This was achieved by shifting the buildings inward toward the site rather than making the setbacks and easements bigger. No changes have been included to make the proposed 10' perimeter setbacks or 10' perimeter PUEs bigger.

- *Request to reduce required perimeter Public Utility Easement from 15' to 10' (also a Key Element)*

The applicant has not revised the plan to provide the required 15' perimeter PUE. Furthermore, the revised exhibit shows two areas where the easement is no longer continuous around the property line: there is a break in the perimeter easement behind the dumpster on the eastern property line, and a break in the perimeter easement at the northwest corner of the development around the stormwater management area. The application provides no justification for why the PUE cannot be provided, that would warrant a variance request. It appears that the proposed layout and desired density are the reason that the applicant has not met the required standard. Continuous PUEs around the perimeter of the development facilitate future development, and are required by the subdivision ordinance. The purpose of these easements is to allow space for franchised utilities such as telecommunications and power to provide access to the development, but also to adjacent properties as well. Furthermore, the 15' width requirement provides the minimum space needed to provide utility separations (in some cases) and adequate space to work on and maintain the utilities within the easement without needing to encroach on private property. Staff does not support the request to modify the public utility easements as shown on the master plan. Staff does not support the variance request to reduce the perimeter PUEs from 15' to 10'.

The master plan has been revised to include a modified public utility easement exhibit that addresses changes to the water meter and sanitary sewer cleanout locations. The applicant has revised the utility layout per staff's recommendations to provide the sanitary sewer cleanouts and water meters behind the sidewalk. Please see the attached Engineering Sanitary Sewer memo.

- *Size and adequacy of rear yard space (also Key Elements—Adequacy of area for rear yards/perimeter buffer; Appropriateness of proposed district standards compared to surrounding neighborhood; Request for variance to reduce PUE width)*

The plan has not been revised to provide additional rear yard space for setbacks, buffer yards or plantings, or for public utility easements. The proposed perimeter setback and PUE is 10'. There was considerable discussion at the July work session and at the August 2, 2022 public hearing regarding the size of the rear yard and the space

that it provides for residents in the development as well as adjacent to the development. It was noted in the staff report that the chosen density and layout of the development is the driver behind the inadequate yards and public utility easements. Staff does not support the proposed 10' perimeter setback with consideration given to neighborhood compatibility, nor does staff support the request to reduce perimeter PUEs in conjunction with 10' setback.

- *Open Space (also a Key Element—Intensity of development; proposed layout of development)*

A result of shifting the buildings inward to eliminate structures encroaching into the proposed perimeter 10' public utility easement is the loss of some of the interior open space. The original submittal included 20.4%. The overall open space was reduced by 0.4%. The total proposed open space is exactly 20%, with only 48 square feet above the minimum requirement. Furthermore, it should be noted that some of the proposed open space is located in the parking lot landscape island areas. This area cannot be counted toward both requirements. The application will have to be revised to ensure that both standards can be met for minimum open space and for minimum parking lot landscaping requirements.

- *Lack of restrictions on student occupancy (also a Key Element)*
- *Ownership vs. rental of units (also a Key Element—No restrictions on occupancy; and Consistency with intent of PR district to provide identified needed housing)*

The original application included two proffers somewhat related to occupancy. One proffer states that the townhomes would only be leased by the unit, not by the bedroom. Leasing by the unit as opposed to the bedroom does not indicate that a development is not intended for students. This does not address the concerns and impacts that come with student occupancy. The proffer in no way limits or restricts student occupancy in either rental or ownership scenarios.

Recently, there have been a number of developments that have proposed proffers that limit student occupancy. For example, the Midtown PRD included specific language in the developer agreement that requires a minimum income qualification affidavit for all leased communities and apartment buildings; as well as an affidavit to be signed by purchasers that the property is not primarily “rental” or “investment”; and that all leases shall be at least 12 months. The Village at Toms Creek and Shadowlake Village HOA documents contain language that limits how residents may rent their homes, essentially requiring owner-occupancy, except in certain circumstances.

The other proffer states that the developer would maintain ownership and management of the development for five years after the first certificate of occupancy. In consultation with the Town Attorney, more information is needed in the application regarding the justification for this proffer as it relates to mitigating impacts of the development.

- *Density proposed 60% above FLU (also a Key Element)*

The application has not been revised to reduce the proposed density. The proposed density is 32 bedrooms per acre. The Medium Density Residential FLU and R-5 zoning district allow up to 20 bedrooms per acre.

- *Bus stop improvements and crosswalks*

The application has been revised to state that any landings at proposed crosswalks to the adjacent bus stop will be constructed with appropriate ramps, if they are not in place already. This addresses the requirement as noted in the staff report. However, the application does not include the crosswalk requested by Blacksburg Transit that would be located at the rear of the bus stop. Please see the July 15 staff report for more analysis of this request.

