

PLANNING COMMISSION
Regular Meeting
April 30, 2002

The Spalding County Planning Commission held its regular meeting on April 30, 2002 at 7:00 P.M. in the County Commission Meeting Room #108, Spalding County Courthouse Annex. Members present were: Chairman Karen Mathiak, presiding, Delores Phillips, Ray Browning, and Frank Harris. Bill Bryant and John Youmans were not present at the meeting.

Also, present were Assistant County Manager Michael E. Sabine, Senior Planner Lee Craig, Zoning Attorney Newton Galloway, and Cindy McDaniel to record the minutes.

Ms. Mathiak called the meeting to order, introduced the members of the Planning Commission, and gave the procedure for handling the applications.

MINUTES

The minutes of the March 26, 2002 and April 9, 2002 meetings were approved on a motion by Ms. Phillips and a second by Mr. Browning with Karen Mathiak, Delores Phillips, Ray Browning, and Frank Harris voting for the motion.

REZONING REQUESTS:

Application #02-09Z: B. D. Luke and Naomi J. Luke, Owners – Luke Contracting, Inc., Agent – 3732 West Ellis Road (125.731 acres located in Land Lot(s) 11 & 22 of the 4th Land District) – requesting a rezoning from AR-1, Agricultural and Residential, to AR-2, Rural Reserve.

David Luke came forward, stated his name, and gave his address as 2335 Sycamore Drive, Snellville, Georgia.

Mr. Luke stated he is representing the owners of the property at 3732 West Ellis Road. Mr. Luke stated there is 125.731 acres that is currently zoned AR-1. The property owners are requesting a rezoning to AR-2 Rural Reserve for an estate type subdivision for 8 lots consisting of 6 acres and up with 2,000 square foot home minimum, protective architectural control, livestock limitations (horses and cattle only allowed), and unification of fences at the front of the property.

Mr. Sabine stated AR-2 does allow equestrian uses, but does not allow commercial livestock or cattle uses. Mr. Sabine stated the equestrian use would be allowed, but cattle would not be allowed. Mr. Sabine stated minimum lot size in the AR-2 is 5 acres. Mr. Sabine stated all of the lots within this proposed development exceed the 5-acre requirement. Mr. Sabine stated this proposed tract was subject to a rezoning in December 2000 for R-2, and the Board of Commissioners did not support the rezoning request. Mr. Sabine stated this proposal, with the minimal number of lots, is a very good fit for the

area. Mr. Sabine stated the developmental trend for this area has been for larger homes in the area. Mr. Sabine stated there are a couple of fly-in communities in the area.

Mr. Sabine stated the staff report recommends conditional approval that all homes shall have a minimum heated area of 2,000 square feet, and zoning approval should be conditioned on the proposed site plan.

MOTION

Mr. Browning a motion to approve application #02-09Z conditioned that all homes have a minimum heated area of 2,000 square feet, and zoning approval should be conditioned on the proposed site plan. The motion passed on a second by Mr. Harris with Karen Mathiak, Delores Phillips, Ray Browning, and Frank Harris voting for the motion.

Ms. Mathiak advised this application would go before the Board of Commissioners on May 23rd at 6:00 p.m.

Application #02-10Z: Byron F. Smith, Owner – 18.895 acres off McKinley Drive located in Land Lot 150 of the 2nd Land District – requesting a rezoning from R-1, Single Family Residential Low Density, to AR-1, Rural Reserve.

Byron Smith came forward, gave his name, and address as 490 North Pine Hill Road, Griffin.

Mr. Smith stated he is requesting to rezone the property from R-1 to AR-2. Mr. Smith stated there use to be a farm on the property years ago. Mr. Smith stated he would like to make a pasture for some horses and would eventually build a house on the property.

