



**LAKE COUNTY**  
**Planning & Community Design Division**  
**Analysis of a**  
**VARIANCE REQUEST**  
**Presented to**  
**LAKE COUNTY BOARD OF ADJUSTMENT**  
**April 14, 2011**

<b>CASE NO.:</b> BOA# 4-11-3	<b>AGENDA ITEM #:</b> 2
<b>OWNER &amp; APPLICANT:</b> Roger Kunau	

**REQUESTED ACTION:** The owner is requesting a variance from the **Lake County Land Development Regulations 14.11.01.D.1 & 2 Minor Lot Splits** to allow him to split the parcel through the minor lot split process when the parcel does not front on a paved-publicly maintained road and the parcel was previously split through a lot split process (+/- 40 acres).

**GENERAL LOCATION:** Astatula area – State Road 19 South to County Road 561, Southwest on County Road 561 to Corkwood Lane, turn left on Corkwood Lane to site #13910 (Sec. 8, Twp. 21, Rng. 26).

**FUTURE LAND USE DESIGNATION:** Rural

**EXISTING ZONING:** A (Agriculture District)

**SURROUNDING LAND USE:**

**NORTH:** Vacant Parcel / Agriculture

**SOUTH:** Vacant Parcel / Agriculture

**EAST:** Single-Family Dwelling Unit / Vacant Parcel

**WEST:** Improved Parcel / Agriculture

**SURROUNDING ZONING:**

**NORTH:** A (Agriculture District)

**SOUTH:** A (Agriculture District)

**EAST:** A (Agriculture District)

**WEST:** A (Agriculture District)

**DATE POSTED:** March 18, 2011

**LOCATION:** Corkwood Lane & CR 561, Astatula

**14.15.02 Granting Variances and Appeals**

Variances shall be granted when the person subject to the Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this section, “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For purposes of this section, “principles of fairness” are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation. Variances

may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as contributing to a district listed on the National Register of Historic Places, Florida Master Site File or local surveys of historical resources. In such instance, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

Based on review of the required findings as outlined in Chapter XIV of the Lake County Land Development Regulations, as amended, the requested variances are recommended for **approval** based on the following recitations, analysis, and findings of fact:

**ANALYSIS:** The owner is requesting a variance to allow the splitting of his parcel creating two lots when the parcel does not front on a paved-publicly maintained road and the parent parcel was created through the agricultural lot split process in 1997. The Code (14.11.01.D. 1 and 2) states that only two lots may be created from the original legally created lot or lot of record. The proposed lot split will create lots less than 20 acres in size; the Code requires each lot created through the minor lot split process that is less than 20 acres in size to front on a publicly-maintained paved road and conform to the required minimum lot dimensions for the land use category and zoning district where the lots are located.

The original parcel consisted of approximately 160 acres; in October 1997, an Agriculture Lot Split was completed creating four, 40-acre parcels. In January 2004, the current owners purchased one of these 40-acre parcels, which had been developed with a home. The owner is requesting a variance that will allow him to split the subject 40-acre parcel into two parcels consisting of 21.88 acres and 18.64 acres, inclusive of wetlands. This division will allow him to sell a portion of his property without having to sell his home.

The parcel is zoned Agriculture and the future land use is Rural; the Lake County Comprehensive Plan allows a density of one dwelling unit per five acres in the Rural Future Land Use Category. The subject 40-acre parcel consists of 12.5 acres of wetlands and 27.5 acres of uplands, which is more than enough upland acreage to create two parcels. The proposed lot split would be consistent with the Lake County Comprehensive Plan. A copy of the survey, which indicates the size of the parcel along with the acreage of uplands and wetlands, is attached (Exhibit #1).

There is a single-family dwelling unit and a barn located on the parcel; the dwelling unit was constructed in 2000 and the barn was constructed in 2001. The parcel lies wholly within the 100-year flood zone, designated as "X". The parcel fronts on a 50-foot wide private easement known as Corkwood Lane and is approximately one mile east of County Road 561, which is a County-maintained paved road. Corkwood Lane is a two-lane mixed base road and appears to be well maintained.

The minor lot split process was created to allow a parent parcel to be split, creating two parcels fronting on a publicly-maintained paved road. The **intent** of the Code (Section 14.11.01.D.1 & 2) is to ensure that properties being split have the facilities that are required for the development of parcels such as roads, schools, parks, fire, and sewer and water facilities. This minor lot split would not create high density development in this area.

