

ITEM # \_\_\_\_\_

**SEMINOLE COUNTY GOVERNMENT  
LAND PLANNING AGENCY / PLANNING AND ZONING COMMISSION  
AGENDA MEMORANDUM**

**SUBJECT:** David & McElyea Law Office Rezone from RP (Residential Professional District) and R-1AA (Single Family Dwelling District) to OP (Office Professional District) (Mike and Jim Hattaway, applicants)

**DEPARTMENT:** Planning & Development **DIVISION:** Planning

**AUTHORIZED BY:** Matthew West **CONTACT:** Tina Deater **EXT:** 7440

Agenda Date	<u>4/6/05</u>	Regular	<input type="checkbox"/>	Work Session	<input type="checkbox"/>	Briefing	<input type="checkbox"/>
		Special Hearing – 6:00	<input type="checkbox"/>	Public Hearing – 7:00	<input checked="" type="checkbox"/>		

**MOTION/RECOMMENDATION:**

1. Recommend APPROVAL of the request for a rezone from R-1AA (Single Family Dwelling District) and RP (Residential Professional District) to OP (Office Professional District); located on the southeast corner of Faith Terrace and Maitland Avenue (Mike and Jim Hattaway, applicants); or
2. Recommend DENIAL of the request for a rezone from R-1AA (Single Family Dwelling District) and RP (Residential Professional District) to OP (Office Professional District); located on the southeast corner of Faith Terrace and Maitland Avenue (Mike and Jim Hattaway, applicants); or
3. CONTINUE the public hearing until a time and date certain.

District 4 – Commissioner Henley

Tina Deater, Senior Planner

**BACKGROUND:**

The applicants are requesting a rezone from R-1AA and RP to OP, in order to build a two-story 10,044 square foot law office. The future land use designation of the subject property is Office, which allows the proposed OP zoning classification.

**STAFF RECOMMENDATION:**

Staff recommends APPROVAL of the rezone from RP and R-1AA to OP, subject to the attached development order, and with the following conditions:

1. The granting of a front yard setback variance by the Board of Adjustment as shown on the site plan in the attached development order. If the Board of Adjustment denies the

Reviewed by:	
Co Atty:	
DFS:	<u>MW</u>
OTHER:	
DCM:	
CM:	
File No.	<u>Z2004-068</u>

variance request or approves a variance that requires a modification to the attached site plan, the applicant shall have to submit a revised site plan for review and approval by the Development Review Committee, Planning and Zoning Commission and Board of County Commissioners; and

2. A two foot deep swale shall be allowed to encroach 15' into the required 25' buffer along the east property line, provided that the landscaping and buffering requirements of Section 30.1232 of the Seminole County Land Development Code are met.

**Attachments:**

Development Order  
Rezone Ordinance  
Rezone and FLU Map  
Aerial Map

## David & McElyea Law Office Rezone from R-1AA and RP to OP

<b>Rezone from R-1AA (Single Family Dwelling District)          and RP (Residential Professional District) to OP          (Office Professional District)</b>		Z2004-068
<b>REQUEST</b>		
<b>APPLICANT</b>	Mike Hattaway and Jim Hattaway	
<b>REZONING</b>	R-1AA (Single Family Dwelling District) and RP (Residential Professional District) to OP (Office Professional District)	
<b>FUTURE LAND USE</b>	Office	
<b>APPROXIMATE GROSS ACRES</b>	0.87	
<b>LOCATION</b>	Located on the southeast corner of the intersection of Maitland Avenue and Faith Terrace	
<b>BCC DISTRICT</b>	District 4 – Commissioner Henley	
<b>RECOMMENDATIONS AND ACTIONS</b>		
<b>STAFF RECOMMENDATION</b>	<p>Staff recommends APPROVAL of the rezone from RP and R-1AA to OP, subject to the attached development order, and with the following conditions:</p> <ol style="list-style-type: none"> <li>1. The granting of a front yard setback variance by the Board of Adjustment as shown on the site plan in the attached development order. If the Board of Adjustment denies the variance request or approves a variance that requires a modification to the attached site plan, the applicant shall have to submit a revised site plan for review and approval by the Development Review Committee, Planning and Zoning Commission and Board of County Commissioners; and</li> <li>2. A two foot deep swale shall be allowed to encroach 15' into the required 25' buffer along the east property line, provided that the landscaping and buffering requirements of Section 30.1232 of the Seminole County Land Development Code are met.</li> </ol>	

## ***STAFF ANALYSIS & FINDINGS***

### OVERVIEW

#### **Zoning Request:**

The applicants are requesting a rezone from R-1AA and RP to OP, in order to build a two-story 10,044 square foot law office. The law office and the two single-family houses currently on the property will be demolished. The future land use designation of the subject property is Office, which allows the proposed OP zoning classification.