Mr. Sabine gave the Planning Commission a brief history of this property. Mr. Sabine stated several months ago calls were received in the Community Development office about potential violations of the County Soil and Erosion Sedimentation Control Ordinance. Mr. Sabine stated a visit to the site was made, and noted some sale signs were visible, but no other tangible evidence or effects of development, with the exception that the property had been heavily reshaped to suit either a pasture or a perspective development, were visible. Mr. Sabine stated the property had been pulp wooded a few years ago, which certainly impacted the property's state. Mr. Sabine stated two creeks traverse the property, which makes it somewhat environmentally fragile. Mr. Sabine stated it is his understanding that the Corps of Engineers has been advised of this matter. Mr. Sabine stated the Corps of Engineers has not contacted Spalding County. Mr. Sabine stated this property was not developed back in the 1970's when the rest of the subdivision was developed. Mr. Sabine stated the property has some state waterways traversing through the property, and has an uncertain status at this time. Mr. Sabine stated Spalding County's Soil and Erosion Sedimentation Control Ordinance states that agricultural and the construction of up to 2 homes are excluded activities from the provisions of this ordinance.

Mr. Sabine stated a question of concern is why Spalding County did not issue a citation. Mr. Sabine stated Spalding County has done everything that the ordinance would allow to do within reason. Mr. Sabine stated Spalding County did issue a stop work order to prevent any perspective development of the property into 3 or more tracts, and the rezoning application was filed subsequent to a statement by Mr. Smith that he intended to use the property for agricultural purposes as stated in the application. There is no recorded plat showing the division of multiple tracts of property, no sales contract, and no tangible evidence of the physical development of 3 or more homes on this property. Mr. Sabine stated there are certainly significant concerns on the part of the neighborhood, and this property is very prominent to the area. Mr. Sabine stated this property is very sensitive with 2 creeks going through the property, as well as, the fact that the property has already been very heavily impacted by the previous pulpwood operation.

Mr. Sabine stated this application is for AR-2 with minimum lot size of 5 acres. Under the current development allowed, within the R-1 district, as a matter of right on public sanitary sewer, the density is 2.2 units per acre. Mr. Sabine stated this means assuming that any potential environmental concerns could be resolved, this tract of property would allow approximately 41 homes. Mr. Sabine stated concerns are that the property is environmentally sensitive. Mr. Sabine stated he feels that rezoning this tract of property to AR-2 would be in the best interest of the piece of property, for the neighborhood, and for Spalding County. Mr. Sabine stated a reduction of density from 2.2 units per acres to 5 acres per unit or .2 units per acre, which is roughly a 90 percent reduction, is proposed density. If the property were environmentally sensitive, obviously a reduction in density of that magnitude would certainly be warranted. Mr. Sabine stated he is, also, sensitive to the issue of horses on the property, and adjacent residential areas would suggest this, and all parties should work together to come up with buffers or other conditions to make sure everyone is satisfied.

Mr. Sabine stated staff is recommending approval of the rezoning, and feels this is the most appropriate way to handle this tract of property given the fact that Spalding County cannot reverse the effects of the previous pulpwooding operation, and that sanitary sewer is already on the property. Mr. Sabine stated he knows this proposed rezoning is a controversial issue, and he appreciate the neighbors coming out because it is rare that Spalding County has this type of interest on the part of a neighborhood.

Several people were signed to speak regarding this application. They each came forward, stated their name, and gave their address.

John Stuart – 123 McKinley Drive

Mr. Stuart stated the deed to his house states McKinley Subdivision not “farmette”. Mr. Stuart stated the residents on McKinley Drive like having a subdivision. Mr. Stuart stated his biggest complaint is why didn’t Spalding County do something earlier. Mr. Stuart stated he thought when someone started moving dirt a permit was required. Mr. Stuart stated Mr. Smith moved dirt for 6 months before a plan was submitted and carried out. Mr. Stuart stated this property is definitely wetlands, and also has a concern about

drainage. Mr. Stuart stated he is not in favor of helping the developer. Mr. Stuart stated to develop the property further would cost the developer a lot of money. Mr. Stuart stated he would like to keep the area a subdivision.

