

**Banks County Planning Commission
Board Meeting
August 3rd, 2021**

Members Present

Jack Stewart- Chairman
Brian Mathis- Vice Chairman
Jay O'Kelley
Taylor Griffith

Members Absent

Scott Wheatley

Staff Present

Paul Ruark- Planning and Zoning Official
Kerri Fincannon- Planning and Zoning Clerk

1. Call Meeting to Order: Chairman Stewart called the meeting to order.
2. Approval of Agenda/Minutes from June
Motion to approve minutes: Brian Mathis
Second: Taylor Griffith
Vote 4:0 to approve and the motion passed.
3. Z-21-05 — Stewart Smith — An application has been submitted to rezone the property identified as parcel B53F 002, a 9-acre lot at Hwy 441 and Webbs Creek Rd., from ARR (Agricultural, Rural, Residential) to C2 (Commercial) to be used for a veterinary clinic.
 - a. Dr. Kinsey Phillips DVM, introduces himself and explains that this clinic would be his third location of operation. He asks if the board has questions.
 - b. Mr. Griffith would like to know how much of the 9 acres will be used and whether they have a plan for future use of remaining land. They will utilize appx. 2-2.5 acres with no concrete plan for future use.
 - c. Mr. Stewart asks about runoff and retention from parking lot. Yes, there will be a retention pond. Mr. Stewart asks if that is right off Hwy 441. Yes.
 - d. Mr. Mathis inquires as to which road they will use for entrance. They will use Webbs Creek to avoid the need for expensive deceleration lanes.
 - e. Mr. Stewart invites opposition.
 - f. Barbara Stotmeister, 216 Webbs Creek Rd, has questions more than opposition.
 - g. She wants to know if the rezone is granted, do they have the right to add any other uses on the land in the future. Mr. Griffith explains that there are some “permitted” uses that they have the right to.

- h. She would like to know where on the property the proposed structure would be located. Mr. Stewart invites the speaker and Dr. Kinsey to the front to deliberate the plan. They peruse the application files and discuss the intended location and building type. She wants to know if there will be open kennels where dogs will be barking. All the kennels are located on the interior of the structure.
- i. There is some discussion about fencing which the two parties seem to be in agreement on. Ms. Stotmeister is satisfied.
- j. Mr. Stewart calls for a motion.

Motion to approve: Brian Mathis

Second: Jay O' Kelley

Vote 4:0 and the motion passes

- 4. Z-21-06 — Robert Evans — An application has been submitted to rezone the property identified as parcel B27 013B, located at 137 Beulah Ln., from C1 (Commercial) to ARR (Agricultural, Rural, Residential) to be added to residential parcel (commercial designation no longer needed.)
 - a. Mr. Stewart invites the applicant to speak.
 - b. Robert Evans, 137 Beulah Ln: used to own a small store on the commercial property. Due to age and failing health he no longer runs the business and therefor has no need for the commercial designation.
 - c. Mr. O'Kelley wants to know why he wants to change it? He said he thought it might make a difference on taxing.
 - d. Mr. Griffith wants to know if he intends to sell the piece of property. No, he wants to add it back to the original residential property.
 - e. Mr. Stewart asks for opposition. No opposition.
 - f. Mr. Stewart asks for a motion.

Motion to approve: Brian Mathis

Second: Taylor Griffith

Vote 4:0 and the motion passes

- 5. CU-21-04 — Zach Lurie, Maximum Powersports — An application has been submitted for the conditional use of the property identified as parcel B76 039C, 30+ acres located at 221 Columbus Dr., to be used for a motocross training facility and RV spaces.
 - a. Mr. Stewart invites the applicant to speak.
 - b. Mr. Lurie is absent due to championship race. His parents are speaking on his behalf
 - c. Mr. Jeff and Mrs. Kim Lurie, 221 Columbus Dr.
 - d. Mr. and Mrs. Lurie apologize on behalf of their son for his absence. He is at a motocross championship that is likened to the "Super Bowl" of his sport.
 - e. Mr. Stewart says that since we all already know what is in the current application as far as intent. He would like to read the original letter of intent so that everyone who was not present at the first Conditional Use hearing would know the back story. The original letter refers to beautiful lay of land for family home along with a shop to work on motocross vehicles. Work would be by appointment only and performed indoors in soundproofed room. Very little, if any, testing would be done outdoors.

