

**After
Agenda**

**Board of Commissioners of Spalding County
Zoning Public Hearing
Thursday, August 24, 2017
6:00 PM
One Griffin Center, Solomon Street Entrance
W. Elmer George Municipal Hall**

The Spalding County Board of Commissioners held a Zoning Public Hearing at One Griffin Center, Solomon Street Entrance, W. Elmer George Municipal Hall, on Thursday, August 24, 2017, beginning at 6:00 p.m. with Chairman Bart Miller presiding, Commissioners Raymond Ray, Gwen Flowers-Taylor and Donald Hawbaker were present. Commissioner Rita Johnson was absent from the meeting. Also present were County Manager, William Wilson, Assistant County Manager, Eric Mosley, Zoning Attorney, Newton Galloway, Community Development Director, Chad Jacobs and Executive Secretary, Kathy Gibson, to record the minutes.

A. Call to Order by Chairman Bart Miller.

Note: Persons desiring to speak must sign in for the appropriate application. When called, speakers must state their names and addresses and direct all comments to the Board only. Speakers will be allotted three (3) minutes to speak on their chosen topics and relate to matters pertinent to the jurisdiction of the Board of the Commissioners. No questions will be asked by any of the commissioners during citizen comments. Outbursts from the audience will not be tolerated. Common courtesy and civility are expected at all times during the meeting.

B. New Business:

Newton Galloway, Zoning Attorney, advised that we will need a motion to consolidate the two items on the agenda for hearing and then the items will need to be voted on separately.

Motion/Second by Hawbaker/Flowers-Taylor to consolidate the two applications for the purpose of discussion. Motion carried unanimously by all.

- 1. Application #17-04Z:** Terry Dunn, Owner - Alex Scott, Agent - 3616 Fayetteville Road (19.5 acres located in Land Lot 8 of the 3rd Land District) - requesting a rezoning from AR-1 Agricultural and Residential, R-2 Single Family Residential and C-1A Neighborhood Commercial, to C-1 Highway Commercial.

Mr. Jacobs stated that he would defer to the end and let the applicants and those who have signed up to speak, present first then he will give the staff report and answer any questions following those presentations.

Mr. Wilson stated that there are three people who have signed up to speak in favor of these Applications and two to speak against.

Mr. Terry Dunn, 208 Sylvan Lane. Mr. Dunn proceeded to cover the history of the Math Fields property going back to 1955. Mr. Dunn then referred to an soil conservation aerial map of the property from 1955 there was a

working commercial sawmill located on this property, there was no reservoir and SR92 was a dirt road. There are no houses in the immediate area. The houses were built in the immediate area due to an undocumented R-2 and A-2(1) rezoning in the early 1970's without notification to his grandfather of that rezoning. This was done to the property without due process as Dunn's Sawmill and Dunn's Tree Service were non-residential commercial businesses. Despite best efforts there is no record that can be found as to who requested the rezoning, the year, or under whose authority the zoning was changed.

Mr. Dunn stated that this odd shaped piece of land has been treated like a "red headed stepchild for a number of years." Please note that this land was cleared in 1938 by his grandfather. In the 1940's, 50's, 60's and early 70's, Dunn's sawmill was one of the biggest milling operations in the west central Georgia area. The land was passed by his grandfather to his son, Bobby Dunn, who started a tree business there in 1961 and he then passed it on to his son, Terry Dunn. Sadly, the land has been treated as if it were never developed and as a result that systematic process continues to this day, making this land, in the words of Spalding County's own Zoning Lawyer, Newton Galloway, as "very hard to sell to anyone" and useless to Mr. Dunn at this point in his life.

Mr. Dunn advised that his grandfather sold approximately 80 acres to the City of Griffin for construction of the Heads Creek reservoir in 1961 even though he did not want to do this, he did it for the good of the community. Two different reconstructions of the Heads Creek Bridge, led directly to his grandfather losing road frontage for the property. Many of the homes built in Spalding County in the 40's, 50's and 60's were built from lumber milled by his grandfather. When he thinks of his grandfather's sawmill literally building this County and his sacrificing land so that Griffin could have an abundant supply of water, he's sure his grandfather is rolling over in his grave watching his grandson having to struggle to sell the property for a project that will benefit all and harm none.