Patricia Stuart – 123 McKinley Drive

Ms. Stuart showed the Planning Commission some picture of McKinley Drive. Ms. Stuart stated the neighborhood is beautiful, with nice homes, well-kept yards, and good friends. Ms. Stuart stated there is a concern of what the developer has done to the property across from the homes, and what the developer will do if the rezoning is approved. Ms. Stuart stated if the AR-2 were approved, it would be hard to get the property rezoned back to a residential zone. Ms. Stuart stated this is McKinley Drive Subdivision not a farm area. Ms. Stuart stated the Army Corps of Engineer and the Environmental Protection Division of Georgia have been contacted and both have visited the site. Ms. Stuart stated she spoke with Alan Miller, a representative of the Army Corps of Engineer, who stated a list of violations and all reports on this property have been sent to the Federal Environmental Protection Division for action. Ms. Stuart stated per Mr. Miller, the Army Corps of Engineer is not required to notify Spalding County on any action to be taken until action has been taken. Ms. Stuart stated Mr. Miller would try to contact Spalding County and bring up-to-date on their report. Ms. Stuart stated the property is wetlands that has been filled in and compacted with soil to make the property look like it is good land to build houses.

Gary Davis – 162 McKinley Drive

Mr. Davis stated he has lived on McKinley Drive for approximately 12 years, and has raised his children. Mr. Davis stated there has been problems with sewer and septic tanks for homes in the area, and builders were allowed to build on property that septic tanks should never have been allowed on. Mr. Davis stated there are concern about the property being wetlands. Mr. Davis stated the City of Griffin spent quite a bit of money putting sewer in. Mr. Davis stated there is a concern of small children who live in the area with there being horses on the property. Mr. Davis stated better preparation should have been done with the developer. Mr. Davis stated the person who planned McKinley Drive would have developed this property if it were possible, but he did not. Mr. Davis stated nothing should have been disturbed on the property.

Felton Conkle – 145 McKinley Drive

Mr. Conkle stated he has lived at 145 McKinley Drive since 1974. Mr. Conkle passed around picture for the Planning Commission to view. Mr. Conkle stated the neighborhood is very close. Mr. Conkle stated the wetlands have been destroyed. Mr. Conkle stated the owner put up signs and tried to sells lots. Mr. Conkle stated the owner finally put up silk fence. Mr. Conkle stated the owner has been burning in the area causing dust and ashes to fall over the neighborhood. Mr. Conkle stated he doesn't feel the rezoning should be approved. Mr. Conkle stated the Environmental Protection Division should investigate to see what wetlands have been destroyed.

Frank Robertson – 133 McKinley Drive.

Mr. Robertson stated the silk fence has just recently been put up on the property. Mr. Robertson stated Mr. Smith started to work on the property approximately 2 years ago. Mr. Robertson stated Mr. Smith took some red dirt off of a hill and spread across the property in the last few months. Mr. Robertson stated this property was a swamp. Mr. Robertson stated Mr. McKinley, who built the houses in the area, did not develop this swampland. Mr. Robertson stated the landscape has been severely changed with the harvesting operation and removal of dirt. Mr. Robertson stated there is a concern of what uses would be allowed on the property if rezoned to AR-2.

Mr. Sabine stated he wished to clarify the uses in the AR-2, which is the most restrictive district Spalding County has. Mr. Sabine stated the uses allowed in the AR-2 and R-2 districts. Mr. Sabine stated the main difference between the 2 districts is the R-1 allowed personal care homes as defined by the ordinance, and the AR-2, with the larger lot size, would allow horses. Mr. Sabine stated in terms of special exception uses, both are roughly equivalent.

Lon Fleming – 1412 Ethridge Mill Road

Mr. Fleming stated he use to own a home at 127 McKinley Drive and lived there for 13 years. Mr. Fleming stated he currently owns a home at 117 McKinley Drive. Mr. Fleming stated his home is for sell, and part of the reason he can't sell his home is everybody is scared of what would be developed across the road. Mr. Fleming stated the property is wetlands and was a swamp. Mr. Fleming stated Mr. McKinley fenced this property off from the subdivision. Mr. Fleming stated there was no cattle on this property when the subdivision was first started. Mr. Fleming stated cattle was on the property before the subdivision was started. Mr. Fleming stated Mr. Smith does not live in the area and would not impact him like it would the neighborhood on what would be done on the property. Mr. Fleming stated this property should not be developed by something that would impact the whole area. Mr. Fleming stated there is a concern about property values.

