



BANKS COUNTY BOARD OF COMMISSIONERS MEETING

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

Tuesday, May 23, 2023 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 Chris Ausburn

Commissioner Keith Gardiner

Commissioner Bo Garrison

STAFF

County Clerk Regina Gailey

Assistant County Clerk Erin Decker

Zoning/Planning Director Kerri Fincannon

County Attorney Randall Frost

Public Utilities Director Horace Gee

Fire Chief Steve Nichols

Senior Center/Transit Director Tracie Hammond

2. APPROVAL OF AGENDA

Ch. Turk stated the agenda needed to be amended to Delete Item 4d. Planning Commission: V-23-02 - Stephen Dunn-An application has been submitted for a variance on the property identified as parcel B13F 008, a 3.21-acre lot located on Pebble Creek Ln., to reduce the minimum property setback for an existing structure.

Motion to approve the amended agenda.

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

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

Vote: 5:0

All aye votes and the motion passed.

3. PLEDGE TO THE AMERICAN FLAG:

Commissioner Ausburn led the Pledge to the American Flag.

4. PUBLIC HEARINGS:

- a. **Planning Commission: CU-23-03 - Scott Thomas, NGA Truck Center- An application has been submitted for a conditional use on the properties identified as parcels B54 028 and B54 029, two lots equaling approximately 4 acres located at 30220 and 30244 Hwy 441, to allow for an auction facility.**

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

Atty. Frost stated an application had been submitted for CU-23-03 -Scott Thomas, NGA Truck Center- for a conditional use on the properties identified as parcels B54 028 and B54 029, two lots equaling approximately 4 acres located at 30220 and 30244 Hwy 441, to allow for an auction facility.

Zoning/Planning Director Kerri Fincannon gave a report stating an application had been submitted for a conditional use on the properties identified as parcels B54 028 and B54 029, two lots equaling approximately 4 acres located at 30220 and 30244 Hwy 441, to allow for an auction facility.

Mr. Thomas owned both properties and both were currently zoned C2- Commercial. Auction facilities were not a permitted use in C2, but were listed as a conditional use for that zone. Mr. Thomas' intent was to use the property for only occasional auctions. Events were expected to be no more than 100 participants and only held between the hours of 9 am and 3 pm on select dates. Most of the time the property would remain unused. Though there seemed to be some limitation on the use of the main entrance. Mr. Thomas had rectified that situation by allowing access to the property in question from his adjoining parcel. Keeping in mind that code section 1108 gives the boards the ability to add conditions as needed, it is highly probable that compliance could be achieved.

Ms. Fincannon further stated that the Planning Commission recommended approval of the application.

In Favor of the Application

Rhonda Thomas - 123 Outlet Drive Commerce GA – Stated they obtained the property 1 year ago and it adjoined their next-door property and they would like to do a quarterly auction. The auction would consist of commercial trucks, equipment and farm supplies. She further stated they have already had two auctions in which they obtained permits to do so. She further stated the hours of operation for the auction would be 8 a.m. to 5 p.m. and the buyer/consignor would have 10 business days to remove the items that were purchased. Ch. Turk asked what items were left on the lot. She stated fence panels, farm supplies.

Ch. Turk asked what kind of items would be sold. Ms. Thomas stated mostly commercial trucks.

Ch. Turk asked if they had spoken to GDOT about access from Hwy. 441 and a turn lane? She stated they had spoken with GDOT and currently they would be accessing the property from Outlet Drive but would be able to get a driveway off 441 if needed.

Vice Ch. Maxwell asked what happened if customers didn't come pickup their property? She explained the agreement with the vendors and buyers.

Comm. Ausburn asked how much equipment was left after the auction was over? She stated really nothing and the area was not being used for the auction it was used for excess/overflow of their own equipment.

Comm. Ausburn asked when do you start taking items for the auction? She stated two weeks at the earliest but most of it comes in the week of the auction.

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

Motion to approve the Planning Commission recommendation with additional conditions:

1. Vegetative/Opaque Buffer
2. If the Outlet Drive property sells then the driveway for the auction would be located on 441
3. 10 Business Days for removal of auction/consignment items.

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

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

Vote: 5:0

All yea votes and the motion passed.

(Copy of resolution filed in Attachment to Minute Book 10-5)

- b. **Planning Commission: CU-23-04-Legacy Hotels Commerce, LLC-An application has been submitted for a conditional use on the property identified as parcel B54D 046, a 1.568-acre portion of the lot located at 30393 Hwy 441, to allow for new hotel construction.**

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

Atty. Frost stated an application had been submitted for CU-23-04-Legacy Hotels Commerce, LLC for a conditional use on the property identified as parcel B54D 046, a 1.568-acre portion of the lot located at 30393 Hwy 441, to allow for new hotel construction.