The owner submitted the following as proof of meeting the **intent of the Code**: *"There are few Homes on corkwood lane, it is a well maintained easement, with very little Traffic, having one more home there would*

not be a Negative impact on the Area. They are all Large tracks of land on corkwood lane and splitting my property would still fitt in with the surrounding ~~property~~~~s~~~~properties~~.”

The owner submitted the following as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness**: “Due to recent events, I am now a single self employed Father, primary care giver for my 8 year old Daughter. The state of our economy has affected my income as well. The house plus 40 acres has become a financial stress.”

Staff believes ~~the~~The owner has submitted proof of meeting the intent of the Code, and has shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. Therefore, staff recommends **approval** of the requested variance with the following **condition**:

- **1. The newly created parcels shall not be ~~further subdivided split~~ through an administrative lot split process.**

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~~The 15-foot wide Landscape Buffer, required along the road frontage, may consist of containerized plants, 100 gallons in size or planted in ground. There shall be a minimum of ten plants per 100 lineal feet. The plants canopy shall average eight feet in height from grade with an average canopy spread of four feet.~~

~~The minimum setback for any new structures, or additions to existing structures, shall comply with the Lake County Land Development Regulations, as amended.~~

**Comment [BTS1]:** The specific code sections that the variance pertains to ) need to be cited here is as well.

**FINDINGS OF FACT:** Staff has reviewed the application for this ~~rezoning~~variance request and found:

1. ~~The request is consistent with Comprehensive Plan Policy 1-1.13: Land Use Density and Intensity Standards~~Comprehensive Plan Policies 1-1.6 and 1-1.15: 3, which allows one unit per five acres agriculture and residential uses in the SuburbanRural Future Land Use Category.

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2. This request is consistent with LDR Tables 3.00.03 and 3.01.03, which allows agriculture/residential uses in the Agriculture Zoning District.

3. This request is consistent with the intent of LDR 14.11.01.D.1 which discourages high ~~density~~density development when the infrastructure is not in place to support the development.

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~~The request is consistent with the recommendations of the Sunnyside Report.~~

Based on these findings of fact, Staff recommends **approval**, as specified in the proposed ~~ordinance~~.Final Development Order.

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**WRITTEN COMMENTS FILED: Support: -0- Concern: -0- Oppose: -0-**

**Comment [BTS2]:** Paul - This is how I would prefer this closing statement be done. Let me know if you have questions. Revise the language as needed as this is just an example from the Wanger rezoning (April)

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## LAND DEVELOPMENT REGULATIONS:

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### 14.11.00 Minor Lot Splits, Family Density Exception and Agricultural Lot Splits.

#### 14.11.01 Minor Lot Splits

- A. Generally. The County may approve a minor lot split of a legally created lot that conforms to the requirements of this Subsection. An applicant for a minor lot split shall have six (6) months from the date the application is submitted to the County to finalize the lot split. No extensions shall be permitted.
- B. Initial Submittal. The County shall consider a proposed minor lot split upon the submittal of the following materials:
1. An application form provided by the County.
  2. One (1) paper copy of the proposed minor lot split.
  3. A statement indicating whether water and/or sanitary sewer service is available to the property.
  4. Soils map showing the proposed minor lot split boundaries overlain.
  5. Two (2) aerial photographs no older than the most recent aerials available from the County Manager or designee showing the proposed minor lot split boundaries overlain.
  6. Current property record card for the subject property.
  7. Current warranty deed for the subject property.
  8. Federal Emergency Management Agency (FEMA) flood insurance map with property boundaries overlain.
- C. Review Procedure.
1. The County Manager or designee shall transmit a copy of the proposed minor lot split to any other appropriate departments of the County for review and comments.
  2. If the proposed minor lot split meets the conditions of these regulations and otherwise complies with all applicable laws and ordinances, the County Manager or designee shall approve the minor lot split.
  3. Any other information as required by the County Manager or designee.
- D. **Standards. All minor lot splits shall conform to the following standards:**
1. **Only two (2) lots may be created from the original legally created lot or lot of record. The total number of lots created shall include the original parcel. The original parcel shall be known as the parent parcel and those lots created out of the parent parcel shall not be entitled to another minor lot split.**
  2. **Each lot Shall either (1) front on a publicly maintained paved road and conform to the required minimum lot dimensions for the land use category and zoning district where the lots are located OR (2) contain a minimum of twenty (20) acres with at least one (1) acre of uplands AND front either on a publicly maintained clay road OR an easement meeting the following requirements:**
    - a. **Non-exclusive easement for ingress and egress, dedicated to the public for road, utility, and drainage purposes, if satisfying the criteria set forth in Section 14.00.08, Land Development Regulations, and accepted by the Board of County Commissioners. However, a private easement may be permitted if it is determined that there is no need for a future road corridor.**
    - b. **Connect to a publicly maintained road.**
    - c. **Have a minimum width of fifty (50) feet.**
    - d. **Not obligate the County to maintain the easement.**