The subject property is located in an aquifer high recharge area; therefore the applicants are allowed to utilize 9' X 18' parking spaces. They are also able to reduce their required parking from forty spaces to thirty-eight spaces to save a 36" oak tree, as allowed by the Land Development Code. The applicants are also requesting a waiver from the requirements of the Land Development Code and a front yard setback variance.

The applicants are requesting a waiver to allow a two foot deep stormwater swale to encroach 15' into the required 25' buffer along the east property line. Under Section 30.1232 of the Land Development Code, the Planning Division Manager may allow stormwater retention/detention facilities to encroach into designated landscape buffers to a maximum of fifty (50) percent upon making a finding that all planting and structural requirements of the landscaping provisions of this Code are met and the visual screen provided by the bufferyard will be fully achieved and maintained. Retention areas shall be designed to be dry within twenty-four (24) hours of a twenty-five (25) year storm event and not to require fencing around such areas. The Planning Division Manager could allow the swale to encroach 12.5' into the buffer. Staff's opinion is that a two-foot deep swale will not interfere with the planting, buffering and wall requirements of the active/passive bufferyard standards. Therefore, staff recommends approval of the deviation to allow a two foot deep swale to encroach 15' into the required 25' buffer along the east property line, provided that the landscaping and buffering requirements of Section 30.1232 of the Seminole County Land Development Code are met.

The applicants are requesting a variance to allow the parking lot to encroach into the 25' front yard setback required along Maitland Avenue and Faith Terrace, as shown on the site plan in the attached development order. The OP zoning district requires a 25' landscaped setback that cannot be paved or used for parking along all street rights-of-way. The applicant proposes to allow the parking area to encroach a maximum of 16' in this setback. This variance will be considered by the Board of Adjustment at their April 25, 2005 meeting. Staff recommends that the proposed rezone to OP be conditioned upon the granting of this variance by the Board of Adjustment.

**Existing Land Uses:**

(North)

	<b>Office</b> Gas Station, Vacant <i>RP and R-1AA</i>	<b>Office</b> Offices and Single-family <i>RP</i>	<b>LDR</b> Single-family <i>R-1AA</i>	
(West)	<b>Office</b> Offices and Single-family <i>RP and R-1AA</i>	<b>Office</b> <b>(SUBJECT PROPERTY)</b> Law office and Single-family <i>RP and R-1AA</i>	<b>LDR</b> Single-family <i>R-1AA</i>	(East)
	<b>Office</b> Offices and Single-family <i>RP and R-1AA</i>	<b>Office</b> Offices and Single-family <i>R-1AA, RP and OP</i>	<b>LDR and Office</b> Offices and Single-family <i>RP and R-1AA</i>	

(South)

\***Bold** text depicts future land use designation, plain text depicts the existing use, and *italicized* text depicts zoning district. See enclosed future land use and zoning map for more details.

**SITE ANALYSIS**

**Facilities and Services:**

The proposed zoning is consistent with the adopted future land use designation assigned to the property and does not alter the options or long range strategies for facility improvements or capacity additions included in the Support Documentation to the Seminole County Comprehensive Plan.

Water and reclaimed water services are available to the site and supplied by the City of Altamonte Springs. Sewer service is provided by an onsite septic system.

**Transportation / Traffic:**

Access is from an existing driveway on Faith Terrace via Maitland Avenue. The applicant has elected to defer concurrency review and the site will have to demonstrate concurrency compliance at the time of final engineering.

If the rezone to OP is approved, the site will have to undergo concurrency testing at the time of final engineering approval to ensure adequate road capacity.

**Compliance with Environmental Regulations:**

At this time there are no concerns with compliance with environmental regulations.

**Compatibility with Surrounding Development:**

The property has an Office future land use designation, and the proposed OP zoning classification is allowed in that future land use category. The property is surrounded by Low Density Residential future land use on the east and Office future land uses to the north, south and west.

