

Date: Tuesday, February 7, 2023

To: Planning Commission and Town Council Members

From: Dennis Dowdy, Owner, Holiday Inn Express & Suites, Blacksburg, VA

Subject: Re: Rezoning Application #RZN 22-0003/ORD #2003 and
Special Use Permit Request #CUP 22-0006

My name is Dennis Dowdy. I was born and raised in Blacksburg and have lived here my entire life. I remain supportive of the town's changes as well as the planning commission's attempts to balance growth and the other factors that make our town great, including its natural beauty.

Regarding the Rezoning Application and Special Use Permit referenced above, please be advised that our company, Blacksburg Hospitality Group, LLC DBA Holiday Inn Express and Suites, remains opposed to these two applications.

Since opening our hotel in August of 2000, we have generated and paid to the Town, over 2 ½ million dollars in Occupancy taxes and approximately \$250,000 in real estate taxes. After having invested millions of dollars in our location and establishing a successful, viable business that furnishes first class services and accommodations to our community, we now feel our continued success is at risk.

If this one, final parcel within the PCD is rezoned, it will allow many more varied uses than were envisioned in 1987, many of which would challenge the visual integrity of the entire district. While the mini-warehouse project being proposed may offer services or facilities that may be needed in Blacksburg, we feel this particular use would negatively impact the view shed we, and the town, are committed to protecting.

We purchased our site in 1999 with a full understanding of the building standards and other restrictions that were inherent in the Planned Commercial District (PCD) in which we were locating. At that time and until just recently, we were confident that these restrictions would apply to whoever developed the remaining parcel in this PCD and that our investment would be protected. Our project was guided by state and local codes and restrictions for buffer zones, landscaping requirements, exterior lighting, signage, storm water management, building heights and materials, and other strict but necessary standards. This Planned Commercial District also assured that only certain types of businesses could be located in this district, ***those that were compatible with and/or complimentary to our hotel.***

May I offer a scenario from the perspective of a guest?

It's a home football weekend and a group checks into our hotel. As requested, they have been assigned rooms facing west on one of our upper floors. They have stayed with us before and enjoyed the vistas offered from those particular rooms. They enter their rooms and open the blinds only to see a huge building with a footprint 420 feet long, longer than a football field. But it's not a football field. It's a warehouse . . . with a flat metal roof - no grass, no goal posts, no football players and no cheerleaders. Just 41,000 square feet of flat metal roof. And this warehouse is surrounded by asphalt, very little landscaping and a few feet of sidewalks – all of which are on the other side of the building. And this asphalt is surrounded by a retaining wall which is purported to provide “some architectural screening”. And, there will probably be a high chain-link security fence on top of that retaining wall. Then comes the buffer zone which, by virtue of the rezoning, has been reduced from 35 feet to 15 feet. This zone has

been identified as the "green" area and does not contain any trees (not enough room and none required), only grass, hopefully well maintained grass. If I am those guests, I immediately close the blinds and turn on the television.

At check-out, maybe they will say something to the clerk or manager about paying our higher special event rates and then being disappointed with the view. Or maybe they will just stay somewhere else on their next visit to Blacksburg. Or maybe they will not return to Blacksburg at all.

Thank you for your time and consideration.

From: dmdowdy@aol.com,
To: smattingly@blacksburg.gov,
Bcc: holidaylodgeinc@gmail.com, rmchan@vt.edu,
Subject: RZN 22-0003 and CUP 22-0006 1055 Plantation Road
Date: Tue, Feb 14, 2023 1:25 pm

Good afternoon Susan,

Please allow me a few minutes of your time.

I believe that the Town Planning Commission has recommended both of the applications referenced above to the Town Council for final action. I understand Council will have a work session next Tuesday, the 21st, and then a public hearing on the 14th of March to discuss and then vote on these two applications.

The developer and the town planners have worked hard on these proposals and I believe have satisfied most of the expressed concerns. They certainly have generated quite a volume of documents and images, some of which I have had time to review but not all.