Zoning/Planning Director Kerri Fincannon gave a stating an application had been submitted for a conditional use of the property identified as parcel B54D 046, a 1.568-acre portion of the lot located at 30393 Hwy 441, to allow for new hotel construction.

Ajitkumar “Adam” Patel, the managing member of Legacy Hotels Commerce, was interested in purchasing the property adjacent to Pritchett Tire at Banks Crossing. His intention was to build a new hotel on the property which was currently zoned C2- Commercial. Hotels were a conditional use in the C2 zone. The hotel that was being proposed to the county at this time was Home 2 Suites by Hilton. The Home 2 Suites brand was typically advertised as an extended stay property; however, Legacy had not applied for extended stay use and was aware of the difference in application procedures. They had also been made aware that additional conditions may be placed upon the approval, including limiting the hotel to the Home 2 Suites by Hilton branding. It was my understanding that Legacy had applied for the rights to use the Home 2 Suites by Hilton name, but may not have secured the confirmation at the time of the meeting.

Adam Patel had worked with the late Paul Patel on other hotel projects in the county and was now the managing member of Comfort Suites, Holiday Inn Express, and Fairfield Inn. Legacy Hotels Commerce, LLC was a new entity that was established after Mr. Paul Patel’s passing and had no connection with him or his family. Any prior applications for this property/use were in the name of Paul Patel and should be disregarded in this decision.

Ms. Fincannon further stated that the Planning Commission recommended denial of the application by a 4:1 vote.

In Favor of the Application

Stewart McMann – 236 Middleton Place – Stated they were requesting a Conditional Use approval and proposing to construct a Home 2 Suites on a vacant lot next to Pritchett Tire on 441 at Banks Crossing. He stated it was an all-suites hotel with modern facilities and designed to offer stylish accommodations with flexible guest room configurations that were designed for the health-conscious traveler who wished to maintain the same dietary habits as they would at home. Mr. McMann stated that it was estimated to bring in an additional \$250,000 in tax revenue for Banks County. The additional income could help Banks County with infrastructure improvements and school system funding. The anticipated completion date for the hotel would be late 2024 or early 2025. He stated they owned Comfort Inn & Suites, Fairfield by Marriott and Holiday Inn Express and they all perform at the top tier of the market and thus adding tax dollars back to the local economy.

Comm. Ausburn stated that Hilton Home 2 Suites advertised as an extended stay hotel. Mr. McMann stated as a brand it does but locally, they did not plan on advertising as an extended stay hotel. He further stated that if you looked at an extended stay hotel, one of the criteria was the ability to prepare food. He stated cooking required a cooktop and they would not have cooktops but did have a bigger refrigerator and a microwave oven.

Comm. Garrison asked if they would provide a hot plate? Mr. McMann stated no.

Comm. Garrison asked how they could separate themselves from the Hilton Corporation advertising as an extended stay? Mr. McMann stated they couldn't but locally they would not advertise or operated as extended stay hotel.

Comm. Ausburn quoted Section 2301 Extended Stay Hotel and Mr. McMann stated their target market was 1 – 5 days stay.

Ch. Turk asked how Legacy Hotels were going to advertise? Mr. McMann stated they were going to advertise as a daily rental and their rates were designed as a daily rate and they did not have weekly rates.

Comm. Ausburn stated the maximum stay was seven days for a regular hotel. Mr. McMann stated they would police that as much as possible.

Mr. McMann stated that if a company came in and needed to stay longer than seven days, they couldn't do anything about how long they wanted to stay but they would pay the daily room rate and not weekly.

Atty. Frost stated that the hotel seemed to meet the definition of an extended stay hotel.

Comm. Ausburn asked Mr. McMann why they didn't apply for an extended stay hotel? Mr. McMann stated they really didn't consider it an extended stay hotel and that was not something they were looking to advertise the hotel as. He stated he couldn't change the way Hilton advertised the hotel nationally but they were not advertising as extended stay locally.

Comm. Garrison stated the application should have been applied for as an extended stay and you needed to go back and reapply for an extended stay.

Ch. Turk stated the Commissioners could put restrictions on the conditional use because it was Legacy Hotels applying and not the Hilton national chain. He further stated it all depended on how Legacy Hotels advertised and operated. Ch. Turk continued to ask Mr. McMann if a customer wanted to rent a room for 40 days, would the hotel rent the room for 40 days? Mr. McMann stated yes, they would rent the room for 40 days at a daily rate. Mr. McMann stated they could check people out every seven days if required by the county.