**Intergovernmental Notice**

In 1997, Seminole County entered into an Intergovernmental Planning Coordination Agreement with the School Board and the Cities of Altamonte Springs, Casselberry, Lake Mary, Oviedo, Sanford and Winter Springs. The City of Altamonte Springs was notified of the proposed rezone on March 21, 2005, as required by the agreement.

**STAFF RECOMMENDATION**

Staff recommends APPROVAL of the rezone from RP and R-1AA to OP, subject to the attached development order, and with the following conditions:

1. The granting of a front yard setback variance by the Board of Adjustment as shown on the site plan in the attached development order. If the Board of Adjustment denies the variance request or approves a variance that requires a modification to the attached site plan, the applicant shall have to submit a revised site plan for review and approval by the Development Review Committee, Planning and Zoning Commission and Board of County Commissioners; and
2. A two foot deep swale shall be allowed to encroach 15' into the required 25' buffer along the east property line, provided that the landscaping and buffering requirements of Section 30.1232 of the Seminole County Land Development Code are met.

**SEMINOLE COUNTY DEVELOPMENT  
ORDER**

On May 10, 2005, Seminole County issued this Development Order relating to and touching and concerning the following described property:

Legal description attached as Exhibit A.

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

**FINDINGS OF FACT**

Property Owner: David & McElyea, P.A.

Project Name: David & McElyea Law Office

Requested Development Approval: Rezone from RP (Residential Professional District) and R-1AA (Single Family Dwelling District) to OP (Office Professional District)

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: Tina Deater, Senior Planner  
1101 East First Street  
Sanford, Florida 32771

NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:

(1) The aforementioned application for development approval is GRANTED.

(2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.

(3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:

- a. All development shall comply with the site plan attached as Exhibit B.
- b. The parking lot shall be allowed to encroach a maximum of 16' into the 25' front yard setback required off of Maitland Avenue and Faith Terrace as shown in Exhibit B.
- c. A two foot deep swale shall be allowed to encroach 15' into the required 25' buffer along the east property line, provided that the landscaping and buffering requirements of Section 30.1232 of the Seminole County Land Development Code are met.
- d. The building shall be residential in nature and architectural renderings shall be provided at the time of final site plan review.

(4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

Done and Ordered on the date first written above.

By: \_\_\_\_\_  
Carlton Henley, Chairman  
Chairman, Board of County Commissioners

**OWNER'S CONSENT AND COVENANT**

COMES NOW, the owner, David & McElyea, P.A., on behalf of itself and its heirs agents, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Order.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
John H. McElyea, Registered Agent

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Name

STATE OF FLORIDA     )  
  )  
COUNTY OF SEMINOLE )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared, John H. McElyea, the Registered Agent of David & McElyea, P.A., who is personally known to me or who has produced \_\_\_\_\_ as identification and who executed the foregoing instrument and sworn an oath.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public, in and for the County and State  
Aforementioned

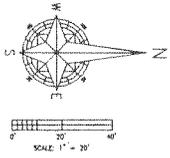
My Commission Expires:

## Exhibit A

Lot 22, Northwood Heights, according to the plat thereof as recorded in Plat Book 10, Page 28, Public Records of Seminole County, Florida.

PARCEL "A" : Begin 400 feet North 00E 19' 52" West of the Southwest corner of the Southeast 1/4 of the Southeast 1/4 of Section 24, Township 21 South, Range 29 East, Seminole County, Florida; run thence South 89E54' 31" East, 208.49 feet; run thence North 00E05' 29" East, 87.50 feet; run thence North 89E54' 31" West, 209.13 feet; run thence South 00E19' 52" East, 87.50 feet to the POINT OF BEGINNING. LESS: Right of way for Maitland Avenue (State Road S-427).

PARCEL "B" : Commence at the Northwest corner of the North 100.00 feet of the South 400.00 feet of the Southeast 1/4 of the Southeast 1/4 of Section 24, Township 21 South, Range 29 East, Seminole County, Florida; run thence South 89E54' 31" East along the North line of said North 100.00 feet 48.49 feet to the POINT OF BEGINNING; continue thence South 89E54' 31" East 160.00 feet; thence South 00E05' 29" West 100.00 feet; thence North 89E54' 31" West, 156.65 feet to the Easterly right of way line of Maitland Avenue; thence North 01E49' 52" West, 100.05 feet to the POINT OF BEGINNING. LESS: Right of way for Maitland Avenue (State Road S-427) as described in Special Warranty deed recorded in Official Records Book 303, Page 25, of the Public Records of Seminole County, Florida. SUBJECT TO: Easement for private road over the South 5.00 feet thereof as described in Official Records Book 112, Page 349, of the Public Records of Seminole County, Florida.



