

2-22-07



REZONING APPLICATION

Planning & Zoning Office
150 Hudson Ridge Suite 4
Homer, Georgia 30547
Office: 706.677.4272
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Permit # 2022-0223 Application # _____

Property Owner: Name: Keriman Guvan
Address: 3396 Carverton Lane, Alpharetta, Georgia 30996
Phone: 678-697-8767

Applicant: Name: Seabrook BLC Development, LLC
Address: c/o Cheeley Law Group
2500 Old Milton Parkway, Suite 200, Alpharetta, Ga 30009
Phone: 770-861-4100

Location: Martins Bridge Road (Ga Hwy 63) and I-85-North

Existing Zoning: C-2 (General Commercial District)

Proposed Zoning : C-3 (Warehouses and Distribution)

Existing Use: Vacant Land

Proposed Use: Logistics Center

Acreage of Site: +/- 200 acres Tax Map & Parcel: B77 007

THE FOLLOWING APPLICATION MATERIALS MUST ACCOMPANY THIS APPLICATION

- 1) Metes and bounds description of the property.
- 2) Boundary surveys of the property.
- 3) A letter of intent which describes general characteristics of the proposed development such as type and time frame of development and background information in support of the application.
- 4) A site plan containing, at a minimum, the following information:
 - a) Title of the proposed development.
 - b) Name, address and phone number of the architect, engineer, or other designer.
 - c) Scale, date, north arrow, and general location map showing relationship of the site to street or natural landmarks.
 - d) Boundaries of the property, all existing and proposed streets, including right-of-way and street pavement widths, buildings, water courses, parking & loading areas, and other physical characteristics of the property and the development.
- 5) Campaign Contribution Disclosure Form.
- 6) Property Owner's Certification Sheet and Public Hearings Notification.
- 7) Application fee (check or cash only.)

CRITERIA TO CONSIDER FOR REZONING

- 1) The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.
- 2) The extent to which property values are diminished by the particular zoning restrictions.
- 3) The extent to which the destruction of property values promotes the health, safety, morals or general welfare of the public.
- 4) The relative gain to the public, as compared to the hardship imposed upon the individual property owner.
- 5) The physical suitability of the subject property for development as presently zoned and under the proposed zoning district.
- 6) The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there are existing or changed conditions affecting the use and development of the property which give supporting grounds for approval or disapproval of the rezoning request.
- 7) The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.
- 8) Whether the proposed zoning will create risk of adverse environmental effects to the community, including, without limitation, air pollution, surface water contamination or ground water contamination.
- 9) Whether the proposal will create risks that uses with nuisance characteristics will occur.
- 10) Whether the proposed zoning will adversely affect property values of others.
- 11) Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adopted plans.

All that tract or parcel of land lying and being in General Militia District 208, Banks County, Georgia and being more particularly described as follows:

BEGINNING at a Right of Way monument found at the southerly end of the mitered intersection of the westerly Right of Way of Georgia Highway 63 (Variable R/W) and the northerly Right of Way of Interstate 85, a limited access highway (Variable R/W); thence from the point thus established and running along said Right of Way of Interstate 85 and a curve to the left an arc length of 519.67 feet, (said curve having a radius of 1044.93 feet, with a chord bearing of South 51° 46' 00" West, and a chord length of 514.33 feet) to a Right of Way monument found; thence continuing along said Right of Way of Interstate 85 the following courses: South 38° 03' 34" West a distance of 419.03 feet to a Right of Way monument found; thence running along a curve to the right an arc length of 178.12 feet, (said curve having a radius of 1055.92 feet, with a chord bearing of South 42° 46' 37" West, and a chord length of 177.91 feet) to a point; thence South 42° 16' 59" East a distance of 24.00 feet to a point; thence running along a curve to the right an arc length of 215.03 feet, (said curve having a radius of 1079.92 feet, with a chord bearing of South 53° 23' 33" West, and a chord length of 214.68 feet) to a Right of Way monument found; thence running along a curve to the left an arc length of 1796.94 feet, (said curve having a radius of 7745.44 feet, with a chord bearing of South 53° 37' 17" West, and a chord length of 1792.91 feet) to a point; thence South 46° 58' 17" West a distance of 393.31 feet to a point in the centerline of the Hudson River; thence leaving said Right of Way of Interstate 85 and running along the centerline of the Hudson River the following courses: North 41° 48' 26" West a distance of 58.64 feet to a point; thence North 36° 07' 48" West a distance of 165.27 feet to a point; thence North 25° 00' 13" West a distance of 187.62 feet to a point; thence North 12° 33' 52" West a distance of 167.95 feet to a point; thence North 13° 36' 06" West a distance of 209.04 feet to a point; thence North 01° 02' 21" West a distance of 140.17 feet to a point; thence North 39° 30' 52" West a distance of 90.85 feet to a point; thence North 18° 53' 00" West a distance of 60.55 feet to a point; thence North 24° 05' 53" East a distance of 78.60 feet to a point; thence North 18° 57' 43" East a distance of 182.71 feet to a point; thence North 25° 25' 23" West a distance of 97.41 feet to a point; thence North 00° 42' 05" West a distance of 154.74 feet to a point; thence North 16° 14' 40" East a distance of 183.10 feet to a point; thence North 32° 38' 01" West a distance of 74.57 feet to a point; thence North 48° 25' 34" West a distance of 196.76 feet to a point; thence North 16° 10' 55" West a distance of 112.22 feet to a point; thence North 39° 36' 13" West a distance of 145.02 feet to a point; thence North 60° 18' 58" West a distance of 143.69 feet to a point; thence North 87° 09' 12" West a distance of 87.02 feet to a point; thence leaving the centerline of the Hudson River North 46° 58' 25" West a distance of 149.58 feet to a 1/2 inch rebar found; thence North 58° 40' 26" West a distance of 248.24 feet to a 1/2 inch rebar found; thence North 41° 37' 22" East a distance of 2063.16 feet to a 1 1/2 inch open top pipe found; thence South 79° 23' 57" East a distance of 395.78 feet to a 1/2 inch rebar found; thence North 75° 43' 27" East a distance of 1095.87 feet to an iron pin set on the aforementioned easterly Right of Way of Georgia Highway 63; thence running along said Right of Way of Georgia Highway 63 and a curve to the left an arc length of 330.32 feet, (said curve having a radius of 3869.72 feet, with a chord bearing of South 39° 18' 38" East, and a chord length of 330.22 feet) to a point; thence continuing along said Right of Way the following courses: South 41° 45' 22" East a distance of 695.00 feet to a Right of Way monument found; thence running along a curve to the right an arc length of 820.73 feet, (said curve having a radius of 1382.39 feet, with a chord bearing of South 24° 44' 52" East, and a chord length of 808.73 feet) to a

point; thence South 07° 44' 22" East a distance of 257.16 feet to an iron pin set; thence South 80° 59' 21" West a distance of 10.00 feet to a Right of Way monument found at the northerly end of the aforementioned mitered intersection of said Right of Way of Georgia Highway 63 and the northerly Right of Way of Interstate 85; thence running along said miter South 35° 44' 43" West a distance of 102.14 feet to a Right of Way monument found and the TRUE POINT OF BEGINNING. Said tract contains 200.307 Acres (8,725,373 Square Feet).

Letter of Intent and Impact Analysis

Banks County

Rezoning Application

Applicant:

Seabrook BLC Development, LLC

Property:

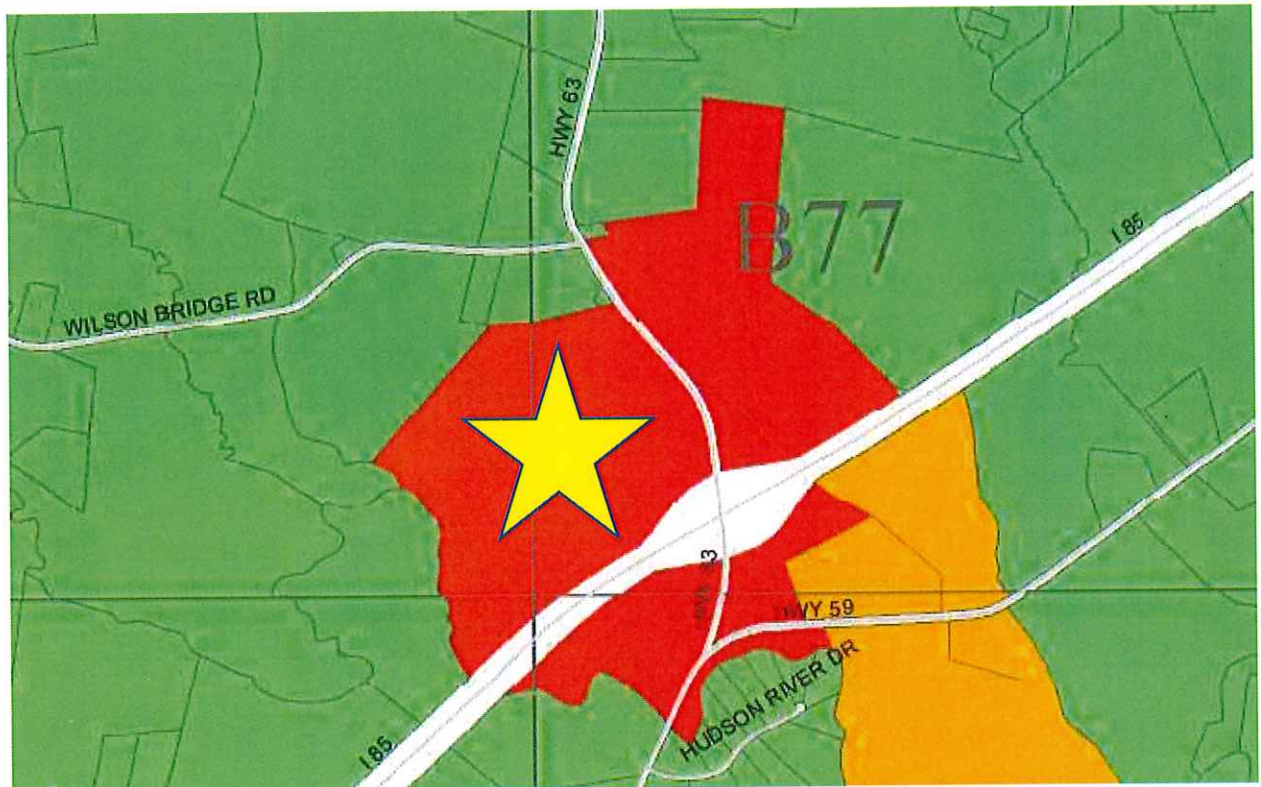
+/- 200.3 Acres on Martin Bridge Road

Parcel ID Number:

B77 007

I. INTRODUCTION

Applicant, Seabrook BLC Development, LLC (“Applicant”) submits this rezoning application for the subject property consisting of approximately 200.3 acres of land located at the Martin Bridge Road (Hwy 63) and I-85 intersection in Banks County, Georgia (“Property”). The Property is a portion of parcel id B77 007¹ and ideally located for development of a much-needed logistics center.



The Applicant requests the County to rezone the Property from C-2 (General Commercial) to C-3 (Warehouses and Distribution) to develop a new logistics center campus with two buildings. Approval of this request is consistent with the County’s Comprehensive Plan I-85 Corridor Character Area which envisions the Martin Bridge area providing jobs and economic opportunities for a mix of light industrial including distribution.

As reflected in the submitted materials, access into the Property is from Hwy 63 at the existing I-85 interchange. The Banks Logistics Center is created to be a state of the art, institutional grade, logistics development. It will include two architecturally designed buildings (~1 million sq feet and ~646,000 sq feet) to be constructed from concrete tilt wall building materials. The design approach of the buildings is reflective of the high-quality development desired for the region. The size of buildings complies with the C-3 zoning regulations of less than 10,000 sq feet per acre and is appropriate in scale. In addition, the development significantly

¹ Parcel B77 007 consists of 286.22 acres and includes the Property, plus property on the north-eastern side of Hwy 63/I-85 intersection as well and the southern side of the intersection. This Zoning request is limited to the subject Property which will be subdivided from the larger parcel after the zoning approval.

exceeds the minimum greenspace requirement of 30% as shown on the site plan with more than 55% of the Property as greenspace. In addition to the more than 50% greenspace, landscaping is provided at the entrances and in the parking lots. The design focuses on quality materials, attractive landscaping, efficient traffic circulation, and the ideal location to attract Fortune 500 companies. As a master planned campus, Banks County Logistics Center will fulfill the needs of the area and complying with the vision and goals of the County as stated in the Comprehensive Plan and the C-3 zoning district.

