MINUTES FOR THE SEMINOLE COUNTY
LAND PLANNING AGENCY/PLANNING AND ZONING COMMISSION
FEBRUARY 4, 2009

Members present: Matthew Brown, Walt Eismann, Rob Wolf, Dudley Bates, Ben Tucker and Kimberly Day.

Members absent: Melanie Chase.

Also present: Alison Stettner, Planning Manager; Tina Williamson, Assistant Planning Manager; Austin Watkins, Senior Planner; Ian Sikonia, Senior Planner; Joy Williams, Planner; Jim Potter, Senior Engineer, Development Review Division; Cynthia Sweet, Senior Planner; Kathleen Furey-Tran, Assistant County Attorney; and Connie R. DeVasto, Clerk to the Commission.

OPENING BUSINESS:

The meeting convened at 7:00 P.M. with Chairman Brown leading the Pledge of Allegiance. The Chairman then introduced the Commission members.

Election of Officers

Commissioner Tucker made a motion to nominate Walt Eismann for Chair.

Commissioner Wolf seconded the motion.

The motion passed unanimously 6 – 0.

Commissioner Brown passed the gavel to Commissioner Eismann.

Commissioner Eismann opened the floor for nominations for Vice-Chair.

Commissioner Tucker made a motion to nominate Melanie Chase for Vice-Chair.

The motion passed unanimously 6 – 0.

Acceptance of Proof of Publication

Commissioner Brown made a motion to accept the Proof of Publication.

Commissioner Bates seconded the motion.

The motion passed unanimously 6 – 0.

Approval of Minutes

Commissioner Wolf made a motion to approve the minutes as submitted.

Commissioner Bates seconded the motion.

Commissioner Brown made one correction to the minutes – page 21 – fourth line from the bottom - change "fiscal" to "physical".

The motion passed unanimously 6 – 0.

Commissioner Eismann reviewed the procedure used for conducting the meeting and the voting.

Technical Review Item:

A. Rockefeller Group Corporate Center PSP; Rockefeller Group Development Corporation, applicant; 28.3 acres; Preliminary Subdivision Plan for 20 lots zoned PUD (Planned Unit Development); located on the northeast corner of Parkway and Wilson Road.

District 5 – Carey
Cynthia Sweet, Senior Planner

Cynthia Sweet, Development Review – presented this item and advised that the project consists of 20 commercial lots on 28.3 acres zoned PUD. The PSP complies with all the conditions of the approved Final Development Order and is subject to the conditions of the approved Final Master Plan, Developer's Commitment Agreement and the Seminole County Land Development Code.

All internal roads are private and Seminole County is the utility provider for both water and sewer.

Staff recommends approval of this request subject to the Board of County Commissioner's approval of the Final Master Plan and Developer's Commitment Agreement for Rockefeller Group PUD.

Commissioner Brown made a motion to recommend approval of this request.

Commissioner Wolf seconded the motion.

The motion passed unanimously 6 – 0.

Public Hearing Items:

B. Hickman Circle (Lots 5, 6, 12, 13, & 14) Rezone; Renzulli Properties LLC / David Rodd, applicant; 7.55 ± acres; rezone from M-1A (Very Light Industrial) to M-1 (Industrial) district; located approximately 1 mile north from the intersection of W SR 46 and Hickman Drive. (Z2008-62)

District 5 - Carey
Joy Williams, Planner

Joy Williams, Planning Division – presented this item and advised that the Applicant is requesting to rezone from M-1A to M-1 to allow for future development of an office and maintenance shop which are both permitted uses under the M-1 zoning district.

The Applicant also proposes the storage of fuel which will require a Special Exception approval by the Board of Adjustment.

The subject property has a FLU designation of Industrial and is located within the Industrial Park. The adjacent parcels to the north, south and east have an M-1A zoning classification and the parcel to the west was rezoned to M-1 in 2004.

Staff finds that the request is compatible with the surrounding zoning and land use patterns and therefore recommends approval of this request.

The Applicant was present and stated he would be happy to answer any questions.

No one spoke in favor or opposition of this item from the audience.

Commissioner Wolf made a motion to recommend approval of this request.

Commissioner Bates seconded the motion.

The motion passed unanimously 6 – 0.

Commissioner Brown stated that he believed this would be a good fit for this area.