SITE STATISTICAL DATA			
DESCRIPTION	SQ. FT.	ACRES	% OF SITE
SITE AREA	38,007	0.87	100.0%
PROP. BLDG. AREA	3,022	0.11	13.21%
PROP. PAVEMENT AREA	15,185	0.35	39.95%
IMPERVIOUS AREA	20,207	0.46	53.18%
OPEN AREA	17,800	0.41	46.81%

FAR = 0.27 150' = .53  
 2,944 S.F. OF EXISTING PAVEMENT AREA  
 8,810 S.F. OF EXISTING BUILDINGS

**PARKING CALCULATIONS**

REQUIRED PARKING = 10 SPACES  
 - 1 SPACE PER 250 S.F. (OFFICE) 10,010/250 = 10 SPACES  
 TOTAL SPACES REQUIRED = 40 SPACES  
 TOTAL SPACES PROVIDED = 38 SPACES

**SANITARY CALCULATIONS**

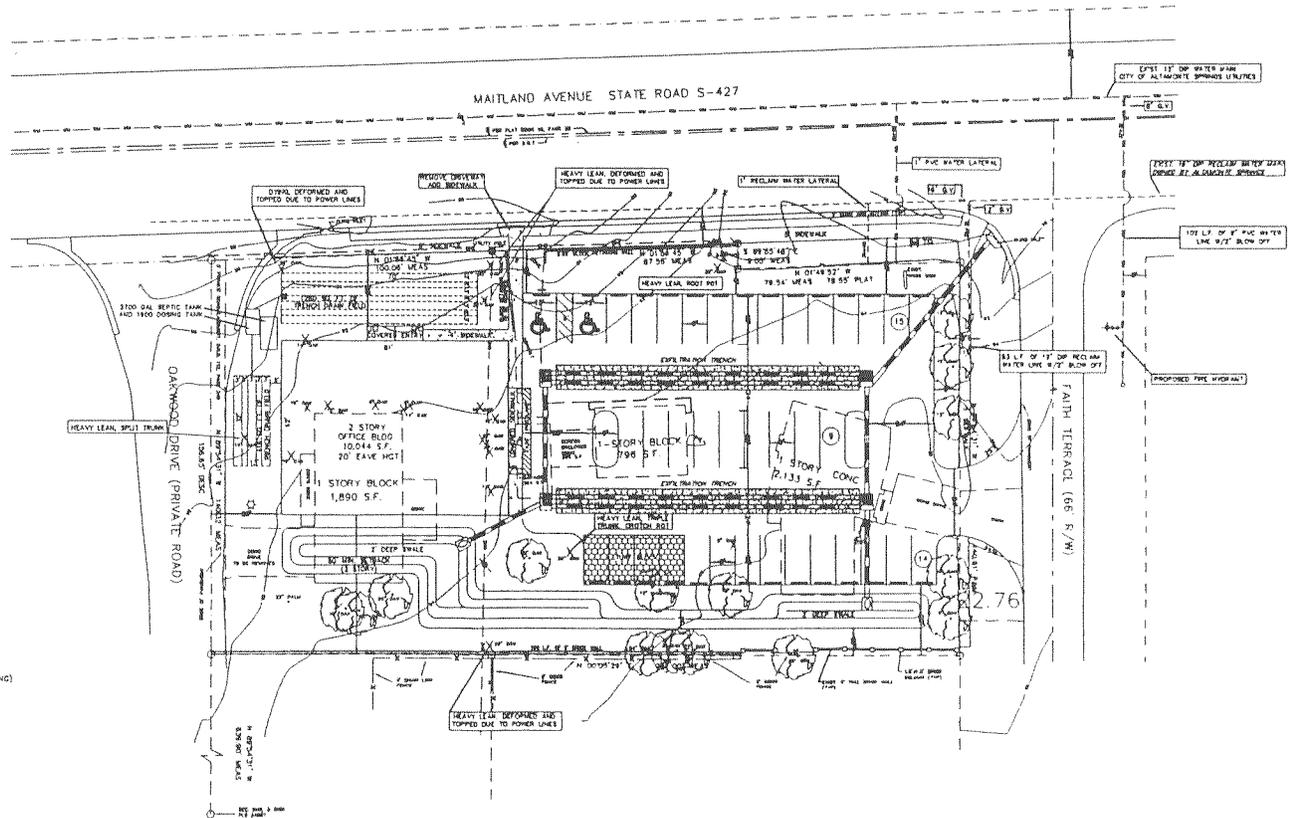
10,044 SQ.FT. OFFICE (100/15) and 1507 GPD  
 2700 GAL. SEPTIC TANK & 1800 GAL. DOSING TANK  
 TRENCH SYSTEM MULTIPLIER 80(1507) = 1874 SQ.FT. OF