Mr. Dunn then stated that one of the reasons for not recommending approval of this zoning was the request would institute spot zoning. He added that by voting to approve the property on the future land use map, the Board of Commissioners rejected spot zoning. The request is of no detriment to the immediate neighborhood or adjacent properties, plus it advances a general public purpose in land use by giving Spalding County Citizens and our law enforcement officers a professional gun safety and technical training facility right here in this County; therefore, this project advances a legitimate public purpose. Also, this property has been commercially developed, non-residential since 1938 and proven to be so since 1955 per the old soil conservation aerial map.

He then showed a map of the American Heritage indoor shooting range. There are residents all around that range, there is a school within 1100 feet, there is construction going on across the street and to the right of the range.

The timer indicated that Mr. Dunn had spoken for 3 minutes.

Heather Scott, 109 Cedar Point, Peachtree City, Georgia – Stated that she would give her 3 minutes to Mr. Dunn so that he could continue.

Mr. Dunn stated that he is concerned that the instructions given by the Board of Commissioners was not carried out the way the Board envisioned by the Planning Commission meeting on July 25th. In said meeting, the Commission did not consider the property as being zoned commercial on the future land use map and cited "spot zoning" as the reason to deny. Even though the Board of Commissioners had voted "spot zoning" had been

rejected. He was further confused as to why there were two different votes, one vote that reviewed the request in the same manner as in the prior Planning Commission meeting and the other to deny whether to recommend conditions.

Clearly, this wasn't fair to our cause and in his defense, Mr. Jacobs was not present at the Board of Commissioners meeting on July 25th, as Mr. Galloway filled in for him. Then Mr. Galloway wasn't at the Planning Commission Meeting and Mr. Jacobs was. This is why he is concerned regarding a breakdown in communication. As a layman, he believes that the Board of Commissioners' instructions were clear, "review the new circumstance of the property being zoned commercial on the future land use map and come up with enforceable conditions for approval." He heard no instruction from the Board of Commissioners as to the review of the request under the same circumstances as done the previous time with this Commission two months earlier.

Mr. Dunn stated that regarding their petition, the staff report stated that the training center and indoor gun range could have an adverse effect on the neighborhood. In the interest of public welfare, he has submitted a petition of support. He stated that during the process of getting people to sign this petition, in the Math Fields immediate area, he spent anywhere from 15 minutes to an hour with each person explaining exactly what will be taking place, if the project is approved by the Board of Commissioners. Over six days and a total of 28 hours, he found there was overwhelming support for this project (93 for and 3 against). You have been given a copy of that petition which states neighborhood residents see no adverse effect.

Mr. Dunn added that the petition submitted by the individual against this project only held 24 signatures, but now 21 of the people who signed the original petition, have signed his petition unanimously stating that they were led to believe it was going to be an outdoor gun range. Ms. Wallace even admitted that fact in the last planning commission meeting. You were also presented a copy of her petition as proof of said facts. He believes it is quite evident that the residents of this neighborhood want this project approved.

Mr. Dunn stated that he has presented pictures and documented evidence to prove that this is undeveloped non-residential property not a parcel of undeveloped virgin land. The residents in the neighborhood have spoken very loudly, per his petition, for support of this project. Many of them were surprisingly educated about the self-containment of noise, fumes and lead as far as an indoor gun range is concerned. Please also consider the circumstances that there is no documented evidence of due process of, or exactly under whose authority the property was rezoned in the early 1970's. He would hope that the situation with Full Blown Firearms will not be involved in your decision as it is in no way the same situation. The difference between an outdoor gun range and an indoor one is like comparing night to day.

Alex Scott, 109 Cedar Point, Peachtree City, Ga. stated that he is the applicant on this request. He advised that they had proposed some conditions, which were expressed at the last meeting. The proposed conditions were put in specifically because he has been involved in this process for over a year. He has been to every meeting as it relates to Full Blown Firearms. He has listened to what the issues were and he included those in the conditions presented to the Board. We are very much wanting to be a part of this community. He stated that his group is trying to do the right thing, they met with Mr. Jacobs, and any concerns that arose have been addressed. He stated that he realizes that Full Blown Firearms has

created an issue in the County. It is a very negative feel that he gets from that, but they are not Full Blown Firearms.

Mr. Scott stated that it is his understanding that the County has come up with additional conditions and he will stop at this point, but would like to reserve the right to come back and address the conditions that will be presented at some point this evening.

Mr. Wilson advised that there are two individuals to speak against this action.