C. S. Econ Circle Rezone; Roger Owen, applicant; 3.9 ± acres; Rezone from M-1A to PCD district; located 400 feet south of the intersection of Econ River Place and S. Econ Circle. (Z2008-50)

District 1 - Dallari
Ian Sikonia, Senior Planner

Ian Sikonia, Planning Division – presented this item and advised that the Applicant is requesting a rezone from M-1A to PCD in order to provide for a wider range of permitted uses in an existing industrial park consisting of four buildings. The FLU designation on the subject property is Industrial, which allows the requested zoning district.

The proposed Final Site Plan indicates that the existing development contains a total of 49,825 square feet divided between four buildings. The Applicant would like to provide building space for private indoor recreational facilities such as gymnastics and cheerleading. Since the existing M-1A zoning on the property does not allow for private recreational facilities, a rezone is necessary.

All the surrounding properties have the M-1A zoning district and the Industrial FLU designation. The proposed uses for this site utilize a mixture of compatible industrial and recreational uses operating in large buildings at different times of the day. Since the proposed recreational and training facilities will operate during non-peak hours, the impact to adjacent properties will be minimal.

Staff recommends approval of this request.

Commissioner Tucker – what is the property to the northeast of this site?

Mr. Sikonia – stated that he believe it was just part of the Industrial Park.

Commissioner Tucker – is this the property that goes into Iron Bridge?

Mr. Sikonia – stated yes

Commissioner Tucker – between this property; going back to 436, is there multi-family?

Mr. Sikonia - yes it is multi-family.

Commissioner Tucker – asked if Staff agrees with Industrial going next to residential.

Mr. Sikonia – the existing land use is still going to be Industrial and will still allow for the M-1A uses, but will also allow for the proposed recreational uses.

Commissioner Tucker – does Staff's formula take into consideration Industrial and Residential as being compatible?

Mr. Sikonia – Staff takes into consideration transitional areas.

Commissioner Tucker – wanted to know what Staff's philosophy was regarding the compatibility of residential and non-residential zonings. He stated that he thought it was somewhat of a standard that residential and industrial typically weren't considered to be compatible.

Alison Stettner, Planning Manager – stated that the Future Land Use of this parcel, which is adjacent to the multi-family area Commissioner Tucker is referring to, is commercial; which does allow a small percentage of that property to be a multi-family residential component. It is also a PUD development; which does allow additional standards to be put in place in order to protect the different uses and create a more transitional type of land use.

As a rule of thumb, industrial adjacent to residential are not compatible land uses and the Comprehensive Plan speaks to how to set up transitional land uses adjacent to each other. In this case, the PUD does that and it is in a commercial land use.

Commissioner Tucker – stated he did not believe, in this instance, this addresses that issue because the proposed project is not a PUD. The overall design is a PUD.

Commissioner Brown – is this an infill in the industrial area?

Mr. Sikonia – this has already been built and the site plan has been approved. The Applicant wants to diversify his uses.

Commissioner Brown – does this particular property abut residential or have a FLU of residential?

Mr. Sikonia – it is internal to the Industrial Park.

General discussion ensued regarding compatibility issues with respect to commercial and industrial zonings adjacent to residential zoning.

Roger Owen, Applicant – stated that they were the first to buy on S. Econ Road in 1999 and everything that is currently in this area was built prior to the apartments coming in. Their goal is to expand their use to include a cheerleading school.

No one spoke in favor or opposition of this item from the audience.

Commissioner Tucker made a motion to recommend approval of this request.

Commissioner Wolf seconded the motion.

The motion passed unanimously 6 – 0.

D. <u>ETOR PUD Major Amendment</u>; Robert L. Horian, applicant; 2.75 ± acres; Major Amendment to the ETOR PUD (Planned Unit Development); located the northwest of the intersection of S. Sun Drive and Greenwood Lakes Boulevard. (Z2008-57)

District 4 - Henley
Austin Watkins, Senior Planner

Austin Watkins, Planning Division – presented this item and stated that the ETOR PUD was originally approved in 1994 as a multi-use Office, Retail and Multi-Family development. In 1994 Tract "C" was approved for 12.41 acres of office. The Applicant is requesting to amend the approved uses of Tract "C" from Office to Office/Retail and increase the allowable retail uses within the neighborhood commercial Tract C-1.