Janice M. Fleming – 117 McKinley Drive

Ms. Fleming stated when her father divided this property it was being used for agricultural (farm). Ms. Fleming stated her father wanted to keep this property for residential use. Ms. Fleming stated she is before the Planning Commission tonight to support the neighbors. Ms. Fleming stated she would like to see her father's dream carried on. Ms. Fleming stated there is a concern about children being around animals.

Dennis McGee – 202 McKinley Drive

Mr. McGee stated he has lived there for approximately 28 years. Mr. McGee stated he would like to see the property remain residential as planned from the beginning.

Patricia Bender – 127 McKinley Drive

Ms. Bender stated she has been watching the activity on this property since the very beginning. Ms. Bender stated someone should check under the soil, because trees and roots have been buried under the soil. Ms. Bender stated if houses are built on this tract of property, she is afraid the houses will sink. Ms. Bender stated she is concerned with what is going on and what is going to go on the property

Rachel Kilgore – 125 McKinley Drive

Ms. Kilgore stated her biggest concern is the neighborhood does not know what is going on with the property. Ms. Kilgore stated the neighbors have been told several different things.

Margaret Varnom – 111 McKinley Drive

Ms. Varnom stated she has been watching what has been going on from the start. Ms. Varnom stated last year there was a big problem with mosquitoes in the area. Ms. Varnom stated the land was very beautiful. Ms. Varnom stated the land is beginning to sink. Ms. Varnom stated the neighbors have heard several different things as to what Mr. Smith would like to do with the property, and are very concerned as to what is going to happen with the property.

Jerry Martin – 143 McKinley Drive

Mr. Martin stated he has a concern with the uses that would be allowed within the AR-2 zoning. Mr. Martin stated it appeared to him that there are very many restrictions that he can do with the property.

Mr. Galloway stated that R-1 and AR-2 are Spalding County's most restrictive zoning classes. Mr. Galloway stated that someone with R-1 and AR-2 zoning classifications can do less with their property than any other zoning classification, and the uses are very comparable.

Mr. Martin stated he has lived there for approximately 18 years. Mr. Martin stated before he moved into the area, he check the zoning and was advised the property across the road was residential. Mr. Martin stated he felt since the property across the road was a swamp or wetlands that is was too wet to develop. Mr. Martin stated since the trees have been torn down and burned/buried them, it has changed the whole nature of the neighborhood. Mr. Martin stated he is urging the Planning Commission to vote against this rezoning application.

Lanny C. Hook – 148 McKinley Drive – passed.

Shirley C. Hook – 148 McKinley Drive – passed.

Dexter Harper – 152 McKinley Drive

Mr. Harper stated he has lived at this location for approximately 5 years. Mr. Harper stated one of the things that attracted him to the house was the green buffer in the middle of the subdivision. Mr. Harper stated his back door looks directly at this property. Mr. Harper stated he would never have bought this house had he know horses could have been put on this property. Mr. Harper stated he did not understand how horses could be put right in the middle of 42 houses. Mr. Harper stated putting horses behind him would decrease his property value. Mr. Harper stated he urges the Planning Commission to consider this request carefully. Mr. Harper stated he moved from Atlanta to this area for a better quality of life and peace of mind, and would not have been no way he would have moved in the area to live next to a farm. Mr. Harper stated this property is not in a rural area. Mr. Harper stated he does not want horses put on the property. Mr. Harper stated the community is very active. Mr. Harper stated urged the Planning Commission to consider the neighborhoods concerns and deny the request for rezoning.

Sue Martin – 143 McKinley Drive

Ms. Martin stated she is concerned with what is going to be done with the property. Ms. Martin stated she would like to see the property put to good use, and know exactly what is going to be done with the property before it is voted on.

Brenda Goolsby – 152 McKinley Drive

Ms. Goolsby stated she agrees with everyone else in the neighborhood.

Lesley Christian – 204 McKinley Drive

Ms. Christian stated she is a Communities Broker with Re/Max in Atlanta. Ms. Christian stated the scenario that Mr. Smith would like to have on the property does not fit in the area. Ms. Christian stated if the rezoning were approved, the development would be a detriment to the area. Ms. Christian stated if horses area allowed on the property, the neighbors would have a problem selling houses in the area.