- *Sidewalk and Trail*

The application has been revised to remove several short segments of sidewalk adjacent to the open space that do not connect to other sidewalks or units. There was discussion at the work session and the public hearing regarding an opportunity for the applicant to work with the adjacent property owner to the north to build a trail in an existing easement to the subject parcel. Corridor recommended that applicant pursue this concept. No additional information has been provided regarding this connection, and no changes have been made to show that this connection is proposed.

**Key Elements (per July 15, 2022 staff report)**

- *Density proposed above FLU designation*

See analysis above.

- *Need & justification for change*

No changes were made to the application or plan.

- *Consistency with intent of PR district in providing housing product to fill identified housing needs*

No changes were made to the application or plan.

- *Appropriateness of proposed district standards compared to surrounding neighborhood*

No changes were made to the application or plan that substantially change the proposed district standards.

- *Intensity of development; proposed layout of development*

No changes were made to the application or plan that substantially reduce the intensity of the development or change the layout of the development.

- *Adequacy of area for rear yards/perimeter buffer*

See analysis above.

- *Request for variance to reduce perimeter Public Utility Easement (PUE) width from 15' to 10'*

See analysis above.

- *No restrictions on occupancy*

See analysis above.

All of the Key Elements identified in the staff report, as well as the other items discussed at the Planning Commission work session and public hearing are related and cumulatively reflect the impacts of the proposed development request due to the intensity and site design proposed. There are remaining significant issues that have not been addressed with regards to neighborhood compatibility, the effect on the surrounding neighborhood, the need and the justification for the change, and the intent of the proposed PR district. Additionally, the proposed plan does not conform to the Comprehensive Plan Future Land Use, or address any specific unmet housing needs identified in the Comprehensive Plan.

**MODIFICATIONS REQUESTED**

- **§5-901** *The subdivider shall convey a 15 foot wide common or shared public utility easement centered on all interior lot lines **and interior to all perimeter lot lines**, to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone, and electric service to the subdivision...The agent may require a wider easement where necessary to provide adequate separation between water, sewer, and/or stormwater management facilities.*

**REVISED PROFFER STATEMENT**

1. The property shall be developed in substantial conformance, as determined by the Zoning Administrator, with the submitted rezoning application entitled Whipple Drive Townhomes Planned Residential Development (the “Application”) dated June 1, 2022 and revised July 22, 2022.
2. Each new townhome unit shall have a photo voltaic solar power system installed at the time of construction. The solar power systems shall be maintained in perpetuity by the Homeowners Association.
3. JJB Properties LLC will retain ownership and management of the townhome units for a minimum of 5 years, beginning at the time of issuance of the first certificate of occupancy.
4. All townhomes shall be rented/leased by the unit. No by the bedroom leases will be permitted. This requirement shall be included as part of the Homeowners Association documents and will remain in place for all units whether rented or sold.
5. Property owner shall issue parking permits/stickers to residents and residents shall abide by the written parking policy as determined and provided by the Homeowners Association.
6. All new townhome units shall be built to achieve a minimum HERS rating of 55.

**ATTACHMENTS:**

Engineering Transportation Memo dated August 10, 2022

Engineering Sanitary Sewer Memo dated August 9, 2022

Engineering Stormwater Concept Approval letter dated August 8, 2022

**MEMORANDUM**

TO: Kinsey O'Shea, Development Administrator

FROM: Joshua Middleton, Town Engineer

DATE: August 10, 2022

SUBJECT: Whipple Drive Townhomes PRD – Transportation Comments – Review 2

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**Overview**

As represented in the rezoning application, the proposed thirty-four (34) townhome units, containing 98 bedrooms, would generate additional traffic volumes to the existing road network, particularly on Whipple Drive and North Main Street. ITE trip generation data indicates the total number of vehicle trips generated by the new units to be 390 trips per day with AM Peak Hour volumes of 16 trips and PM Peak Hour volumes of 30 trips. The proposed connection for the new units would be directly to Whipple Drive where they are further distributed to Givens Lane and North Main Street.

Based on traffic volume data provided by the applicant's engineering consultant, the existing adjacent traffic volume on Whipple Drive is approximately 1,500 ADT (average daily traffic), with AM Peak Hour volumes of 98 trips and PM Peak Hour volumes of 119 trips. Therefore, the proposed development traffic represents a 16.3 – 26.0% increase in current traffic volumes on Whipple Drive.

The addition of 390 trips will have a moderate impact on operational and safety aspects of the adjoining road network. However, as indicated by the submitted traffic impact analysis, no turn lanes or other mitigating measures are required or recommended.

**Public Utility Easements**

Per previous review, Staff had recommended that changes be made to the Master Plan to accommodate a 15-ft boundary Public Utility Easement (PUE) as required per §5-901 of the subdivision ordinance. The revised Master Plan does include changes to the proposed boundary PUE's, however, the change created further inconsistencies with code requirements.