The ETOR PUD was recently amended in March of 2008 to allow for a 70-unit 5-story condominium building on Tract C2, which is located on the north side of Sun Drive, adjacent to the subject property. The 2008 amendment also allowed for a 108-unit 4-story condominium complex on the south side of Sun Drive.

Tract "C" is approved for 1.22 acres of Office uses. There is currently an existing 2-story office building on Tract "C". The Applicant is proposing to modify the permitted uses of Tract "C" from OP uses to OP uses, plus the first floor (ground level) of Tract "C" may be used for C-1 uses per the Seminole County Land Development Code with the following exclusions:

- Funeral Homes
- Hardware Stores
- Launderettes and Laundromats
- Pet Stores
- Plant Nurseries
- Theaters
- Multi-Family Housing
- Communication Towers
- Outside Storage of Material

The Applicant is also requesting to modify the permitted uses of Tract C-1 from Neighborhood commercial to C-1 zoning classification uses per the Seminole County Land Development code with the following exclusions:

- Funeral Homes
- Hardware Stores
- Launderettes and Laundromats
- Pet Stores
- Plant Nurseries
- Theaters
- Multi-Family Housing

- Communication Towers
- Outside Storage of Material

Staff recommends approval of this request.

Commissioner Tucker – asked if this was directly behind the Target.

Mr. Watkins – yes

Commissioner Tucker – asked if it was the Target or the residential directly across the street and if it was the same one that the Commission looked at for the multi-family high rise.

Mr. Watkins – pointed out the multi-family tract which was previously approved and the location of the current request.

Commissioner Tucker – about a year or so ago, wasn't there a request for 7 or 8 stories?

Mr. Watkins – yes, it was approved by the Board of County Commissioners with modifications.

Commissioner Tucker – asked why there are exclusions for hardware stores and laundromats since there is already a Target.

Mr. Watkins – Staff asks the Applicant to bring a list of uses that they feel are not appropriate for the area and their list included laundromats.

Commissioner Tucker – asked if the Applicant brought all the exclusions to Staff.

Mr. Watkins – yes they did.

Commissioner Brown – asked why Laundromats are excluded when it would be located in a residential area and that would seem to be their customer base.

Mr. Watkins – laundromats tend to deteriorate in the quality of development and typically these types of developments would have laundry facilities as an accessory use, in house or on property.

Commissioner Wolf – what was Staff's thought regarding excluding hardware stores?

Mr. Watkins – hardware stores typically have outside storage of materials.

Ronald Henson for the Applicant – stated the list of exclusions was voluntary on their part and the whole purpose of this is to expand their uses in this area.

No one spoke in favor or opposition of this item from the audience.

Commissioner Wolf made a motion to recommend approval of this request.

Commissioner Brown seconded the motion.

The motion passed unanimously 6 – 0.

E. **Maitland-Bear Lake Plaza SSLUA and Rezone**; **Bryan Potts, applicant**; 0.94 ± acres; Small Scale Land Use Amendment from LDR (Low Density Residential) to COM (Commercial) and rezone from A-1 (Agriculture) to PCD (Planned Commercial Development); located at the northwest corner of Bear Lake Road and Maitland Boulevard. (Z2008-47 / 08SS.06)

District 3 - Van Der Weide
Austin Watkins, Senior Planner

Austin Watkins, Planning Division – presented this item and stated the Applicant is proposing an 8,550 square foot retail/office building with the following permitted uses:

- Veterinary Services
- Travel Agencies
- Ticket Agencies
- Cellular Telephone Sales
- Paint/Wallpaper Stores
- Hardware Stores
- Convenience Food Stores
- Grocery Stores
- Retail Bakery Shops
- Clothing Stores
- Furniture Stores
- Restaurants
- Drug Stores
- Book Stores
- Office Supplies
- Stationery Stores
- Jewelry Stores
- Banks
- Real Estate Offices
- Laundry/Dry Cleaning Retail
- Beauty Shops
- Quick Print
- Dentists
- Watch/Clock Repair

- Dance Schools
- Engineering Offices

The proposed development is located within the jurisdictions of Seminole and Orange Counties. Portions of the building, parking, open space and buffering is located within both jurisdictions. If the proposed request is approved by the Seminole County Board of County Commissioners and the Orange County portion is approved by the Orange County Board of County Commissioners, a Memorandum of Understanding (MOU) between the Seminole and Orange County Boards of County Commissioners may be entered into. The MOU will provide for the cooperative and coordinated handling of the proposed land development. The MOU addresses site plan review, building inspections, impact fees, concurrency, utilities, permitting, and other issues.

