



BANKS COUNTY BOARD OF COMMISSIONERS MEETING

Courthouse Annex Boardroom | 150 Hudson Ridge | Homer, GA 30547

Tuesday, July 26, 2022 at 6:30 PM

MINUTES

1. CALL TO ORDER

Ch. Turk called the meeting to order.

PRESENT

Chairman Charles Turk

Vice Chairman Danny Maxwell

Commissioner Bo Garrison

Commissioner Sammy Reece

Commissioner Keith Gardiner

2. APPROVAL OF AGENDA

Ch. Turk stated the agenda needed to be amended as follows:

Add: 7. Executive Session

Motion to approve the agenda as amended.

Motion made by Vice Chairman Maxwell, Seconded by Commissioner Garrison.

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Garrison, Commissioner Reece, Commissioner Gardiner

Vote: 5:0

All yea votes and motion passed.

3. PLEDGE TO THE AMERICAN FLAG

Commissioner Bo Garrison led the Pledge to the American Flag.

4. PUBLIC HEARINGS:

- a. **Planning Commission: Z-22-04 - Keriman Guvan - Seabrook BLC Development LLC at 2500 Old Milton Pkwy Ste 200 Alpharetta, GA 30009 application to rezone property from C2 - General Commercial District to C3 - Warehousing and Distribution. Property identified as map and parcel B77-007 to be used as a logistics center at Martin Bridge Rd.**

Ch. Turk closed the meeting and County Attorney Randall Frost explained the rules of the hearing and then opened the public hearing.

Atty. Frost stated the application was for Z-22-04 - Keriman Guvan - Seabrook BLC Development LLC at 2500 Old Milton Pkwy Ste 200 Alpharetta, GA 30009 application to rezone property from C2 - General Commercial District to C3 - Warehousing and Distribution. Property identified as map and parcel B77-007 to be used as a logistics center at Martin Bridge Rd.

Code Enforcement Officer Paul Ruark stated the Planning Commission recommended denial of the application.

In Favor of the Application

Bob Cheeley, Cheeley Law Group - 2500 Old Milton Parkway, Alpharetta, GA - Stated he was the attorney speaking on behalf of the applicant Clay Simpson, Seabrook BLC Development, LLC and the property owner Ms. Guven. He stated the current zoning of the property was C2 and referred to a

traffic study that was done under a C2 zoning and compared it to a study that was done if the property changed to C3. He stated the traffic counts were higher in C2, so today they were essentially asking the County to down zone the amount of traffic coming into the site. He further stated the application made sense because of the lesser impact in traffic and that they had taken steps to ensure the trucks only entered the facility to and from I-85. He stated the jobs were well paying jobs and the facility would be a clean operation. Atty. Cheeley also described the layout and design of the property and buildings. He further stated you wouldn't see much of the building from I-85 or Hwy. 63 and they were also leaving 44.5% of the trees on the property for coverage.

Harold Ivey - 175 Ivey Lane, Lula, GA - Stated he drove a truck every day and went in and out of distribution centers and very seldom saw three or four trucks at the gate. He further stated there wouldn't be that much affects on traffic because they were open 24/7. He stated this would help the tax base and it was time to get something at Martin Bridge Road and develop it.

In Opposition to Application

Jodi Parks - 2051 Hwy. 63 – Read Banks County Zoning Code 1104 - Criteria to consider for map amendments and further stated she felt like if the property was rezoned the criteria would not be met. She stated the "Constitutional Notice" in the applicant's application was baseless and without warrant. She continued to say it was distasteful and offensive and was appalled at the intimidation toward the Board and the citizens of Banks County with the applicant's intent to fashion a forceful approval of rezoning. Ms. Parks further stated there were many options Ms. Guven had that would keep the property in C2 zoning such as office spaces, doctor offices and other retail stores. She stated these were ideas that would benefit our County since we loved our homes and wanted what was best for our community. She stated the concerns for the traffic that would cause congestion on Hwy. 63 and I-85 and Wilson Bridge Road. Ms. Parks further stated the Commissioners had set a precedent in the past that if they didn't know what a business was bringing in, they would not vote for it and had also stated the County was not a warehouse community. She stated the Commissioners had every right to turn this rezoning down and respectfully asked the Commissioners to deny the rezoning request.

Taylor Griffith - 425 Evans Street, Homer, GA - Stated a section of code that stated the proponent shall have the burden of proof, which shall include the presentation of evidence and the burden of persuasion for each factor necessary to receive approval of the Board of Commissioners. He further stated he thought on a speculative proposal it's hard to answer those criteria to rezone.

Chris Ausburn - 218 Dooley Drive - Stated Ms. Parks said enough and further stated we could not open the flood gates and pass the rezoning application.