The investment of \$160 million to create Banks Logistics Center will transform the vacant and undeveloped Property into an employment center. The rezoning of the Property to C-3 will both promote employment and attract top tier corporate citizens to the County.

The Applicant's proposed development fully satisfies the criteria set forth in the County's Code. For these reasons, the Applicant respectfully requests its application be granted as submitted.

II. IMPACT ANALYSIS

The Applicant satisfies all the criteria for rezoning as set forth in the Banks County Unified Development Code ("UDC"), Section 1618 and the Banks County Rezoning Application Form.

1) The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.

The zoning of the Property to C-3 will not adversely affect the existing use or usability of nearby properties. The adjacent properties are not currently developed and will not be impacted by the change from C-2 to C-3. As designated in the County's Comprehensive Plan, this location is "intended to form the commercial and industrial center of Banks County." Comprehensive Plan p. 27.

2) The extent to which property values are diminished by particular zoning restrictions.

The C-2 zoning of the Property has diminished the value of the Property as evidenced by the fact the Property has remained undeveloped with the current zoning. Given the proximity to I-85 and the size, the Property is well suited for the growing logistics demand in the area. A logistics center cannot be developed with the current C-2 zoning.

3) The extent to which the destruction of property values promotes the health, safety, morals or general welfare of the public.

While the existing zoning destroys the property value, it does not promote health, safety, morals or general welfare of the public. By zoning the Property to C-3 the health, safety

and general welfare of the public will be promoted by increased tax base and employment opportunities. In addition, the rezoning is consistent with the Comprehensive Plan stated development goals for the Property.

4) The relative gain to the public as compared to the hardship imposed upon the individual property owner.

There is no gain to the public by imposing the C-2 zoning regulations on the Property. Instead, the hardship imposed on the property owner is significant and has resulted in the Property remaining undeveloped. The public is not served by an undeveloped parcel that could be generating taxes for the County's tax base.

5) The physical suitability of the subject property for the development as presently zoned and under proposed zoning conditions.

The Property is ideally suited for a logistics center given the size and location of the Property. Being adjacent to I-85 makes the Property the right fit for the C-3 zoning district. The limitations of the C-2 zoning district are not suitable for the Property.

6) The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there are existing or changed conditions affecting the use and development of the property which give supporting grounds for approval or disapproval of the rezoning request.

The Property has never been developed. Compared to other properties in the I-85 corridor, the C-2 limitations have hindered the ability to develop the Property. The conditions of the needs for quality and conveniently located logistics centers supports this change in zoning. Furthermore, the County recently adopted the C-3 standards and as demonstrated in the site plan and supporting materials, Banks Logistics Center satisfies the C-3 requirements.

7) The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.

Banks Logistics Center will not create an excessive or burdensome use of public facilities, utilities, or streets. There will be no impact to County schools or parks. Instead, the development will add additional revenue in the County to benefit the County's facilities, including parks and schools.

8) Whether the proposed zoning will create risk of adverse environmental effects to the community, including, without limitation, air pollution, surface water contamination or ground water contamination.

No, a change from C-2 to C-3 zoning district will not create adverse environmental effects. The logistics center is a necessity in today's modern marketplace. Because there is no manufacturing or creation of materials at the development, there is not an environmental risk.

9) Whether the proposal will create risks that uses with nuisance characteristics will occur.

No, the operations of Banks Logistic Center will focus on logistics and distribution. As such, the use does not generate noise, smell, or other nuisances for area residents.

10) Whether the proposed zoning will adversely affect property value of others.

No, the C-3 zoning is consistent with the County's vision for the Property as indicated in the Comprehensive Plan. The change in zoning will not adversely affect surrounding property owners.

11) Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adopted plans.

Yes, because the Property is located in the I-85 corridor character area the C-3 zoning is aligned with the County's policy and intent. Specifically, the Banks Logistics Center satisfies the vision for creating employment and economic opportunity on Martin Bridge Road. The use will not generate smoke, dust, gas, fumes, odors, radiation or other nuisance characteristics of heavy industrial uses. Instead, the development will set a high standard for a master planned logistics campus with quality design, attractive landscaping, and efficient traffic circulation.

III. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the County approve this zoning application as submitted. The Applicant's required constitutional and ante litem notice is attached hereto at Exhibit "A".

Exhibit A
REQUIRED CONSTITUTIONAL AND ANTE LITEM NOTICE

Georgia law and the procedures of Banks County require the Applicant to raise Federal and State constitutional objections during the public hearing process. While the Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Applicant will be barred from raising important legal claims later in the process. Accordingly, the following constitutional objections are stated:

The portions of the Banks County Unified Development Code (“UDC”), facially and as applied to the Property, which restrict the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than that proposed by the Applicant are unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the UDC, facially and as applied to the Property, which restricts the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than in accordance with the application as proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this application would be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by Banks County to grant the application as requested would constitute a taking of the Applicant's property. Because of this unconstitutional taking, Banks County would be required to pay just compensation to the Applicant.

A denial of this application would constitute an arbitrary and capricious act by Banks County without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. A refusal to grant the requested rezoning and other concurrent requests would lack objective justification and would result only from neighborhood opposition, which would constitute an unlawful delegation of the zoning power to non-legislative bodies in violation of the Georgia Constitution, Article IX, Section II, Paragraph 4.

A refusal by Banks County to grant the rezoning and other concurrent requests for the Property in accordance with the criteria as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and

owners of the similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any approval of the requests subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

A denial of this application would be unconstitutional. This notice is being given to comply with the provisions of O.C.G.A. § 36-33-5 to afford the County an opportunity to approve the rezoning and other applications as requested by the Applicant. If action is not taken by the County to approve the rezoning application within a reasonable time, a claim will be filed in the Superior Court of Banks County demanding just and adequate compensation under Georgia law for the taking of the Property, inverse condemnation, diminution of value of the Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

Standing Objection

The Applicant further objects to the standing of each and every surrounding resident to challenge, whether before the Board of Commissioners or any court of competent jurisdiction, any zoning decision by the Board of Commissioners in that he/she has not shown, nor can show, that he/she will suffer special damages within the meaning of Georgia law as a result of said decision. The Applicant raises this objection before the Board of Commissioners and requests the Board of Commissioners to determine the standing of any individual who challenges or objects the Board of Commissioner's decision to rezone the Property. Applicant further raises this objection before the Board of Commissioners to preserve said objection on appeal, if any, to any court of competent jurisdiction.

CAMPAIGN CONTRIBUTION DISCLOSURE FORM REQUIRED FOR ALL ZONING ACTIONS

"36-67 A-3. Disclosure of campaign contributions.

- a) When any applicant for rezoning action has made, within two years immediately preceding the filing of the applicant's application for the rezoning action, campaign contributions aggregating \$250 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:
1. The name and official position of the local government official to whom the campaign contribution was made; and
 2. The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- b) The disclosures required by subsection (a) of this Code section shall be filed within 10 days after the application for the rezoning action is first filed. (Code 1981, Section 36-67A-3, enacted by Ga. L. 1986, page 1269, Section 1; Ga. L. 1991, page 1365, Section 1.)"

I hereby certify that I have read the above and that:

I have _____, I have not X, within the two years immediately preceding this date made any campaign contribution(s) aggregating \$250 or more to any local government official involved in the review or consideration of this application.

Applicant's Signature: _____

Date: _____

Property Owner's Signature: _____

Date: _____

*If you have made such contributions, you must provide the date required in subsection (a) above within ten (10) days of the filing of this application.

I have been informed that I, the applicant or property owner, must attend the public hearings for this application.

Unless otherwise posted, the Banks County Planning Commission meets at 6:30 p.m. on the first Tuesday of each month. The planning commission's recommendation on the application is sent to the Banks County Board of Commissioners which meets on the second Tuesday of each month at 6:30p.m.

Owner/Applicant Signature: _____



Date: _____

4-26-2022

I have been informed that I, the applicant or property owner, must attend the public hearings for this application.

Unless otherwise posted, the Banks County Planning Commission meets at 6:30 p.m. on the first Tuesday of each month. The planning commission's recommendation on the application is sent to the Banks County Board of Commissioners which meets on the second Tuesday of each month at 6:30p.m.

Owner/Applicant Signature: JSA , Date: 4/26/2022