Lee Dinoff – 204 McKinley Drive – passed.

Kathy McCarty – 150 McKinley Drive – passed.

Joni Davis – 162 McKinley Drive

Ms. Davis stated she agrees with everyone else in the neighborhood.

Ms. Mathiak stated a notarized letter had been received from Michael and Martha Dalton, which was entered into the record (see attached.)

Mr. Sabine stated relative to Spalding County's Soil and Erosion Sedimentation Control Ordinance, agricultural along with up to 2 homes would be excluded from the provisions of this ordinance. Mr. Sabine stated baring a recorded plat, sales contracts, or any tangible evidence that would render the current County Soil and Erosion Sedimentation Control Ordinance along with the state regulations put forth by the Environmental Protection Division. Mr. Sabine stated discussions have been held with the Environmental Protection Division trying to get a clear answer, and the Environmental Protection Division has come back with no answer. Mr. Sabine stated there are a lot of things going on with this property. Mr. Sabine stated the presence of sewer fundamentally changes how this property can be developed. Mr. Sabine stated the County, as a whole, is less impacted than in many other situations, but the neighborhood is considerably impacted, and is very aware of this. Mr. Sabine stated he is not aware of any preclusion that granting the rezoning and lowering the density would have any negative impact on any enforcement action present or perspective by the Corps of Engineers. Mr. Sabine stated the granting of the rezoning itself, especially reducing the density, would not have any negative impact on any Corps of Engineers action.

Mr. Sabine stated the applicant is entitled to a reasonable use to the property. Mr. Sabine stated there are several cases in the County and the City where residences did not think subdivision development could not take place, but has been developed. Mr. Sabine stated as far as Spalding County knows today, the whole tract of property is not wetlands. Mr. Sabine stated once the wetlands are delineated, the property could be developed. Mr. Sabine stated Spalding County's civic understanding of what a wetland or what a creek bed is, and the actual delineation is can be two different things. Mr. Sabine stated if the rezoning is denied, the property may not remain vacant in its current form forever. Mr. Sabine stated from the comments received tonight, there are concerns about changing the zoning, and developing the property residentially. Mr. Sabine stated concerns were, also, expressed about the wetlands in the field. Mr. Sabine stated both of those concerns turn out to be greater environmental concerns, which would actually be in support of reducing the density and changing the zoning to AR-2. Mr. Sabine stated the zoning could be conditioned to take out some of the uses to give additional protection beyond the zoning classification state, but still lowering the density to the AR-2. Mr. Sabine stated he did not foresee the property staying vacant with someone just paying taxes. Mr. Sabine stated someone could come in to develop the property especially with sewer being available. Mr. Sabine stated sewer property is very rare in Spalding County. Mr. Sabine stated the developer could come in and delineate the wetland with the prospect of the property being developed. Mr. Sabine stated the rezoning could be conditioned to protect the neighbors, or deny the request leaving the property in the existing underlying category with the density calculations that are permitted as a matter of right, and taking the risk of the property developing in that direction.

Mr. Galloway stated with the property as it is zoned, the owner could come in tomorrow and submit to Spalding County a plat for the subdivision of this property into 41 lots, and Spalding County would not be required to give notice that this was occurring. Mr. Galloway stated the only basis the plat could be denied is if the plat did not comply with the requirements of Spalding County's preliminary plat requirements. If this were to

occur, the issues of wetlands would come up as a development issue, but not as a zoning issue because the property is already zoned. Mr. Galloway stated this property has been zoned R-1 or comparable since 1962. Mr. Galloway again reiterated that R-1 has been Spalding County's most exclusive subdivision class. AR-2's development requirements, in terms of size of houses, are comparable. Mr. Galloway stated a plat could be submitted up to the maximum amount of density in the R-1. There would be no zoning procedure applied because the property is already zoned. Mr. Galloway stated a proceeding would be held by the Planning Commission to determine if the plat satisfies the requirements. With regards to the wetlands, there is a certain amount of wetlands that must be shown on the property before the Clean Water Act comes in. The presence of wetlands does not preclude development; it simply requires compliance with the Clean Water Act in order to get a Section 404 Permit from the Army Corps of Engineer. Mr. Galloway stated Spalding County's ordinances are now consistent with the Clean Water Act, and the procedures that are required. Mr. Galloway stated Mr. Smith could potentially apply to the Corps of Engineers to destroy the wetlands providing there was a mitigation wetlands developed elsewhere. Mr. Galloway stated the presence of wetlands is not an absolute prohibition to develop property.