Barbara Lindorme - 980 Bennett Road - Stated the additional component that struck her in terms of the particular choice was the fact that the number of jobs being proposed was happening in Banks County where Banks County had a 2% unemployment rate. The future of the area in terms of the good paying jobs, at the Planning Commission meeting it was quoted about income levels that started around \$45,000 a year. For some that might be good but that decision would impact multiple generations in the future. At \$45,000 a year for an annual salary was very relative. She stated you could simply Google and take national averages of good-paying jobs and they started closer to the \$70,000 to \$90,000 range. Ms. Lindorme further stated that the Commissioners sat in the seats of planning the future for multiple generations. It's your legacy. Think about the strategic planning for what would go in place that would fit the zoning so we had a wonderful legacy with opportunity that betters the families to the best of the ability that they had.

Allison Cochran - 3122 Hwy. 63 - Stated she had some questions and the first was about the traffic study. If there are supposed to be 4,000 employees, how are there only 3,000 trips per day and what

would the peak hours of that travel? She also stated would the small fire station on Hwy. 63 be sufficient for the area or would it have to be reconsidered and at what cost to taxpayers.

Ashley Fountain - 425 Gardiner Road - Stated she wanted to point out that the map on page 20 of the application was either poorly drawn to scale or it was a misrepresentation but it did not mesh with the comments that the property owners nearby would not be impacted. She further stated if you looked at that map compared to qpublic it very much appeared to encroach upon those property owners.

Adam Swinehart - 957 Hwy 105 - Stated he wanted to clarify that the applicant mentioned 3,500 - 4,000 jobs but only 2,900 trips per day so something was apparently off with the traffic study. He further stated the other point was that \$800,000 worth of revenue would not equal the amount of tax burden that it would put on the citizens of Banks County.

Rebuttal

Atty. Cheeley stated they offered last Tuesday at the Planning Meeting to talk to anyone about traffic and no one approached them after the meeting to talk about traffic. He further stated Georgia Mountains Regional Commission (GMRC) conducted a DRI analysis on the project and determined that there would be no potential adverse interjurisdictional or impacts that would affect the traffic or infrastructure of either the state roads or the county roads surrounding the site. He also stated as he pointed out earlier there were no homes that any of the truck traffic would pass on this site. He also pointed out that in response to some of the comments that were just made, this would not open floodgates for warehouses in Banks County because there was only one interchange that Banks County had here that these type of logistics centers would agree to come to. He stated the diamond interchange allowed the trucks to get on and off I-85 without going through traffic lights and narrow roads. Atty. Cheeley stated a comment was made about the constitutional provision that we asserted in our application. As the attorney for my client, we had to do that and it's no offense but we were securing our rights under the Georgia Constitution and the United States Constitution just as I would do for any other person in this room if they hired him to represent them in a rezoning. Atty. Cheeley stated he thought they met all the criteria required under Georgia law and they had a good project that would bring good jobs and produce tax revenue for Banks County. It would be a low demand for services in the County and a big taxpayer for the County. He further stated growth was inevitable when you have an interstate running through your County. Lastly, he stated that he would respectfully request the County approve the rezoning application.

Commissioner Garrison asked why are your traffic count numbers not equaling out with your employment numbers and truck traffic numbers? Atty. Cheeley said a building that size could employ as little as 500 people or as many as 4,000 people but they didn't know who would end up being the tenant of the building. He further stated none of these buildings being built in the State of Georgia knew who their tenants were going to be when they broke ground and those tenants choose their locations based on what was available. He stated no matter what the employee counts, multiply that by two and he believed that would be where the true traffic number would be. Either way, that was a lot less than the trips per day would be for retail or C2 zoning.

Vice Chairman Maxwell stated he was concerned with the number of employee fluctuation and where are all these employees going to come from and where are they going to work? Atty. Cheeley stated the employees would come from Banks County and surrounding areas and hopefully this would provide jobs for the children who graduate and aren't interest in going to college and they've got a good paying job here locally where they can live close to their family instead of having to move out of the County to find a job. Mr. Cheeley further stated he wanted to note that nobody was starting any new farms and in fact those people are moving to South Georgia to farm so the days of being strictly a farming community were kind of waning and it was all a fact that we had to face. He also stated wherever the workers came from they would probably be shopping and eating in Banks County and bringing in more revenue for the County. He stated they had a letter of support from the Mayors of

Pendergrass and Palmetto, Georgia that stated how their communities had benefited from the developments that Clay Simpson had developed in their area.

Vice Ch. Maxwell further asked if the traffic study was derived off of the number of vehicles coming and going or was that considered as employees or were those additional vehicles also?

Clay Simpson - 110 Foxborough Circle, Johns Creek, Georgia - stated based on the warrants they were going to have an entrance right off of I-85 and there would be a traffic signal and a sign for trucks stating right-in and right-out. He further stated they were really big on life and safety. The trucks wanted to get right off the interstate and right back on the interstate and would not be going inward to winding roads.

Abdul Amer - 2160 Kingston Court, Marietta, GA - Stated he was a traffic engineer for A&R Engineering that conducted the digital detailed traffic study and the question of how he determined the number of vehicles was, he estimated the number of trips to developments like this and used data from other similar facilities around the country. There was a computation of statistical data by an organization called Institute of Transportation Engineers, ITE, and if you looked at their data for similar facilities around the country and looked at the number of data points one could form a better statistical value for trip estimates. He further stated he was required to go by standards of how traffic studies were conducted. ITE data was the golden standard so that was what he used. For this land use he looked at the ITE data and that's where the 2,900 trips came in and about 1/3 of that was truck traffic. He stated he projected 70% of the truck traffic would be from the interstate and the other trips would be from employees, service people and people that did other things at the facility.