Ms. Faith Wallace, 3672 Fayetteville Road, Griffin, Ga. Ms. Wallace stated that Math Field is surrounded completely by the reservoir, residential areas and a church. She stated this is considered "spot zoning" and she does not wish it to be zoned commercial because it will devalue their property and make it harder to sale.

Ms. Wallace then expressed her concern regarding the traffic in the area. She advised that she has had four accidents wind up in her front yard which is directly across the street from Sydney Road and she is concerned that the indoor gun range will increase the amount of traffic on this already dangerous road.

Marie Clark, 3655 Fayetteville Road, Griffin, Ga. Ms. Clark stated that she has lived at this address for the past 41 years and is within walking distance of Math field. She stated that the land has been in her family since 1945, the street being named Gibson Street for her uncle. Doreen Estates was named after a member of her family.

She stated that if you are wondering why she is standing here alone, where the other people may be, the neighbor on one side of her passed away and they have been unable to sell the house because it is on a busy highway. The neighbor on the right married and moved. The neighbor directly across from the Math Field driveway has a legally blind grandchild and a sick daughter and she couldn't come. She has to stand here alone to represent these people.

Ms. Clark further stated that her concern is not the guns, it is the additional traffic that would be generated by this type of business. We have had more than one death on Hwy 92 right there at my home and she had a serious wreck herself with her mother. There is a fire station whose trucks use this highway, school buses travel this road twice a day along with law enforcement and ambulances. She stated she is not against guns, her husband was Sgt. Clay Clark, he taught her gun safety. After his retirement, he directed traffic for many accidents until help arrived and he stayed until it was safe. She stated that they have enough trouble getting out of their driveway now, bringing in additional traffic for a business of this type will only make things worse.

Chad Jacobs, Community Development Director, stated that the items before the Board this evening is a zoning request from R2-AR1, C1(a) with a condition of a restaurant to C1 on 19 ½ acres. That rezoning is necessary to get to the special exception request which covers the indoor shooting range component. Staff still recommends denial on both of these applications. The rezoning would constitute a clear "spot zoning" of these 19 ½ acres and obviously denying of the rezoning would make the special exception portion moot.

Mr. Jacobs stated that the approval of the FLUM in June has complicated the matter and it has placed staff in uncharted territory. In considering the

approval of the FLUM, he felt it prudent from a staff position, that they stayed the course on it, because in his professional opinion, he feels it is still a clear “spot zoning” just from a zoning standpoint. Before, the request wasn’t consistent with the FLUM, but now it presents an issue that we have to deal with.

Mr. Jacobs stated that the Planning Commission at their last meeting struggled with this issue as well; however, after discussion they did recommend a denial by a vote of 3-2. In May, they had recommended denial by a vote of 4-1. The Board of Appeals, at their last meeting recommended approval of the special exception portion by a vote of 3-0 and in June the Board of Appeals had recommended denial of the special exception request by a vote of 3-1.

Commissioner Flowers-Taylor asked for a definition of “spot zoning.”

Mr. Jacobs stated that when there is a use that is completely different from the use of properties surrounding the parcel in question. In this instance, where you have predominantly agricultural/residential and R2 zoning and this is a 19 ½ acre tract that would change over to commercial, that would be in the middle of that would constitute a “spot zone.”

Commissioner Flowers-Taylor then asked the size of the piece of commercial property currently on that parcel.

Mr. Jacobs stated he was unsure, that zoning was done back in 2005, and in 2005 staff argued against that for the same reason. Currently, the commercial zoning is the footprint of the building and that of the parking area.

Commissioner Hawbaker asked what uses were permitted by C1(a) zoning.

Mr. Jacobs stated that C1(a) is a neighborhood commercial type use, so it is a very “watered down” version of a C1. That is really intended to service a small area, a neighborhood area, generally walkable in nature. A small foods store and is more common in the more dense areas of the County.

Mr. Galloway stated that earlier today the Chairman had requested that if zoning and special exception were approved, what conditions would be appropriate on the property. As the Board is aware, neither Mr. Jacobs nor I have expertise with the development of gun ranges. So we contacted Lorin Kramer whose firm we have used to review FBF and what you have before you are the conditions that he recommended because they also have expertise in development of indoor and outdoor facilities.