Staff recommends approval of this request.

Commissioner Brown - asked if there were any plans to build a trail on the railroad line behind the proposed property.

Mr. Watkins – there are plans to eventually build a trail on this section but is not sure when this will happen due to economic constraints.

Bryan Potts, Applicant – stated that he agrees with Staff findings and would be happy to answer any questions the Commissioners might have.

No one spoke in favor or opposition of this item from the audience.

Commissioner Brown made a motion to recommend approval of this request.

Commissioner Bates seconded the motion.

The motion passed unanimously 6 – 0.

F. **Mathews Rd Storage Small Scale Land Use Amendment and Rezone**; **Hugh Harling, applicant**; 7.45 ± acres; Small Scale Land Use Amendment from LDR (Low Density Residential) to IND (Industrial) and Rezone from the A-1 (Agriculture) to the C-3 (General Commercial and Wholesale) district; located at the southwest corner of Oaklando Drive and Mathews Road. (Z2008-54 / 08SS.07)

District 3 – Van der Weide
Austin Watkins, Senior Planning

Austin Watkins, Planning Division – presented this item and stated that the subject property is located in a multi-use area and includes a variety of Planned Commercial Developments, industrial developments, residential subdivisions, and agricultural uses.

North of the subject property is the Trailwood Estates subdivision, which is a 190-lot, well established, single-family subdivision. The Trailwood Estates subdivision is assigned the R-1A (Single-family dwelling) zoning classification and LDR Future Land Use (FLU) designation.

The subject property has frontage on Oaklando Drive and Mathews Road. Oaklando Drive is classified as a local roadway and Mathews Road is an ingress/egress easement. Oaklando Drive is a local roadway that cuts through two existing single-family subdivisions, Trailwood estates and Oakland Hills.

Seminole county comprehensive Plan Policy FLU 2.3 Roadway compatibility states:

> "The County shall encourage the viability of future residential neighborhoods Adjacent to collector and arterial roadways by:
> 1. Requiring additional setbacks and buffers for residential development adjacent to future major collector and arterial roadways to minimize impacts of future roadway improvements;
> 2. Requiring development plans to transition residential and nonresidential land use intensities at major intersections to maximize compatibility with existing residential neighborhoods;
> 3. Discouraging through traffic on local residential roadways."

Comprehensive Plan Policy TRA 2.5.2 Discourage Through Traffic states:

> "The County shall endeavor to ensure that vehicular connections between subdivisions are designed to serve local residents and preclude through traffic."

Comprehensive Plan Policy TRA 2.5.9 Access Control to Protect Residential Uses states:

> "The County shall require that access to properties fronting on more than one roadway shall be designed to minimize impact to adjacent residential area. Access should be permitted on adjacent collector or arterial roadways and not on the adjacent local or residential streets. However, where improved traffic control can be achieved with minimum impact to adjacent residential neighborhoods, access may be considered on a local or residential street."

According to Staff's impact calculations, which are based upon an industrial development at a 0.65 Floor Area Ration (F.A.R.), the subject property will be impacting the surrounding roadways with an additional 1,322 Average Daily Trips through the existing roadways. If Oaklando Drive is improved and access is from Oaklando Drive, then access to a signalized intersection at S.R. 434 and Lotus landing Boulevard will be provided via Oaklando Drive. Direct access to a signalized intersection may increase the probability that more trips will cut through the existing neighborhoods via Oaklando

Drive, which is also not consistent with the Seminole county Comprehensive Plan policies.

The Seminole County Comprehensive Plan has explicitly made the preservation of neighborhoods a priority of the Comprehensive Plan. Issue FLU 1: Neighborhood Protection states:

> "For urban neighborhoods, the focus concerned the need for compatibility standards to guarantee that redevelopment and infill development fit well with existing neighborhoods, while ensuring that needed revitalization occurs. This focus pertains to the key issue of ensuring viable "Centers" as identified by the Central Florida Regional Growth Vision."