Following is a list of questions and/or concerns I believe Council needs to discuss before possibly tossing aside the 1987 Planned Commercial District where this property and my hotel presently reside.

- * Was there a Feasibility Study conducted for the proposed mini-warehouse? If so, was it shared with the Planning Commission? What happens if this business were to fail. What could the building be re-purposed for?
- * The developer has stated that, if the CUP is approved, their intent is to restrict/prohibit outdoor parking for recreational vehicles, boats, cargo trailers, camping trailers, construction equipment, etc. Can Council include such a restriction if they approve the CUP?
- * Is the developer offering office spaces for rent, as indicated by his signage submittals? If so, can he identify those tenants yet?
- * The developer has submitted many slides and images of his building and site but none from the perspective of our hotel guest rooms. He has presented images from both the North and West sides of the proposed development, where there is much less concentration of residents and where he has been required to plant trees and shrubbery to screen his property. Our hotel is much closer to the proposed development than any property on the North or West sides and we, with the proposed rezoning, do not qualify for trees or shrubbery. Can council request slides or images from the developer that will show the visual impact of this project from our perspective?
A pictorial from each of our 5 floors would seem appropriate and reasonable.

* I believe it is also important to have a couple images of the views down the property line separating the hotel and the proposed warehouse, south to north and then north to south. I believe these images will show the possible creation of a "wind tunnel" created by the proposed retaining wall and the tall bank where the development site slopes up to the property line on the north end.

Council needs to see just how large the proposed warehouse building is. The footprint is more than 3 times that of our hotel and brings a use to this Planned Commercial District that certainly was not anticipated in 1987.

To be clear, I do think this is a well designed building and that the developer and his team have tried to minimize the impact in this district. Its a good idea but its in the wrong place. It just does not fit.

Thank you so much for your time and let me know if you have any questions. You may share this letter with your fellow Council members and the Planning Commission.

Dennis M. Dowdy
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email: dmdowdy@aol.com

Kali Casper

From: Michael Chandler <rmchan@vt.edu>
Sent: Wednesday, February 22, 2023 1:21 PM
To: Kali Casper
Subject: Fwd: Fwd: Comments per RZN 22-003 & SUP (CUP) 22-006 from Mike Chandler former Blacksburg resident

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I think I finally got your right address. Mike Chandler

----- Forwarded message -----

From: Michael Chandler <rmchan@vt.edu>
Date: Wed, Feb 22, 2023 at 1:15 PM
Subject: Fwd: Fwd: Comments per RZN 22-003 & SUP (CUP) 22-006 from Mike Chandler former Blacksburg resident
To: <lhagersmith@blacksburg.gov>, jbush@blacksburg.gov <jbush@blacksburg.gov>, <colliver@blacksburg.gov>, <jford@blacksburg.gov>, <smattingly@blacksburg.gov>, Michael Sutphin <msutphin@blacksburg.gov>
Cc: <kcasper@blacksburgva.gov>, Dennis Dowdy <dmdowdy@aol.com>

I sent the above message to Susan Anderson and failed to copy each of you. I hope the info provided will be of value. Mike Chandler

----- Forwarded message -----

From: Michael Chandler <rmchan@vt.edu>
Date: Wed, Feb 22, 2023 at 1:07 PM
Subject: Re: Fwd: Comments per RZN 22-003 & SUP (CUP) 22-006 from Mike Chandler former Blacksburg resident
To: Susan Anderson <anderson@math.vt.edu>

You are welcome Susan.

Looking back I should have consulted my calendar rather than relying on my memory which was obviously flawed!

There is,however,ample time remaining to seek additional information related to the CUP application before the council takes action, if it chooses to do so, on March 14, 2023.

A suggestion you might consider would involve asking the CUP applicant,by way of the planning staff, to prepare renderings detailing the size and scale of the proposed storage facility next to the Dowdy hotel.

The request is justified as you are concerned about the relationship the proposed storage facility will have on theDowdy property as well as the continued integrity of the Planned Commercial district as defined in the PC district's statement of intent.This is a wholly defensible consideration.