Previously, the layout, as represented on Sheet Z6, included a 10-ft PUE on all sides except Whipple Drive, which had a 15-ft PUE. The current layout has eliminate boundary PUE's in the southwest quadrant of the development, adjacent to the proposed stormwater management facility and adjacent to the dumpster pad along the eastern boundary. Removing sections of the boundary PUE is not advised as it significantly reduces the functionality and usefulness of the boundary PUE. Justification for the removal of boundary PUE's has not been provided and the changes have served to worsen the proposed PUE layout as compared to the previous.

Additionally, a 10-ft boundary PUE is still proposed in all locations other than along Whipple Drive. Section 5-901 of the Town subdivision ordinance requires a 15-ft wide PUE interior to all perimeter lot lines. The boundary PUE would be uniform in width and contiguous along the property line. Written justification for the reduced boundary PUE has not been provided.

However, verbal communication from the applicant would suggest that a 10-ft PUE is sufficient for the proposed development and is therefore adequate.

PUE's are a critical component of subdivisions as they facilitate the installation of franchised cable television, fiber optic, gas, telephone and electric services to not only the proposed development but the surrounding community at large. These installations often occur over the course of many years or decades as new or expanded services are provided and desired by the community. PUE's are not intended to only serve the development for which they are dedicated, nor to provide services only at the time of the developments construction.

Therefore, a contiguous 15-ft PUE, interior to the perimeter lot line, is appropriate for the proposed development. In order to facilitate the required 15-ft perimeter PUE the proposed perimeter setback should be increased to 15-ft in all locations and a contiguous PUE should be provided in all locations.

Changes to the setback, necessary to facilitate a 15-ft PUE, could have a significant impact on the proposed master plan. The required adjustment should be fully incorporated into master plan, as part of the PRD process, to ensure the overall layout is constructible and substantive changes are not required during development.

### **Recommendations**

1. Revise the proposed perimeter setback to be 15-ft in all locations to facilitate a 15-ft perimeter PUE.
2. Provide a contiguous 15-ft PUE interior to the perimeter lot line.



August 8, 2022

Balzer and Associates  
Attn: Steve Semones  
448 Peppers Ferry Road  
Christiansburg, VA 24073

RE: RZN22-0002 Whipple Drive Townhomes PRD (*Revised per 7/1/22 Amendment*)

Dear Steve Semones:

The Engineering Department has completed the review of the Clay Street Townhomes PRD rezoning request Stormwater Concept Plan. The Concept Plan is **approved** at this time. These parcels total 3.08 acres of land which is proposed to be re-developed into a Townhome complex. In the post-development condition, stormwater quantities will increase due to the addition of a higher amount of impervious coverage.

The stormwater management mitigation is provided by an on-site underground detention pond to meet the quantity requirements for the energy-balance equation and 10 year storm flows. The purchase of **2.85 lbs/year** of off-site nutrient credits is the proposed method to meet 100% water quality requirements. This complies with the local water quality regulations, but will not provide any benefits within the Town of Blacksburg. *The Town **recommends** that this development provide some on-site stormwater quality treatment instead of only off-site methods. An on-site facility will provide lasting beneficial water quality value to the Cedar Run watershed, whereas the current layout may degrade our local water quality.*

**Items to be addressed prior to Site Plan Approval:**

1. Additional access points to the underground stormwater facility will need to be addressed.
2. The drainage area to the point of analysis will need to be revised. Areas on 006210 are unaccounted for in the total drainage.
3. A private easement agreement will need to be established for the connection from the Ratcliff Townhomes stormwater facility to the Town Right of Way.
4. All private drainage must be contained in Private Drainage Easements unless previously dedicated to the Homeowners Association.
5. VSMP permit coverage will be required for this site.
6. **Note:** The Town of Blacksburg Town has implemented a stormwater utility fee based on total impervious lot coverage. This proposed development area would generate a stormwater fee of somewhere between **\$127.27 and \$145.45** dollars per month for this site.

Please contact Kafi Howard with the Engineering Department at (540) 443-1354 or via email [khoward@blacksburg.gov](mailto:khoward@blacksburg.gov) if you have questions or concern regarding this review. If you would like to schedule a post review meeting please also contact me.

Sincerely,

Town Engineer – Stormwater  
400 S Main St., Blacksburg VA 24060  
[khoward@blacksburg.gov](mailto:khoward@blacksburg.gov)  
(540) 443-1354

**MEMORANDUM**

TO: Kinsey O'Shea, Development Administrator

FROM: Randy Formica, Director-Engineering and GIS

DATE: August 9, 2022

SUBJECT: RZN 22-0002-Whipple Drive Townhomes-Sanitary Sewer Memo

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Review of the Master Plan indicates there are no deficiencies with the sanitary sewer design as shown in the application dated June 1, 2022, Revised July 22, 2022. The applicant is reminded that since all sewer mains and laterals are located within the proposed public utility easement that is located within the parking area, all trench backfill for the mains and laterals shall consist of 21B stone. This also applies to the water mains and laterals. Also, if the rezoning is approved, the site plan shall meet all requirements of the Sanitary Sewer Specifications.