Seminole County Comprehensive Plan FLU Policy 2.5 Transitional Land uses in Urban Areas Not approved for Mixed Development indicates that the County shall evaluate plan amendments to ensure that a transitional land use is provided as a buffer between residential and nonresidential uses and between varying intensities of residential uses. Further, Exhibit FLU: Appropriate Transitional Land Uses indicates that Industrial is not compatible adjacent to the LDR FLU. Staff finds that this application lacks sensitive site design and transitional standards.

The Board commissioned the Hillview Small Area Study in 1999, which was accepted by the board on June 7, 2000. The Hillview Small area Study recommended that this area be designated PD (Planned Development) FLU when ready to develop. Further, the study was concerned about compatibility of the existing single-family residential, light industrial and new development. Glatting Jackson authored the study which recommended that the PDs have tailored land uses and design standards due to the ability to accommodate existing single-family development.

In the immediate vicinity, the Hattaway/Hillview PCD, Harling Locklin Mathews Road/Oaklando Drive PCD, and Terry L. Butler PCD allow for a variety of industrial and office uses. The Hattaway/Hillview PCD and Terry L. Butler PCD allow for "residential (single and multi-family), industrial (office showroom and warehouse/storage facility), office, public uses, churches, daycare, and public/private education". The development orders prohibit the use of remote parking. All of the PCDs in the area require that "outside storage shall be screened as not to be visible from public view". None of the above reference PCDs have received Final Site Plan approval from the Seminole County Board of County Commissioners.

During the Development Review Committee (DRC) process, Staff advised the Applicant to pursue the PD FLU and PCD zoning classification for a more appropriate FLU and zoning, which incorporates sensitive site design standards and other transitional features because the IND FLU and C-3 zoning classifications do not permit conditions of approval. This advice was based upon the Hillview Small Area Study, Seminole County Comprehensive Plan policies, adjacent Future land Use designations, lack of sensitive site design standards, and to ameliorate the negative impacts of

incompatibility to the adjacent LDR FLU, such as adverse lighting, noise, and traffic. However, the Applicant decided to move forward with the IND FLU and C-3 zoning.

Staff finds that the proposed application is not consistent with Seminole County Comprehensive Plan Policy FLU 2.3 Roadway Compatibility, Policy TRA 2.5.2 Discourage Through Traffic, Policy FLU 2.5 Transitional Land Uses in Urban Areas Not Approved For Mixed Development, and Exhibit FLU; Appropriate Transitional Uses. Additionally, the proposed application is not consistent with the Hillview Small Area Study because of the requested zoning classification and FLU designation.

Staff finds that the proposed application lacks sensitive site design and transitional standards by not including the following in the application:

- Sufficient buffers (above and beyond the Active buffer and setback);
- Limitation on uses (such as no remote parking or vehicle storage);
- Passive design features adjacent to the LDR FLU (such as moving uses more interior to the site);
- Limited hours of operation;
- Noise limitations
- Limitations on maximum allowable building heights;
- Residential-compatible architectural features;
- Vehicular access avoiding residential developments (no access on Oaklando Drive);
- And other sensitive site design standards as appropriate.

Staff finds that the Comprehensive Plan has the explicit issues, goals, and policies that support the preservation of existing neighborhoods. This is evident through the numerous Comprehensive Plan policies that discourage cut through traffic, discourage direct access to residential neighborhoods for nonresidential uses, and encourage sensitive site design standards for compatibility on infill parcels.

Staff recommends denial of this request.

Bob Hattaway, Applicant – stated that in 1974, he purchased 17 or 18 acres on Hillview Drive for a greenhouse business. This greenhouse business was in operation until 1988. At that time, his request to rezone this property to C-3 was approved by the Board and his greenhouse business was converted to the current business – Adult Toy Storage. There are 500,000 square feet of building space with 25 acres of outside parking and is about 85% to 90% filled.

A few years ago, he started purchasing property on the north side of Hillview Drive and with the subject property, owns approximately 29 acres. This is the future for Hattaway Holdings, LLC and Adult Toy Storage.

The City of Altamonte Springs sold the property to the south of Adult toy Storage and will be bringing in a major road that will go through his property with proposed office buildings, hotels and parks.

He showed pictures of the subject property and the surrounding area, including Spring Valley, the sewer plant, a landscape company, an area where semi-tractor trailers are parked and a small church on Oaklando.