Comm. Ausburn stated he thought this was a good hotel but needed to be reapplied for as an extended stay.

Kristen Merinick – 3221 Hwy 145, Eastanollee, GA – Stated she wanted to be clear as a company and Mr. McMann was the Director of Revenue and his focus was on selling rooms and was based out of Atlanta. She further stated she was based in Banks County and went by the code when renting rooms. They were only rented for seven days and Mr. McMann was not in operations but in revenue so his focus was to sell rooms.

Comm. Garrison asked if Ms. Merinick filed the paperwork? She stated she did along with Mr. Patel. She stated they had been in Banks County for a long time and if you feel we need to withdraw this application and reapply as an extended stay, what is the timeline? She stated they were under a land

contract. Ch. Turk stated if the application was refiled tomorrow, it would be on the June 20, 2023 Planning Commission meeting and the June 27, 2023 Commissioners meeting. She further asked if it was possible to get an extended stay approved on less than two acres because the land was only 1.56 acres and was not possible to get any additional land. Ch. Turk stated it would be hard because you had to meet your green space and other requirements.

Comm. Garrison stated that it could be a physical hardship and Atty. Frost stated the qualifying hardships were listed in the code and he didn't think the hotel would qualify.

Atty. Frost continued to state even if you withdraw, after the public hearing was conducted by the Planning Commission it required that you wait six months before you could reapply.

Ms. Merinick stated that if the application continued and the application was voted on it stands on her reassurance that it would be operated well and not as an extended stay property.

Adam Patel – 4999 Eisenhower Pkwy, Macon, GA - Stated he was the managing partner for Legacy Hotels and managing member of all the hotels in Banks County. He further stated he really valued the Commissioners input and opinion and were willing to work with them. Mr. Patel stated his timeline did not allow the time for them to withdraw and reapply because of the property closing timeframe and getting the Hilton permit. Mr. Patel stated he had a commitment to Banks County and if they need to do seven-day check-out they would. He stated their continental breakfast was even a prepackaged breakfast and not a cooked breakfast. He further stated that the hotel would not be marketed as an extended stay and also would generate \$250,000 in taxes for the County that the home owners would not have to pay in property tax.

In Opposition of the Application

Larissa Campbell – 2868 Hwy 51N – Stated she thought this was a really bad idea. Stated it was an extended stay hotel and they didn't have enough land. She stated the website had amenities that would make someone want to stay longer regardless of what they charge. She stated people would live there just like they do in the other hotels. She stated this is not something we want in Banks County and there were studies that show these types of hotels are hot beds for criminal activity. Ms. Campbell further stated once you let one come then more will because extended stay hotels are the fastest growing in the industry.

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

Comm. Ausburn stated based on the information provided he wanted to make a motion to accept the Planning Commission recommendation for denial.

Motion to accept the Planning Commission recommendation for denial of the application.

Motion made by Commissioner Ausburn, Seconded by Commissioner Garrison.

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

Vote: 5:0

All aye votes and motion passed.

(Copy of resolution filed in Attachment to Minute Book 10-5)

- c. **Planning Commission: CU-23-05 -John Phillips-An application has been submitted for a conditional use on the property identified as parcel B41 002, a 63.91-acre lot located on Ervin Chambers Rd., to allow for a poultry farm with reduced setbacks.**

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

Atty. Frost stated an application had been submitted for CU-23-05 -John Phillips-An application has been submitted for a conditional use on the property identified as parcel B41 002, a 63.91-acre lot located on Ervin Chambers Rd., to allow for a poultry farm with reduced setbacks.

Zoning/Planning Director Kerri Fincannon gave a report of the application which stated an application had been submitted for a conditional use on the property identified as parcel B41 002, a 63.91-acre lot located on Ervin Chambers Rd., to allow for a poultry farm with reduced setbacks.

Mr. John Phillips of PTS, Inc./Midsouth Cage Equipment, Inc. will be speaking on behalf of the property owner, Chau Pham. Poultry farms are permitted by right in the current ARR zone; however, Mr. Pham cannot meet a property setback on the far-left front corner of the property. The setback for permitted use is 800 feet from the nearest home and the nearest home is just under the 800-foot measurement. Mr. Pham does fall into the setback established by conditional use in ARR which is 400 feet from the nearest residence. The area in which Mr. Pham’s farm is to be located is already home to multiple poultry houses so he doesn’t present a nuisance. Since the setback is over 700 feet, it is doubtful that the neighboring home would be any more or less affected by the new poultry house.

In Favor of the Application

John Phillips – Midsouth Cage Equipment – Stated he would be representing Mr. Pham.