**TREE CALCULATION TABLE**

18 TREES TO BE REMOVED (SOME TREES ARE SEVERELY DEFORMED AND DYING)  
 15 TREES TO BE SAVED

**TRASH COLLECTION**

CURB SIDE TRASH SERVICE (CURRENTLY BEING UTILIZED)



NO.	DATE	DESCRIPTION	BY	CHKD.
1	10/15/10	PRELIMINARY	AMC	AMC
2	10/20/10	REVISED	AMC	AMC
3	11/05/10	REVISED	AMC	AMC
4	11/15/10	REVISED	AMC	AMC
5	11/25/10	REVISED	AMC	AMC
6	12/05/10	REVISED	AMC	AMC
7	12/15/10	REVISED	AMC	AMC
8	12/25/10	REVISED	AMC	AMC
9	01/05/11	REVISED	AMC	AMC
10	01/15/11	REVISED	AMC	AMC
11	01/25/11	REVISED	AMC	AMC
12	02/05/11	REVISED	AMC	AMC
13	02/15/11	REVISED	AMC	AMC
14	02/25/11	REVISED	AMC	AMC
15	03/05/11	REVISED	AMC	AMC
16	03/15/11	REVISED	AMC	AMC
17	03/25/11	REVISED	AMC	AMC
18	04/05/11	REVISED	AMC	AMC
19	04/15/11	REVISED	AMC	AMC
20	04/25/11	REVISED	AMC	AMC
21	05/05/11	REVISED	AMC	AMC
22	05/15/11	REVISED	AMC	AMC
23	05/25/11	REVISED	AMC	AMC
24	06/05/11	REVISED	AMC	AMC
25	06/15/11	REVISED	AMC	AMC
26	06/25/11	REVISED	AMC	AMC
27	07/05/11	REVISED	AMC	AMC
28	07/15/11	REVISED	AMC	AMC
29	07/25/11	REVISED	AMC	AMC
30	08/05/11	REVISED	AMC	AMC
31	08/15/11	REVISED	AMC	AMC
32	08/25/11	REVISED	AMC	AMC
33	09/05/11	REVISED	AMC	AMC
34	09/15/11	REVISED	AMC	AMC
35	09/25/11	REVISED	AMC	AMC
36	10/05/11	REVISED	AMC	AMC
37	10/15/11	REVISED	AMC	AMC
38	10/25/11	REVISED	AMC	AMC
39	11/05/11	REVISED	AMC	AMC
40	11/15/11	REVISED	AMC	AMC
41	11/25/11	REVISED	AMC	AMC
42	12/05/11	REVISED	AMC	AMC
43	12/15/11	REVISED	AMC	AMC
44	12/25/11	REVISED	AMC	AMC
45	01/05/12	REVISED	AMC	AMC
46	01/15/12	REVISED	AMC	AMC
47	01/25/12	REVISED	AMC	AMC
48	02/05/12	REVISED	AMC	AMC
49	02/15/12	REVISED	AMC	AMC
50	02/25/12	REVISED	AMC	AMC

AMERICAN CIVIL  
 ENGINEERING CO.  
 140 MAITLAND AVENUE  
 MAITLAND, FLORIDA

DAVID & MCELYEA LAW OFFICE  
 REZONE PLAN  
 140 MAITLAND AVENUE  
 MAITLAND, FLORIDA

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY; PROVIDING FOR THE REZONING OF CERTAIN DESCRIBED REAL PROPERTIES LOCATED IN UNINCORPORATED SEMINOLE COUNTY FROM RP (RESIDENTIAL PROFESSIONAL DISTRICT) AND R-1AA (SINGLE FAMILY DWELLING DISTRICT) TO OP (OFFICE PROFESSIONAL DISTRICT); PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

**Section 1. LEGISLATIVE FINDINGS.**

(a) The Board of County Commissioners hereby adopts and incorporates into this Ordinance as legislative findings the contents of the documents titled, "David & McElyea Law Office Rezone "

(b) The Board hereby determines that the economic impact statement referred to by the Seminole County Home Rule Charter is unnecessary and waived as to this Ordinance.

