



BANKS COUNTY BOARD OF COMMISSIONERS MEETING

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

Tuesday, November 28, 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

County Attorney Randall Frost

Recreation Director Kat Roberts

2. APPROVAL OF AGENDA

Ch. Turk stated the agenda needed to be amended to add 5d. Recreation Vehicle Purchase.

Motion to approve the agenda as amended.

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

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

Votes: 5:0

All yea votes and the motion passed.

3. PLEDGE TO THE AMERICAN FLAG:

Ch. Turk led the Pledge to the American Flag.

4. PUBLIC HEARINGS:

a. **Z-23-05 - Orr, LLC - Application to rezone from ARR to C-2 for 441 Diesel Expansion located at 125 Hwy 164, Commerce GA**

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

Atty. Frost stated Z-23-05 - Orr, LLC was an application to rezone from ARR to C-2 for 441 Diesel located at 125 Hwy 164, Commerce GA to expand.

Atty. Frost asked Planning & Zoning Officer Kerri Fincannon to present her report and the recommendation of the Planning Commission. Ms. Fincannon gave her report as follows:

An application had been submitted by Orr, LLC to rezone the properties identified as B53F 023 and B53F 020, two parcels totaling approximately 7.2 acres located at 125 Hwy.164, from ARR to C2 to be used for the expansion of 441 Diesel & Automotive (an auto/truck repair business).

The parcels in question were immediately adjacent to the original 441 Diesel lot which was already

zoned C2-Commercial and across from another commercial property so it would not be considered spot zoning. Automotive and truck repair are permitted uses in C2 so there was no need for a conditional use. The proposed parking area is to be fenced and have a vegetative buffer as stated in the notice of intent. I've heard no concerns from the immediate neighbors.

The Planning Commission recommended approval of the application with the following conditions:

- No lights left on the property
- Site Plan needs to be followed
- Follow the Letter of Intent
- No Salvage

In favor of the Application

A.J. Purcell - 432 Wrights Mill Road, Commerce- Stated he was representing his mother and brother that are co-owners of 441 Diesel because they have the flu.

He stated the business started in January 2014 and since then had grown into a great business for them and the County.

He stated the property they were asking to rezone would allow them to expand their footprint. He stated they expanded their shop in 2017 and currently they were located on a .55 acre lot but the property they are wanting to rezone was 5.5 acres.

He stated there were 7 full-time employees and 1 part-time employee. He stated they needed a bigger shop and more office space.

He stated when the property came on the market they put it under contract.

Mr. Purcell also stated they wanted to get some fenced parking and reconfigure the business. He stated this would give them a chance to work on transfer trucks and offer services they haven't been able to offer before because of the limited space.

Ch. Turk stated that in the application the blue print had nothing on it but the parking lot but now you are talking about constructing buildings and why was that not on the blueprint. Mr. Purcell stated that wasn't on the blueprint because they didn't yet have a plan for a building right now but will in the next couple of years when they can accommodate it. He said they haven't decided where they want the shops on the property or how they may want to configure them. He stated the land came on the market, they wanted to buy it and wanted to turn it into commercial so they can grow into it.

Ch. Turk asked if it would be Orr, LLC or 441 Diesel. Mr. Purcell stated it would be Orr, LLC that would own the land.

Vice Ch. Maxwell asked who was on the LLC. Mr. Purcell stated he thought it was just his mom and brother but wasn't sure.

Comm. Ausburn stated that basically they wanted to fence in a parking area and turn the house into office space. He also asked if they planned on putting in an area for cold storage trailers and parts trailer. Mr. Purcell stated the fenced area would be for trucks that were waiting to be picked up after repair and there would be no trailer storage or parts/salvage trailers.

Ch. Turk asked where the truck sales came in at because that was not part of the application. Mr. Purcell stated that was something they ran into all the time. Customers that want them to sell their trucks on consignment.