It is important to remember when considering a rezoning, a Special Use Permit or a CUP request, the burden is on the petitioner to justify the requested action.

In doing so, the applicant must satisfy a two-part test. The first step is to state why the rezoning and/or SUP/CUP is needed and why it should be granted.. This is a time-honored step and you and your colleagues will recognize.

The second step is of equal importance although it is not utilized to the fullest possible by local governing bodies. As noted by the Virginia Supreme Court (Roanoke County Board of Supervisors v. International Funeral Services, 221 Va. 840, 275 S.E.2nd 586 (1981) the party seeking a change in permissible land use must show/detail the unreasonableness of the property's current zoning classification. Upon application, this is an exceedingly high bar to clear.

As applied in the storage facility application, a review of the uses permitted by-right in the PC district are numerous suggesting the petitioner could utilize one or more of them rather than seeking permission to place a use not permitted by - right on the property. Additional information on this matter can be found in the Albemarle County Land Use Law Handbook as well as John Foote's Planning and Zoning narrative in the Handbook of Local Government Law published in 2015.

Finally, when deciding what land uses should be permitted in a community and where the permitted uses will be physically located, is a determination made by the local governing body.

The efficacy of the body's planning and zoning actions will be a function of assuring the objectives, standards and criteria featured in the Code of Virginia, specifically, the declaration of legislative intent (15.2-2200) as applied to localities engaged in planning and zoning activities, the scope and purpose of the comprehensive plan in Virginia (15.2-2223), the purposes of zoning in Virginia (15.2-2283), and the criteria to be applied when crafting and applying zoning regulations in Virginia (15.2-2284) have been reviewed and utilized. Communities that do so will be well-positioned should they have to defend their actions in court.

I hope this helps. Mike

On Wed, Feb 22, 2023 at 7:52 AM Susan Anderson <anderson@math.vt.edu> wrote:

Hi, Michael,

Thank you so much for your thoughtful and detailed email below. I, on several times at yesterday's work session, mentioned the view from the hotel windows facing the proposed development. I wish I had had in hand your note. I will continue to reflect on the proposal.

Susan

SAnderson@blacksburg.gov

On 2/22/23 7:29 AM, Michael Chandler wrote:

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Good morning. I am resending this email due to faulty encoding on my part yesterday (Feb. 21). It is my hope this post will transmit successfully. Thank you. mike Chandler

----- Forwarded message -----

From: **Michael Chandler** <rmchan@vt.edu>

Date: Tue, Feb 21, 2023 at 7:48 PM

Subject: Comments per RZN 22-003 & SUP (CUP) 22-006 from Mike Chandler former Blacksburg resident

To: <lhagersmith@blacksburgva.gov>, <sanderson@blacksburgva.gov>, <jbush@blacksburgva.gov>, <lcolliver@blacksburgva.gov>, <jford@blacksburgva.gov>, <smattingley@blacksburgva.gov>, Michael Sutphin <msutphin@blacksburg.gov>
Cc: <kcasper@blacksburgva.gov>, Dennis Dowdy <dmdowdy@aol.com>

Honorable Mayor and Members of the Blacksburg Town Council

I send this note in support of the concerns Mr. Dennis Dowdy has raised and shared with town planner Kali Casper and council member Susan Mattingly as applied to the land development applications noted above.

It was my intent to submit my comment in advance of your work session, which I thought was scheduled for Thursday, February 23. You can imagine my surprise when I discovered your work session took place earlier today! I do apologize for my error and ask that you reflect on the points featured herein as the council considers, deliberates and decides on a course of action linked to the referenced development applications on Tuesday, March 14, 2023.

Unless I am mistaken, Mr. Dowdy's desire to have renderings and/or photos produced which details the side-by-side relationship of the proposed storage facility (CUP request) with Mr. Dowdy's Holiday Inn Express and Suites Hotel, located at 1020 Plantation Road in Blacksburg, was raised during the council's work session this morning. I believe Mr. Dowdy's request is wholly valid in light of the statement of intent that distinguishes the Planned Commercial District as featured in the town zoning ordinance.