Margaret Pollard – 108 McKinley Drive

Ms. Pollard stated the sewer from Honeybee Creek runs through the property, but none of the homeowners are able to connect to that sewer, so the property is technically not sewered.

Mr. Galloway stated the City of Griffin is under obligation to provide sewer to any unincorporated section of the County where the County needs the facility and the City of Griffin has the facility. If the developer chose to hook onto an existing city line, the city would probably be required to allow to hook on and to serve those lots. Once sewer is available it does fundamentally change what would be allowed on the property, because the environmental restrictions are very different. Mr. Galloway stated without public water and sewer, Spalding County requires 2 acres per lot. Mr. Galloway stated the environmental regulations from this point will never be any less restrictive than are right now.

Mr. Davis stated he had a contract to sell his home about a year ago. The reason the home did not sell was because of the development behind him. Mr. Davis stated he could walk up to the fence if animals were allowed on the property. Mr. Davis stated asked if the County does anything concerning swamplands.

Mr. Sabine stated compaction test are done when building permits are issued before the foundation/slab (depending upon the option selected by the builder/homeowner); if determined by the Building Official, a compaction test is done at that time. Mr. Sabine stated the property is always analyzed to see if the property is under any flood plain preclusion. Mr. Sabine stated FEMA maps are available in the Community Development Office. Mr. Sabine stated under the Conservation Subdivision Ordinance the density is 2.2 units per acre, but the actual lot size is 15,000 square feet. The neutral density in a

basic Conservation Subdivision is 15,000 square feet on average with up to 20% of the lots can be reduced to a minimum of 12,000 square feet.

Mr. Smith stated when he had purchased the property, the people who had pulp wooded the property had left the property in a big mess. Mr. Smith stated when he started cleaning up the property there were complaints because he wasn't cleaning fast enough. Mr. Smith stated he is asking to rezone the property to AR-2, and would be comparable to the area.

Mr. Sabine stated the maximum density would be 41 lots, and could be below the low 20's because 50% of the property would need to go into greenspace. Mr. Sabine stated if the zoning is kept R-1, and the property went to a Conservation Subdivision horses would be allowed.

Ms. Phillips asked Mr. Smith if he planned only to build 1 house with pastureland. Mr. Smith stated just 1 house unless he built his daughter a house. Mr. Galloway stated Mr. Smith would be limited to 1 principal use per lot.

Mr. Browning stated the wetlands can be developed, but there are very strict rules. Mr. Browning stated fill can be taken from wetlands, but fill had to come from the wetlands. Mr. Browning stated the Planning Commission has within their power tonight to condition this property. Mr. Browning asked the residences if they would like to see 25 or 30 homes in the area, or 1 home. Mr. Browning stated if homes are built under the R-1 zoning, 1,750 minimum heated square feet is required.

Mr. Galloway stated AR-2 was designed to be a rural reserve classification designed to protect and develop property similar to Brook Bridge Airport or comparable like the area of Brooks with large tracts and large houses. Mr. Galloway stated AR-2 because it was deemed to be more residential precluded some of the agricultural uses, but felt it would not be inconsistent with those residential uses on 5-acre tracts to allow such things as horses. Most of Spalding County is zoned AR-1. AR-2 was significantly restricted from the agricultural uses that could go in the AR-1.

Mr. Galloway explained the Conservation Subdivision to the residences. Mr. Galloway stated many of the residences spoke of preserving the open space behind them. Mr. Galloway stated AR-2 allows for that preservation more so than the R-1 zoning. Mr. Galloway stated if as a community you tell the Planning Commission you would like to see a subdivision rather than an AR-2 use, that is a perfectly valid decision for the community to make. Mr. Galloway stated this is different from what most people say. Mr. Galloway stated Spalding County is criticized for allowing subdivisions, because people want the property adjacent to them undeveloped. Mr. Galloway stated if you want undeveloped property next to you, AR-2 is the best that could be put on the property.