**Section 2. REZONINGS.** The zoning classification assigned to the following described property is changed from RP and R-1AA to OP:

See Exhibit A

**Section 3. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 4. EFFECTIVE DATE.** A certified copy of this Ordinance shall be provided to the Florida Department of State by the Clerk of the Board of County Commissioners in accordance with Section 125.66, Florida Statutes. This Ordinance shall become effective upon filing this order by the Department and recording of Development Order #04-2000020 in the official land records of Seminole County.

ENACTED this 10th day of May, 2005.

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_  
Carlton Henley, Chairman

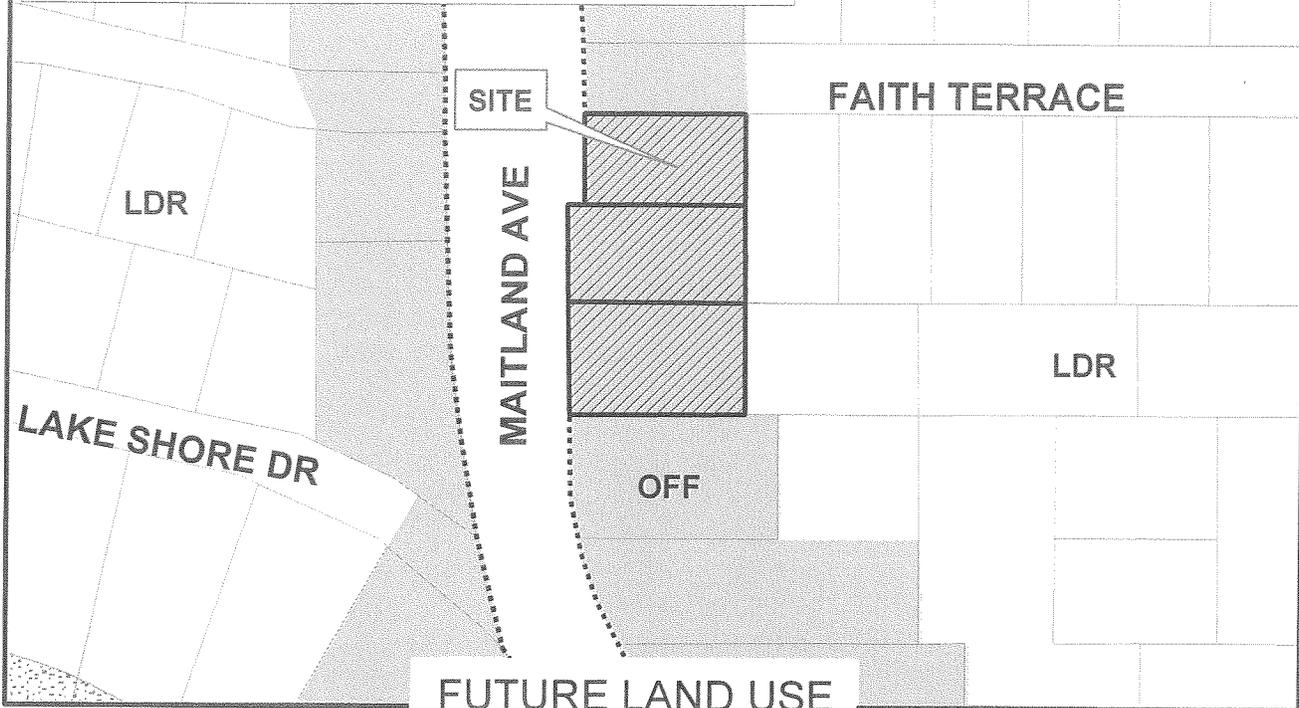
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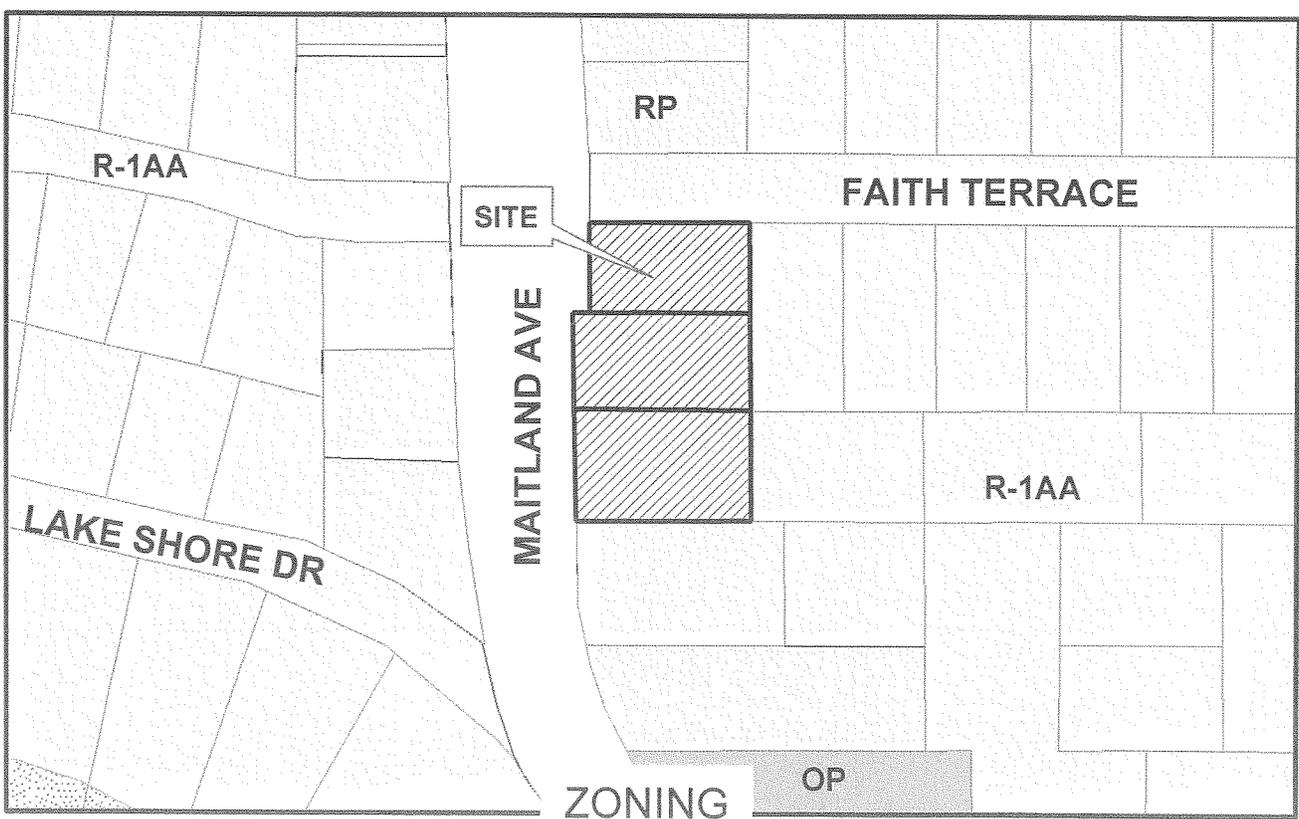
The presence of any wetlands and/or flood-prone areas is determined on a site by site basis. Boundary adjustments may be made based upon more definitive on-site information obtained during the development review process.  
 \*Wetland information, based on National Wetland Inventory Maps, provided by SJRWMD.  
 Floodprone area information, based on Flood Insurance Rate Maps, provided by FEMA.



Site   
 ..... Municipality   
 LDR   
  OFF   
  CONS

Applicant: Mike and Jim Hattaway  
 Physical STR: 24-21-29-300-0440 & 0450-0000  
 and 24-21-29-512-0000-0220  
 Gross Acres: .87 +/- BCC District: 4  
 Existing Use: Office Conv. Residential  
 Special Notes: None

	Amend/ Rezone#	From	To
FLU	--	--	--
Zoning	Z2004-068	RP/R-1AA	OP



R-1AA   
  RP   
  OP   
  FP-1   
  W-1



Rezone No: Z2004-068  
 From: RP/R-1AA To:OP

-  Parcel
-  Subject Property



January 2004 Color Aerials