The Planned Commercial designation applies to Mr. Dowdy's hotel and property and it governs the property upon which the CUP applicant wants to construct a 100,000 square foot building that will be a mere 15 feet- without a natural buffer- from Mr. Dowdy's 27,000 square foot hotel.

The difference in the scale of the proposed storage facility with the Dowdy hotel is north of 3 to 1 making it hard to discern the difference in scale by looking at a two-dimensional drawing or schematic.

Accordingly, a rendering drawn to scale that places the proposed storage facility within 15 feet of the Dowdy hotel would provide the council with a new and much needed perspective. As stated previously, this perspective is important in light of the narrative found in the Statement of Intent for the Planned Commercial (PC) district which, when drafted, did not envision a use of the size and scale of the proposed storage facility.

I am confident you have read that patrons who stay in Mr. Dowdy's hotel on the floors above ground level enjoy a wonderful view looking west/northwest from their hotel rooms. This has been the case for the 23 years the hotel has been in operation.

If a 100,000 square foot storage facility is placed within 15 feet of Mr. Dowdy's hotel, the view from hotel windows looking west, northwest above the ground floor will go from wonderful to pedestrian. Instead of a pastoral view, the hotel patrons will have a bird's eye view of the storage facility's metal roof and accompanying electrical and heating/cooling footprint. This will not be the pleasurable and relaxing view hotel customers have enjoyed over the 23 years the facility has been in place. As such, many of Mr. Dowdy's repeat customers may choose to take their business to another venue if the 100,000 square foot storage facility is given a green light. This would result in a loss of revenue for Mr. Dowdy and Blacksburg via hotel taxes. Keeping viable businesses and businesses viable, is more than just a slogan. It is an imperative if Blacksburg is to remain a community of choice as I am sure this is a council goal.

It is important to remember council enjoys broad discretion relative to granting a special use permit (SUP) or conditional use permit (CUP). The terms are different but the meaning is the same. First and foremost, no one is entitled to a CUP. I do know a storage facility was added to the planned commercial district, if accompanied by a CUP, when the town zoning ordinance was updated but this does not mean a CUP must be granted.

Recall when deciding to grant a CUP, the council may attach one or more conditions which the applicant must abide by. The conditions are defensible if they are reasonable and if they reflect clearly articulated standards associated with the underlying zoning district as well as the comprehensive plan. Hours of operation, parking standards, lighting, noise concerns, and concerns linked to the placement and appearance of a planned use can be addressed through stipulated conditions.

To address the difference in the scale and size of the storage facility in relationship to the Dowdy hotel, the council could grant the CUP with a condition that the building footprint not exceed x square feet and/or not feature more than x number of total rental units. This approach would reduce the scale of the building which would create a win/win situation for both parties as well as maintaining the integrity of the PC district.

I thank you for reading this missive. I, as some of you may remember, served on the Blacksburg Planning Commission from 1981 to 1984 and on the Blacksburg Town Council from 1984 to 2003. I left council when I retired from VT and we relocated to Chesterfield County to be near our children and grand kids.

My friendship with Dennis Dowdy and his family extends back nearly 50 years. When I learned about the proposed storage facility I chose to work with Dennis once I learned more about the CUP. In the main, I do not think the storage facility is a good use in the PC district. A large storage facility ought to locate in an industrial district rather than a planned commercial district such as the applicant is asking you to sanction.

In this regard I am reminded of Judge Sutherland's admonition in the 1926 US Supreme Court case (*Euclid v Ambler Realty*) that sanctioned zoning as a constitutional permissible act. In composing the majority opinion the Judge opined "a pig does not belong in a parlor." The judge was crystal clear in noting zoning was a line drawing exercise and a local legislature (town council in this instance) must exercise prudent and rational judgement when doing so.

Accordingly, good land use planning concerns itself with making sure the right places in a community go in the right place.

I know and appreciate the challenge you face and I have the great empathy and admiration for each of you. I would be happy to answer any questions you may have as you consider this post. Good health to all and good luck as you give witness to the trust the community has placed in you as a council. Mike Chandler