In addition, he showed many areas adjacent to his property which are covered with junk and debris as well as a house on Mathews Road that is falling down.

He is a business man and does not intend to harm his neighbors. He is asking for reasonable uses that are compatible for the community and will improve Seminole County.

Commissioner Bates – asked if the Applicant is looking at the property on the north side of Hillview to relocate his business or add to it?

Mr. Hattaway – they are looking at it as an addition to and possible relocation as well. With the world as it is today, they do not want to limit themselves.

The Commission took a 5 minute recess at 8:00 and resumed at 8:05 p.m.

Hugh Harling, Applicant – has been working with Mr. Hattaway since 1974. The County codes have protections in place to protect residential areas such as Spring Valley from issues such as noise, odors, lighting, and buffering issues.

The separation was set by Spring Valley and other subdivisions to the north and west of the subject property. They are protected now and should be protected in the future from adjacency.

They received a letter from the County stating they were not going to maintain the roadways of Oaklando and Mathews. Mr. Hattaway offered to donate his portion of the right-of-way along the entire length of Oaklando and Mathews, but has not received any response from the County to-date.

He believes these roads need to be paved, especially since there is currently a lot of traffic in this area.

They are prepared to buffer themselves against the neighbors to the north of them and request that this item be approved.

Commissioner Eismann – for the record, the Commission received four letters from Donna Jones, L. R. Durmont, Susan Roberts and E. J. Elliott.

No one spoke in favor of this request from the audience.

Ernest Walters – was not clear about the request and wanted to know why the roads are not maintained.

Commissioner Eismann – advised that this Commission does not address the maintenance of the roads and asked if Staff could answer Mr. Walters' question.

Alison Stettner, Planning Manager – asked Mr. Walters to give his name and phone number to Jim Potter with Development Review so he can contact Public Works with respect to Mr. Walters' concerns.

Barry Johnson – he has lived in this area since 1962 and is opposed to the request, especially due to the traffic problems that are a direct result of Mr. Hattaway's business.

Kevin Bano – advised that he is opposed to this project due to increased traffic, noise, and odors. He would like to know what the zoning Industrial means.

Mr. Watkins – explained the proposed request.

Mr. Bano – asked if Industrial means heavy industrial such as organic chemicals?

Mr. Watkins – stated that Industrial land use will allow for a variety of zoning designations which may be more restrictive than the actual land use. The Applicant is asking for one of the lesser intensive of the allowable zoning classifications under Industrial.

James Stephenson – spoke on behalf of the Spring Valley Farms Community Association Board of Directors and advised that they are opposed to the change in zoning to Industrial. They are worried that any type of business can be placed in this area, especially if Mr. Hattaway sells the property in the future.

Commissioner Tucker – asked Mr. Stephenson to point out where his house is.

Mr. Stephenson – pointed out the location of his house and advised that it is 1000 feet from the property line.

Commissioner Eismann – asked Mr. Stephenson if he has a wood fence in his backyard.

Mr. Stephenson – advised that he has a chain link fence, but others have a concrete block fence.

Pat Green – pointed out the location of her house and advised that she has lived in Spring Valley for 24 years. She also pointed out a gravel area where trucks park all the time. They constantly hear the beeping sound of the trucks. She is opposed to this request as she believes it would be an inappropriate use for this area and it would hurt their property values. She also believes there needs to be a transitional area with additional buffering.

Robert Timlin – is opposed to this project mainly because of the noise. He said Spring Valley is a family oriented neighborhood with small children and he worries about their security if this project is approved.

Maryanne Sinacore – pointed out the location of her house and advised that she is opposed to this project. There are a lot of trucks and boats going up and down the dirt road consistently and they don't have any peace and quiet any longer.

Harold Markovitz – has lived in this area since 1991 and is opposed to this project. The proximity of Mr. Hattaway's property is very close to the Spring Valley neighborhood. You can see it, hear it and sometimes smell it.

Mr. Harling – addressed the points brought up by the citizens and stated that he believes they can only see the property if they look over a concrete wall; the Applicants have talked about odor control and the existing County ordinances; the beeping of trucks is required by law for safety reasons; and between the time this item goes before the Board of County Commissioners, they will work on mitigating all the issues including the noise issues, which seem to be the biggest complaint.