Comm. Garrison asked if it was zoned from ARR to C2 without having a footprint of the future possible expansion, are we opening it up for just anything and everything.

Atty. Frost stated whatever was permitted in C2 could go there.

Comm. Garrison further stated if they never followed through with what they said they would then they would have a piece of property zoned C2 and they could sell it and whoever bought it could do whatever they wanted.

Atty. Frost stated they could do whatever was permitted in C2.

Ch. Turk asked if they sold the property would that condition go with the property?

Atty. Frost stated conditions would go with the property.

Comm. Garrison said a condition could be put on it that it was for a parking lot and expansions of their current business.

Comm. Gardiner stated his concern with the application was what was being applied for and what was being discussed was different. He further stated that we could not approve something that was not specified on the application.

Vice Ch. Maxwell stated he was concerned that if the property was sold with C2 then if sold it could have anything that was permitted in C2.

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

Comm. Garrison asked if they could put conditions on the zoning that weren't in the application like the Planning Commission did? Attorney Frost stated that in the past the Commissioners and the Planning Commission put conditions on a zoning that were not in the application and that was fairly common for applications.

Comm. Ausburn made a motion to approve the application with the following conditions:

1. Only for auto/truck repair and sales.
2. Outdoor lighting is such that it does not cast light on adjacent, adjoining or neighboring properties.
3. Vegetative buffer on north and west side of property.
4. No parts/vehicles/trailer storage.
5. Conditions are contingent on purchase by Orr, LLC.

Motion made by Commissioner Ausburn, Seconded by Commissioner Garrison.

Voting Yea: Chairman Turk, Commissioner Ausburn, Commissioner Garrison

Voting Nay: Vice Chairman Maxwell, Commissioner Gardiner

Vote: 3:2

Majority vote and the motion passed.

(Copy of resolution filed in Attachment to Minutes Book 11-1)

b. CU-23-09 - Philip Nation - Application for a Conditional Use for farm implement repair as a home occupation located at 214 Stevens Rd, Commerce, GA

Ch. Turk stated this application was not heard by the Planning Commission because the owner of the property withdrew the application.

5. MISCELLANEOUS:

- a. **Alcohol License - Beer/Wine Package: SN Partners, LLC/Diamond Exxon**
- b. **Alcohol License - Beer/Wine Package: S&N Adventures LLC/Diamond Shell**

Kerry Fincannon stated the license holder would be the same for both of the beer/wine package licenses.

Nuruddin Karimi - 1715 Brookside Elm Drive, Duluth - Stated he would be the license holder for Diamond Exxon and Diamond Shell.

Ms. Fincannon stated that he was asking for a beer and wine package license for both stores which were located at 172 Otis Brown Road and 181 Historic Homer Hwy. She stated the background check and fingerprinting were on file and good for approval.

Motion to approve beer/wine package license for SN Partners, LLC/Diamond Exxon and S&N Adventures LLC/Diamond Shell.

Motion made by Commissioner Ausburn, Seconded by Commissioner Garrison.

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

Vote: 5:0

All yea votes and the motion passed.

c. Banks Crossing Median

The Commissioners stated they had talked to the Georgia Department of Transportation expressing concerns about problems the median construction was causing with traffic. They discussed placing a sign at the truck stop telling trucks there was a turnaround ahead so they do not have to use parking lots and making dangerous U-turns. They stated GDOT would talk to the contractor to see if they could speed up the median process and put a sign at the truck stop.

d. Recreation Truck Purchase

Recreation Director Kat Roberts requested the purchase of a pickup truck. She stated she had received four quotes and the lowest was from Hardy Chevrolet for a 1500 Chevrolet pickup for \$39,910.

Motion to purchase the truck from Hardy Chevrolet in the amount of \$39,910 from SPLOST funds.

Motion made by Chairman Turk, 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.

6. ADJOURNMENT

Motion to adjourn the meeting at 7:23 p.m.

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 yea votes and the motion passed.

Chairman

Assistant County Clerk