The rezoning shall be tied to the use proposed in the Application, to the exclusion of all others

Recommended zoning and special exception conditions:

1. Applicant shall comply with all applicable Federal, State and County statutes, laws, ordinances or codes, including but limited to:
 - a. building codes,
 - b. fire codes,
 - c. U.S. Department of Labor Occupational Safety and Health Administration (OSHA) regulations,
 - d. U.S. Environmental Protection Agency (EPA) regulations,
 - e. Georgia Department of Natural Resources Environmental Protection Division (EPD) regulations.

2. Exterior walls from 24 inches behind the firing line, downrange to 12 inches past the bullet trap system, shall be of a design that is impenetrable to the ammunition fired in the facility. 8 inch fully grouted concrete masonry units or 6 inch concrete are acceptable for this bullet resistance.
3. Floor system throughout the firing range enclosure shall be of a design that is impenetrable to the ammunition fired in the facility.
4. Ceiling system shall be of a design that is impenetrable to the ammunition fired in the facility between any point vertically above the firing line, from 12 inches above the firing line to the underside of the safety ceiling system, and downrange. Safety ceiling system shall also extend a minimum of 24 inches behind a line extended vertically above the firing line. Safety/baffle ceiling system shall be manufactured and certified to stop all ammunition fired in the facility.
5. Bullet trap system shall be manufactured and certified to stop and contain all ammunition fired in the facility.
6. Shooting stalls, if present, shall be of a design that is impenetrable to the ammunition fired in the facility.
7. Applicant shall prepare shooting range rules, including safe gun handling rules. Rules shall be prominently posted at the facility.
8. Shooting range enclosure ventilation system shall be a separate system from the remaining building. This system shall meet the requirements of the International Mechanical Code and NIOSH recommendations. Maintenance of this ventilation system shall be in accordance with manufacturer's guidance, OSHA regulations and EPA regulations.
9. Uncovered containers of spent bullets, bullet fragments, cartridge cases or debris from shooting range maintenance shall not be stored outdoors.
10. Eye and hearing protection shall be required within the shooting range enclosure whenever firing is conducted. OSHA compliant signs shall be posted requiring eye protection and hearing protection.
11. No outdoor shooting of any kind, regardless of whether said shooting is connected to the commercial use of the property, shall be allowed, permitted, or conducted on the property at any time under any conditions.
12. The business is to maintain at least a \$2,000,000 commercial liability policy.
13. The above-listed conditions of approval shall be tied to the current applicant and not transferrable to any future property owners.

Mr. Galloway advised that conditions 1-12 are from Mr. Kramer, condition 13 is paraphrased from the condition proposed by Mr. Scott that prior to placing property of the market they would apply for rezoning. Condition 14 says that it is tied to this particular use under C1. The problem there being that as with C1(a) now existing on part of the tract, any use that can fit on the property within C1(a) can be located there. The condition on C1(a) is restaurant and anyone who wanted to open something other than a restaurant would have to apply to change the condition. That condition was imposed because the applicant was confronted, as Mr. Jacobs stated, with the same recommendation to deny because the concern was it would be a "spot zoning." If this were to be approved, then the recommendation would that it be conditioned on the proposed use in the application which would be an indoor range.

Mr. Galloway then advised that the Board could deny the application, approve the application, or approve the application with conditions, but what you have in front of you are the proposed conditions should you make the decision to approve, the purpose of which would be to reduce the impact to surrounding properties and make certain that the use is tied to an indoor gun range. Also, understand that there are also uses in AR1 that can go there besides a house.

Mr. Jacobs stated that he agrees with Mr. Dunn, this is a difficult property and he reiterates what Mr. Scott said in his statements, it has been a pleasure to work with these individuals; however, he indicated to them at the beginning of this long process that this is a difficult piece of property. That fact is not lost on staff at all. The concern isn't with the indoor range at all it is from a zoning manual standpoint.

Mr. Galloway stated that if the vote tonight is to deny these requests, he would urge the Board to go back and relook at the motion to approve the Future Land Use Amendment because if the Future Land Use designation of commercial remains out there, then that will impact other applications that you will see coming through. If your vote tonight is to approve, he feels that Mr. Cramer has given a professional statement on appropriate conditions on the use as can be done.

Commissioner Hawbaker asked if the applicant had received a copy of these conditions.

Mr. Galloway advised that he had received instruction from the Chairman through Mr. Wilson this afternoon at about noon and we have worked this afternoon to get them together and they were provided to Mr. Scott prior to the meeting and that is the first opportunity he had to see them.