Comm. Garrison asked if they had asked GDOT about getting a red light and stated he knew what a long process it would be to get a light? Mr. Amer stated they had not because usually that was done as a part of designing but they had conceptually designed two driveways with left and right turn lanes at both entrances so anybody turning into the project would not slow down the thru traffic on Hwy. 63. He further stated it was configured geometrically to accept a signal if GDOT would permit it. Mr. Amer further stated that typically his clients would go through the traffic signal process after the zoning was approved and the property was purchased.

Comm. Garrison asked if they had done a truck traffic study on trucks coming from Hwy. 51/Hwy. 63 direction? Mr. Amer stated they had done the study and it showed that 70% of the truck traffic would use I-85.

Comm. Garrison stated his concern was that Hwy. 51 had been designated a truck route from I-985. Atty. Cheeley stated that trucks coming from I-985 would more than likely take Hwy. 129 to I-85 and then travel to Hwy. 63 because truck traffic prefers to be on a four-lane road rather than a two-lane winding road.

Atty. Cheeley stated in closing the application met all the criteria required by the State Constitution and the decisions by the Georgia Supreme Court which had made it clear that there were limits on the extent to which zoning applications could be turned down because of traffic on an interstate highway or state highway.

Comm. Gardiner asked what the total square footage of the building would be and how far was the first entrance from the interstate? Atty. Cheeley stated 1.8 million square feet with the possibility of adding on to the bigger building in the back another 300,000 square feet and the first entrance would be 850 feet from I-85.

Atty. Frost closed the public hearing and Ch. Turk opened the meeting.

Motion to accept the Planning and Zoning Board recommendation to deny the application.

Motion made by Commissioner Garrison, Seconded by Chairman Turk.
Voting Yea: Chairman Turk, Commissioner Garrison
Voting Nay: Vice Chairman Maxwell, Commissioner Reece, Commissioner Gardiner
Vote: 2:3
Motion denied by majority vote.

Motion to approve the application for C3 zoning.

Motion made by Commissioner Reece, Seconded by Commissioner Gardiner.
Voting Yea: Vice Chairman Maxwell, Commissioner Reece, Commissioner Gardiner
Voting Nay: Chairman Turk, Commissioner Garrison
Vote: 3:2
Motion approved by majority vote.
(Copy of Resolution filed in Attachment to Minutes Book 10-4)

5. CURRENT BUSINESS:

a. Public Utilities: Water/Wastewater Rates - Horace Gee

Public Utilities Director Horace Gee presented a proposal to increase water/wastewater rates. He stated that it would be the first time in 6 years that rates had been adjusted. He further stated that there had been a great increase in operating cost and in order to stay cost effective the rates needed to be increased. Mr. Gee proposed the attached rate increases.

Motion to approve the increases for residential, commercial and industrial rates.

Motion made by Chairman Turk, Seconded by Commissioner Garrison.
Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Garrison, Commissioner Reece, Commissioner Gardiner
Vote: 5:0
All aye votes and motion passed.
(Copy of Rates filed in Attachment to Minutes Book 10-4)

6. CONTRACTS AND AGREEMENTS:

a. Tax Assessors: Personal Property Verification Program Contract

Ch. Turk stated this was a contract with Traylor Business System for appraisal services for the Board of Tax Assessors.

Motion to approve the contract.

Motion made by Vice Chairman Maxwell, Seconded by Commissioner Reece.
Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Garrison, Commissioner Reece, Commissioner Gardiner
Vote: 5:0
All yea votes and motion passed.
(Copy of Contract filed in Attachment to Minutes Book 10-4)

7. EXECUTIVE SESSION – PERSONNEL

Motion to enter into executive session concerning personnel at 7:23 p.m.

Motion made by Bo Garrison, Seconded by Danny Maxwell
Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Garrison, Commissioner Reece, Commissioner Gardiner
Vote: 5:0
All yea votes and the motion passed.

Motion to close the executive session at 7:36 p.m.

Motion made by Danny Maxwell, Seconded by Bo Garrison

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Garrison, Commissioner Reece, Commissioner Gardiner

Vote: 5:0

All yea votes and the motion passed.

(Copy of Affidavit filed in Attachment to Minutes Book 10-4)

Motion to accept the Resignation of Brooke Whitmire, Recreation Director.

Motion made by Charles Turk, Seconded by Keith Gardiner

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Garrison, Commissioner Reece, Commissioner Gardiner

Vote: 5:0

All yea votes and the motion passed.

8. ADJOURNMENT

Motion to adjourn the meeting at 7:37 p.m.

Motion made by Bo Garrison, Seconded by Danny Maxwell

Voting Yea: Chairman Turk, Vice Chairman Maxwell, Commissioner Garrison, Commissioner Reece, Commissioner Gardiner

Vote: 5:0

All yea votes and the motion passed.

Chairman

Assistant County Clerk