Mr. Galloway stated if the property constitutes is truly wetlands, as defined under the Clean Water Act, certain criteria which has to be met under the Army Corps of Engineer's jurisdiction, then there are restrictions. There are also certain groundwater

restrictions depending on how close they are to a creek. However, as a general rule, if the property is not within the general definition of a wetland then it can be filled in.

Mr. Browning stated it is entirely possible to move creeks and wetlands are filled.

Ms. Mathiak stated her concern is the smaller lots, and likes the idea of going to larger acreage size.

Betty Jones – 205 McKinley Drive

Ms. Jones stated she would rather know that there were less houses being built on the property even if horses were allowed. The less houses allowed the more apt the neighborhood will be kept as it is now.

Ms. Phillips stated the concern of the residences is the unknown of what is going to be developed on the property. Ms. Phillips stated she appreciates the concern of the neighborhood. Ms. Phillips stated she is, also, concerned with the safety of the children.

Mr. Sabine stated if a recommendation is made for approval of the AR-2, approval could be conditioned as follows: no more than 3 houses, riding academies and other public equestrian facilities not permitted, no special exception uses allowed, and fences shall be at least 50 or 75 feet from any property lines.

Ms. Mathiak asked Mr. Smith if the conditions were something he could deal with. Mr. Smith stated he did not limiting the use of his property. Mr. Smith stated he felt, the pasture fences should be allowed right up at the property line. Mr. Sabine stated under the general preclusions, requirements have to be at least 100 feet from any residential uses, which is a Department of Human Resources rule. Mr. Sabine stated he didn't feel the 50 feet would be much more restrictive by the time other requirements are factored in. Mr. Sabine stated the right-of-way can't be fenced in, and Environmental Health has other general preclusions on animals of that type being close to residential dwellings.

Mr. Browning stated since this a fairly dense residential neighborhood, children should be afforded a measure of protection. Mr. Browning stated horses should be separated from children. Mr. Sabine asked Mr. Smith if he would consider putting up a double fence, so there would be an external fence, a few feet, and then a second fence to buffer between the animals on one side (the first fence), and children on the other. Mr. Sabine stated double fencing would be a feasible alternative, and the children and the horses couldn't get together no matter what the setback would be. Mr. Smith stated he didn't like the recommendation of fencing.

A question was asked on how many horses would be allowed on the property. Mr. Sabine stated Environmental Health would regulate the number of horses allowed on the property. Mr. Sabine stated Animal Control would assess whether conditions are safe and sanitary for the keeping of the animals, also in conjunction with the Environmental Health Department. Mr. Smith stated he would possibly have 4 horses on the property.

Mr. Smith stated he did not want to be limited as to the number of horses that would be allowed. Mr. Smith stated he was not going to make the property into a commercial use.

Jefferson Vernon – 137 McKinley Drive

Mr. Vernon stated in the interest of safety, he is aware of what horses can do to people. If the horses get out, who will be responsible to put the horses back in the fence. Mr. Vernon stated he does have a problem with the equestrian use on the property. Mr. Vernon stated this use would lower his property value.

MOTION

Mr. Browning made a motion to approve application #02-10Z conditioned that only 3 homes be allowed, equestrian use for personal use only, riding academies and other public equestrian uses not allowed, all special exception uses not allowed, and a fence be installed at least 50 feet from any property line. The motion passed on a second by Mr. Harris with Karen Mathiak, Ray Browning, and Frank Harris voting for the motion, and Delores Phillips voting against the motion.

Ms. Mathiak advised this application would go before the Board of Commissioners on May 23rd at 6:00 p.m.

ADJOURNMENT

Ms. Phillips made a motion, seconded by Mr. Browning, to adjourn the meeting. The motion passed with Karen Mathiak, Delores Phillips, Ray Browning, and Frank Harris voting for the motion.

Karen Mathiak – Chairman

Cindy L. McDaniel – Recorder