Commissioner Tucker – gave background history of this area and stated that there have been trucks going down these roads long before Mr. Hattaway opened his business. He stated that he stores his personal RV at Mr. Hattaway's business. He does not believe this area will ever be a single-family residential development that matches Spring Valley.

Commissioner Tucker – asked Staff if they know how far the sewer plant is from the proposed property?

Mr. Watkins – advised that he was not sure.

Commissioner Tucker – asked Staff if they know where the chlorine tanks that are used to treat the water are stored?

Mr. Watkins – pointed to where he believes the tanks are on the overhead map.

Commissioner Tucker – stated he believes the Hattaway family has done formidable work in the development of this community. He also believes this is a valid business which is buffered in many ways from the residential area. He does not believe it is as bad as being discussed.

Commissioner Brown – stated that he lives in Spring Valley and hears the noise but does not smell any odors. He stated that he does not have any complaints with the smell. He believes the problem with straight zoning would be not having the opportunity to increase the buffering. He also stated that he can see the property without looking over a wall.

General discussion ensued regarding contract zoning and straight zoning.

Commissioner Wolf – stated that the residents have a reasonable expectation that this would be developed in a residential capacity. It has been stated by the citizens as well as one of the Commissioners that noise is a problem and by approving this item, that problem would only increase. He further believes there are compatibility and transitional issues with this project as presented and will have a hard time supporting this request.

Commissioner Day – stated that she believes this will not be single-family, low residential at all and it is a transition zone. This would be a suitable use on the majority of the property; but there needs to be some provision in there for some greater buffering for the portion of the property that backs up to residential.

She does agree that the dirt road needs to be paved and commended the Applicant for donating the right of way. The extension of Gateway Drive will eliminate a lot of the cut through traffic. It makes sense that the area around Hillview and Mathews would be a good use for the proposed project, but as you get closer to the residential area, there needs to be a greater buffer requirement.

Commissioner Brown – regarding Mr. Harling's remark that he will work on the noise issues, with straight zoning, you cannot contract zone. The Applicant can commit to it but the commitment is nothing.

Commissioner Brown – asked Kathleen Furey-Tran if that was correct.

Kathleen Furey-Tran, Assistant County Attorney – advised that it was.

Commissioner Brown – stated he would trust Mr. Hattaway, but legally they cannot do that (referring to commitments made).

Commissioner Wolf – asked if the Developer submits a plan that has extensive buffers and shows some mitigation for sound, would that be enough?

Mrs. Furey-Tran – the issue would be if the property was resold, the property is still the C-3 zoning.

Commissioner Brown made a motion to deny this request.

Commissioner Wolf seconded this motion.

This motion tied with Commissioners Brown, Wolf and Day voting to deny and Commissioners Tucker, Eismann and Bates opposing the motion.

In light of the tie vote, Commissioner Tucker made a motion to move this item to the Board of County Commissioners without a recommendation.

General discussion ensued with respect to this motion.

Commissioner Tucker's motion dies for lack of a second.

Commissioner Brown – would like to encourage other members of the Commission to consider protecting the homeowners from the noise and the other issues inherent with this area.

Commissioner Tucker – asked Mrs. Stettner if this had been submitted as requested by Staff, would Staff have a different recommendation?

Mrs. Stettner – stated quite possibly, if it had come in as a PCD with appropriate transitional buffering area, Staff would recommend approval.

Commissioner Tucker – if the Applicants came up with the exclusions voluntarily, agreed to them and did a straight zoning, would Staff agree to that?

Mrs. Stettner – stated not at all. Staff cannot control any conditions placed on a straight zoning.

Commissioner Tucker – asked Mrs. Stettner why the previous item was approved when it had a list of stipulations?

Mrs. Stettner – stated that is was not a straight zoning.

Commissioner Tucker – stated that is was a straight zoning with exceptions.

Mr. Watkins – advised that the items presented earlier were for Planned Development zoning classifications so Staff was able to place limitations on uses such as setbacks, buffers, and other design standards.

The proposed item before the Commission references those sensitive site design standards; however, this application is lacking these. The reason this application is lacking these is because it's a straight rezone classification and not a Planned Development.

Commissioner Tucker – asked if the other criteria in the Code for standards for buffers, landscaping, etc., apply within straight zoning?