- f. Mr. Stewart says they listened to that intent and approved his CU on those grounds. That intent was not followed. Mr. Stewart himself had asked about the testing of dirt bikes. Lurie stated he would have a soundproof with occasional riding and that neighbors were aware of his desires.
- g. Mr. Stewart admonishes that the board accepted the proposal on "good faith." How did we end up with racetracks? Mrs. Lurie states that the business grew unexpectedly and Mr. Stewart counters with the question of why he did not come back and let them know the circumstance had changed. Mr. Lurie states that Zach was only 25 years old when he applied to which Mr. Stewart objects saying "he was a grown man."
- h. Mrs. Lurie says that Zach never meant to mislead anyone, he really did not know that he should have come back in. Mr. Lurie says that he wouldn't have known either stating that the codebook doesn't make that clear. He says that he understood that Zach could do pretty much what he wanted as long as he didn't move dirt on or off property. Mr. Stewart asks where the dirt there came from. The Lurie's state that it was all there to begin with.
- i. Mrs. Lurie reiterates that there was no malice intended. The shop wasn't making money and he worked on the side with training kids and that took off. Mr. Lurie says the family is God fearing and church going.
- j. Mr. Griffith says that no matter how we got here, we are now here with a new application before us and that application needs to be addressed.
- k. Mr. Mathis asks if this important to Zach and the Lurie's assure him that it is the most important thing. To this he says he is glad that they are here to represent him, but that as important as this is, he should have been here himself or rescheduled. Mr. Lurie says Zach spoke to Mr. Ruark the previous week about being out of town.
- l. Mr. Ruark says that they did speak but at that late a date, the meeting had been set in motion. He explains the advertising constraints and advises the board that they can make the decision to postpone, or table, the hearing until Zach can be present. Some deliberation on postponing takes place and Mr. O'Kelley states that the he wishes to hear what opposition that actually took the time to come.
- m. Mr. Stewart invites the opposition to speak.
- n. Curt Hensen, 273 Columbus Dr.- actions speak louder than words. Mr. Lurie did approach him about the shop which he would have been ok with. However, the dirt that has been moved has caused extensive erosion problems washing downstream to his property and into his pond. He has had to do work to control the situation on his water. The intention may have been to be a good neighbor but that's not what actually happened. He needs to do the right thing about the water problems.
- o. Also, Mr. Lurie's property has signs that say Trespassers will be shot on sight! That is not very "neighborly." It is a threat.
- p. Though they rarely see the Luries, he did meet with Zach once about the dirt washing down. Zach left and never said anything else about it.
- q. Also, the motorbikes run all hours and are very loud.

- r. Ken O'Shields, 2.7 miles from Columbus Dr- he can hear the motor bikes from his home. He used to fish with Curt in the pond and now there is no fishing in the dirt. He mentions another friend Mr. Matt Long (not present) who asked Mr. Lurie to work on his bike. Mr. Lurie stated that "this isn't a shop." He states that he and Mr. Long felt unwelcome and out of place realizing that this was a training facility.
- s. Mr. Lurie steps up to rebut. He apologizes for the erosion and states that had he returned to Zach's property, he would see that erosion measures have been put in place.
- t. He states that the bikes don't make noise all hours, they have been running bikes only during the stated times.
- u. Mr. Stewart asks about Saturdays and Sundays. Mr. Lurie says no bikes have been running on those days. Except when he does special Friends and Family rides. Mrs. Lurie says he hasn't even done that in a year.
- v. Mr. Lurie apologizes to the neighbors.
- w. The board deliberates with Mr. Ruark on tabling and sound study options.
- x. Mr. Stewart asks for a motion.

Motion to table until Sept. 7th and have a sound study: Brian Mathis

Second: Taylor Griffith

Vote 4:0 and the motion passes

- 6. CU-21-05 — Hua Yang, Elegant Massage — An application has been submitted for the conditional use of the property identified as 309 Steven B Tanger Blvd. to be used for a massage therapy practice.
 - a. Note that the applicant is using a translator.
 - b. Hua Yang, Buford GA
 - c. Mr. Stewart asks about hours of operation. 10 am to 8 pm. What days? 7 days a week.
 - d. Mr. Mathis asks if the therapists are licensed. Yes. In GA? Yes. How many therapists? 2.
 - e. Mr. Griffith asks if there are any other services besides massage offered. No.
 - f. Mr. O'Kelley wants to know how will a client communicate with the therapists. The manager speaks English and will be available during open hours to answer questions.
 - g. Mr. O'Kelley clarifies that the manager will be the first point of contact and translate for the therapists. That is correct. And the manager will be available 10-8, 7 days a week? Yes. Taking breaks only between clients in down time.
 - h. Mr. Stewart asks if this is the same massage office that applied previously. Mr. Ruark states that the applicant is different but the company is the same.
 - i. Mr. Stewart asks about a GA state driver's license. The applicant is licensed in GA. He wants to know where her massage license was issued. Also in GA.
 - j. Mr. Stewart invites opposition to speak.
 - k. Winnie Allen, 1709 Historic Homer Hwy- doesn't like the idea of them being located within the retail area. It tends to look inappropriate. References previous similar situations in the area. Also, why do they want a business in Commerce if they live in

Buford? There is a language barrier. Are these things we want in Banks County? She asks the board to please think carefully about the situation.

- l. Mr. Griffith states that they can't assume something bad will happen. They make a decision based on code/law. Then if something happens, law enforcement gets involved.
- m. Mr. Stewart reiterates that they do not enforce the laws.
- n. She asks again why they want to be here. Mr. Griffith says that you put a business where you think it will make money.
- o. Ms. Allen really pushes the idea that she wants careful thought put into the decision and steps down.
- p. Mr. Stewart asks for a motion.

Motion to approve: Taylor Griffith

Second: Brian Mathis

Vote 4:0 to approve and the motion passes.

7. Adjourn meeting.

- a. Mr. Stewart asks for a motion to adjourn.

Motion to approve adjournment: Brian Mathis

Second: Taylor Griffith

Votes 4:0 to approve adjournment and the motion passes.