Alex Scott stated that they had reviewed the conditions presented to them at the beginning of the meeting and they have no issue with the conditions at all. He stated that #13 is a paraphrase of what he had previously stated, the above conditions are tied to the applicant, but he is part of a group and he would like to extend that condition to the entire group. The group as a whole is good with the conditions.

Mr. Galloway stated that should the Board decide to approve, the conditions as set forth are considered appropriate standards for this use as an indoor range.

Chairman Miller asked if indoor ranges were structured through the NRA Source Book.

Mr. Galloway stated that the NRA Source Book dealing with indoor facilities is not as authoritative as their documentation and guidelines for outdoor ranges. So he cannot represent that these recommendations come from an NRA Source Book, he stated that he can represent that they come from Mr. Cramer's experience in developing ranges both indoor and outdoor and assessing what is appropriate for an indoor and outdoor range.

Mr. Scott advised that he has read the Source Book and it is a good guide. It is a little generalistic and the conditions are more specific. This is a step up and we are happy to exceed a minimum standard when it comes to safety.

Commissioner Flowers-Taylor stated that she looks at any piece of property as if it were her own property and if she had commercial property she would want to utilize it for the highest and best use. She stated that she did go to indoor ranges in Jonesboro and in Fayetteville and she was very impressed with them. In the restaurant area you could not hear any shooting, you

couldn't hear it outside, it was like a regular business, which is what we want is businesses. She stated that she feels that this type of business will not be a detriment to the neighborhood.

Motion/Second by Flowers-Taylor to approve Application #17-04Z: Terry Dunn, Owner - Alex Scott, Agent - 3616 Fayetteville Road (19.5 acres located in Land Lot 8 of the 3rd Land District) - requesting a rezoning from AR-1 Agricultural and Residential, R-2 Single Family Residential and C-1A Neighborhood Commercial, to C-1 Highway Commercial with the conditions as provided by Attorney Galloway during the meeting. Motion failed for lack of a second.

Motion/Second by Hawbaker to table, motion failed for lack of a second.

Motion/Second by Ray/Hawbaker to deny Application #17-04Z: Terry Dunn, Owner - Alex Scott, Agent - 3616 Fayetteville Road (19.5 acres located in Land Lot 8 of the 3rd Land District) - requesting a rezoning from AR-1 Agricultural and Residential, R-2 Single Family Residential and C-1A Neighborhood Commercial, to C-1 Highway Commercial.

Commissioner Ray stated that he does not believe that any range of any type should be situated in a residential area. He stated that he respects Mr. Scott in his position, but there is no certification that this location can give to a law enforcement officer for training and he does not see where training in this facility would be of use to any law enforcement other than to come out for target practice.

Mr. Scott assured the Board that any time law enforcement comes out to this facility they will have a post certified instructor. Mr. Scott stated that in law enforcement you have to be a post certified instructor and that instructor, in turn, certifies their agency. So if Spalding County wants to utilize the facility, they will have their range person come out and that is who will actually conduct the certification. There is no certification of a range, it is just use of facility.

Commissioner Hawbaker stated that there is nothing more that he would like to do than to see a new business come into the County, but he has learned from past experience that the County is much better served listening to our professionals and following their advice.

No action taken due to a tied vote 2-2 (Ray/Hawbaker).

Mr. Galloway stated that this item of business will carry forward and be on the next agenda. A motion has to have a majority vote to pass.

2. **Application #17-04S:** Terry Dunn, Owner - Alex Scott, Agent - 3616 Fayetteville Road (19.5 acres located in Land Lot 6 of the 3rd Land District) - requesting a Special Exception to allow indoor gun range in the C-1 District.

No need to vote on the Special Exception as the zoning application was not approved.

C. Other Business:

Mr. Jacobs stated that he wanted to give the Board a "heads-up." You will all be contacted by the consultants at AMEC as we are nearing the end of the Comp Plan process and formalizing a final draft of the document. Ahead of that we will

be holding an Open House session which will be the last public meeting, so the public can come in and view the plan essentially in the final draft before we transmit. We are looking to get approval to transmit on September 18th to send to DCA. Representatives from AMEC Foster Wheeler have offered to meet with the Board ahead of the Open House session so the Board will have the opportunity to review the plan with them and ask questions before it is in its' final form.

D. Adjournment

Motion/Second by Ray/Flowers-Taylor to adjourn the meeting at 6:50 p.m. Motion carried unanimously by all.