Mr. Watkins – stated that if this application was approved, the active/passive buffering standards as well as performance standards would apply to the property. However, there are several public policy documents adopted by the Board of County Commissioners, such as the Hillview Small Area Study, which was completed by Glatting Jackson that recommended this property be developed as a Planned Development with particular limitations on uses as well as the Land Development Code and the Comprehensive Plan.

Commissioner Tucker – stated that his question was, (regarding the Code within straight zoning), are the areas of passive buffers that are in straight zoning inadequate?

Mr. Watkins – according to this particular application and Staff's review, the adopted policies of the Board of County Commissioners and the Hillview Area Study, Staff feels that the buffering standards located within the Land Development Code are inadequate.

Commissioner Tucker – are they inadequate in a general sense?

Mr. Watkins – they are inadequate per the Glatting Jackson Hillview Small Area Study which recommended the buffers be above and beyond the active/passive requirements.

Mrs. Stettner – the active/passive buffering standards that are currently in the Land Development Code are problematic, as the Commission knows from the past workshops. It is an area that Staff frequently works with and is why Staff is making recommendations in the new Land Development Code to change those standards to more of a performance based zoning concept that allows increased landscaping and structure abilities so that we can have better buffering between these types of uses.

However, at this time, Staff does not have that. Staff has an area study that says the buffering standards are not adequate as they are today and the Comprehensive Plan that says Industrial and Low Density Residential are not compatible land uses.

Commissioner Wolf – would the Applicant have to submit a Planned Development that incorporates those buffers for this to be approved and then they would be held to these standards?

Mrs. Stettner – yes

Commissioner Wolf – asked how this would work – would the Applicant withdraw this application and come back with a new application for a Planned Development?

Mrs. Stettner – advised that they could take the recommendation of this Commission today and move forward to the Board of County Commissioners, or they could go back and create a Planned Development and then come back to this Commission with a different plan.

General discussion ensued with respect to this request.

Commissioner Brown made a motion to deny this request.

Commissioner Eismann asked for a legal ruling on whether another motion is in order.

Mrs. Furey-Tran – with a 3 – 3 vote, the Commission can take another vote.

Commissioner Eismann – do we need another vote or another motion?

Mrs. Furey-Tran – the Commission can make another motion and then vote on the motion.

Commissioner Wolf seconded the motion to deny the request.

General discussion ensued with respect to this request and how to handle a tie vote.

Commissioner Bates – asked Commissioner Brown to point out the location of his house.

Commissioner Brown pointed out the location.

Commissioner Tucker – stated that he does not see a problem with sending this to the Board of County Commissioners without a recommendation.

Commissioner Brown – stated that this Commission is a recommending Board and should not send anything to the Board of County Commissioners without a recommendation.

Commissioner Wolf – agreed with Commissioner Brown.

This motion tied with Commissioners Brown, Wolf and Day voting to deny and Commissioners Tucker, Eismann and Bates opposing the motion.

Commissioner Eismann stated that this issue will have to be moved to a date certain.

Mrs. Stettner – would the Commission like to move this item to the next meeting, March 4?

Commissioner Wolf – asked if the Applicant has to come back with the exact same application or could it be modified before it comes back in March?

Mrs. Stettner – advised that it would be the exact same package.

Commissioner Wolf – asked if the Applicant chose to make any changes to it and bring it back next month, is that possible?
Mrs. Stettner – stated not at this time.

Commissioner Eismann – asked Mrs. Furey-Tran if the Commission would have to rehear the entire item again or is it just for discussion and then another vote?

Mrs. Furey-Tran – the public hearing has already been closed so it will be open for discussion and then take another vote.

Commissioner Eismann – since the absent Commissioner did not hear the presentation of this item, what happens?

Mrs. Furey-Tran – the absent Commissioner will have the benefit of the minutes and if they have questions, they will be able to direct those questions to anyone they would like.

Commissioner Brown made a motion to move this item to the March 4 meeting.

Commissioner Bates seconded this motion.

This motion passed 5 – 1 with Commissioner Tucker voting no.

Commissioner Eismann asked Mrs. Stettner if she had anything to address in her Manager's Report and she asked if it would be the pleasure of the Board to begin the Land Development Code workshops prior to the March 4 meeting.

It was the consensus of the Commissioners to begin the Land Development Code workshops starting at 5:30 on March 4.

There being no further business, the meeting was adjourned at 9:18 P.M.

Respectfully submitted,

Connie R. DeVasto