The Commissioners asked Mr. Phillips several questions about the application and Mr. Phillips stated that Mr. Pham would have to answer certain questions.

In Opposition of the Application

Wesley Counts – 572 Ervin Chambers Rd – Stated he was building eight new poultry houses right next to the proposed Conditional Use. He stated he was concerned about biosecurity. He further stated that if the application passed, he would ask that a condition be put that he would pay half the cost of a vegetative buffer. He also stated it would add even more traffic to the Hwy. 98 side of Ervin Chambers Road and stated the zoning of CAD should have been applied for instead of decreasing the setbacks.

Ch. Turk stated that since Mr. Counts worked as a field tech that there would already be cross-contamination. Mr. Counts stated he takes measures to decrease the chance of cross-contamination.

Comm. Garrison asked Mr. Counts if he already had his commitment letter and Mr. Counts stated he did and Ms. Fincannon stated he already had a permitted project.

Motion to table the item until the June 13, 2023 meeting.

Motion made by Chairman Turk, Seconded by Commissioner Gardiner.

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

Vote: 5:0

All aye votes and the motion passed.

- d. **Planning Commission: V-23-02 -Stephen Dunn-An application has been submitted for a variance on the property identified as parcel B13F 008, a 3.21-acre lot located on Pebble Creek Ln., to reduce the minimum property setback for an existing structure.**

Deleted from Agenda

5. CURRENT BUSINESS:

- a. **Public Utilities: Water Meter Connection Fees - Horace Gee**

Mr. Gee stated that the connections fees needed to be increased to cover the cost of installation since the price of supplies had increased also.

Motion to approve the increase in connection fees effective July 1, 2023.

Motion made by Commissioner Gardiner, Seconded by Commissioner Ausburn.

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

Vote: 5:0

All yea votes and the motion passed.

(Copy of fees filed in Attachment to Minute Book 10-5)

- b. **Public Utilities: Sewer Easement Eminent Domain - Commerce Solar Property, LLC and Southern Conservation Trust Inc.**

Mr. Gee stated the only way that you can obtain encroachment on a property that was placed in a Conservation Trust was through an Eminent Domain Condemnation. He stated he had spoken with the previous owner and he was in contact with the current owner. He stated this easement was needed in order to run a sewer main to Waste Management which in turn would transport the leachate to the water treatment facility and get the semi-trucks off the road that currently transport it. Mr. Gee stated the easement needed consist of 1.621 acres in linear feet.

The Commissioners wanted to clarify that the Eminent Domain was just a legal formality.

Motion to continue with the Eminent Domain process.

Motion made by Chairman Turk, Seconded by Commissioner Gardiner.

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

Vote: 5:0

All yea votes and the motion passed.

6. RESOLUTIONS AND ORDINANCES:

- a. **GA Mountains Regional Commission-Private Sector: 1 year term to expire 6/30/2024**

Motion to appoint Vicki Boling for a 1-year term to expire 6/30/2024.

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

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

Vote: 5:0

All yea votes and the motion passed.

- b. **GA Mountains Regional Commission-Public Sector: 1 year term to expire 6/30/2024**

Motion to appoint Chris Ausburn for a 1-year term to expire on 6/30/2024.

Motion made by Commissioner Gardiner, Seconded by Commissioner Garrison.

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

Voting Abstaining: Commissioner Ausburn

Vote: 4:1

All yea votes and the motion passed.

7. CONTRACTS AND AGREEMENTS:

a. Public Transit: FY2024 GDOT Contract - Tracie Hammond

Senior Center/Transit Director Tracie Hammond stated this a transit contract for the funding of FY2024.

Motion to approve the GDOT contract and authorize the chairman to sign the documents.

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

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

Vote: 5:0

All yea votes and the motion passed.

(Copy of Agreement filed in Attachment to Minute Book 10-5)

b. Fire/EMS: Fire Code Plan Review and Inspection Services Agreement - SAFEbuilt GEORGIA, LLC - Chief Steve Nichols

Chief Nichols stated that in the past they had used some part-time help and private companies to do commercial fire inspections. He stated he had received a lot of complaints about inspections with the previous company. He was proposing to use SAFEbuilt GA LLC and the rate of inspection was just based on an hourly fee.

Motion to approve the agreement and authorize the chairman to sign the documents.

Motion made by Chairman Turk, Seconded by Commissioner Gardiner.

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

Vote: 5:0

All yea votes and the motion passed.

(Copy of Agreement filed in Attachment to Minute Book 10-5)

8. ADJOURNMENT

Motion to adjourn the meeting at 8:10 p.m.

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

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

Vote: 5:0

All yea votes and the motion passed.

Chairman

Assistant County Clerk