- e. **Have road name signs installed in accordance with applicable County regulations.**
  - f. **Record deed restrictions which require the property owners to maintain the paved private road or easement. Such restrictions must be recorded prior to the recordation of the approved lot split.**
3. If any lot abuts a publicly maintained road that does not conform to the right-of-way specifications provided or adopted by reference in these regulations, the owner may have to dedicate the required right-of-way width necessary to meet the minimum design if satisfying the criteria set forth in Section 14.00.08, Land Development Regulations.
  4. Easements created pursuant to this Section Shall comply with the Federal Emergency Management Agency (FEMA) regulations and Lake County floodplain management regulations.
  5. The creation of a lot wholly within the 100 year flood zone is prohibited.
  6. Flag lots are prohibited.
  7. A minor lot split shall not be approved within a platted subdivision when such lot split changes the character of the subdivision, or where the lot split increases the density, beyond the general nature of the subdivision.
  8. A minor lot split which authorizes the development of five (5) or more lots or dwelling units Shall not be approved by the County Manager, or designee, unless the School Board has provided a certification in accordance with Chapter V-A of these regulations indicating that there is or will be sufficient school capacity to provide education services for the students who will live in dwelling units placed or constructed on such lots.
  9. All other Sections of the Land Development Regulations, and all requirements of the Comprehensive Plan Shall apply.
- E. Final Submittal. Prior to final approval, in addition to any other requirements the following shall be required:
1. Legal descriptions, acreage and square footage of the original and proposed lots together with the legal description of any existing or proposed easements shall be shown on a boundary survey prepared by a professional land surveyor registered in the State of Florida. In the event the proposed lot split contains parcels greater than forty (40) acres in size, a sketch of description for the land area containing such parcels shall be accepted instead of a boundary survey. However, a boundary survey shall be required for the land area containing parcels forty (40) acres or less in size. (Example: A fifty (50) acre parcel being split into a twenty (20) acre parcel and a thirty (30) acre parcel would require a boundary survey of the fifty (50) acre parcel, but a fifty (50) acre parcel being split into a forty-five (45) acre parcel and a five (5) acre parcel would only require a boundary survey of the five (5) acre parcel.) The survey must show all structures, easements, surface water bodies, flood zones with base elevation, wetlands and amount of acreage inside and outside of the wetland jurisdiction line.
  2. A title opinion of an attorney licensed in Florida or a certification by an abstractor or a title company dated through the date of final approval, showing all persons or entities with an interest of record in the property, including but not limited to, the record fee owners, easement holders, mortgage and lien holders. The report shall include the tax identification number(s) for the property and copies of all documents such as deeds, mortgages etc. referenced in the title opinion.

F. Recordation. Upon approval of the minor lot split, the County Shall record the minor lot split on the appropriate maps and documents, and shall, at the applicant's expense, record the minor lot split in the public records of Lake County, Florida.

**14.15.00 Variances and Appeals.**

**14.15.01 Purpose of Variances.** Strict application of uniformly applicable Land Development Regulations can lead to unreasonable, unfair, and unintended results in particular instances. The Board of County Commissioners finds that it is appropriate in such cases to adopt a procedure to provide relief to persons subject to the Land Development Regulations. The Board of Adjustment is authorized to grant variances to requirements of the Land Development Regulations consistent with the rules contained in these regulations. This Section does not authorize the Board of Adjustment to grant variances inconsistent with the Comprehensive Plan nor to grant a variance to permit uses not generally permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the Land Development Regulations in the zoning district. In addition, the existence of nonconforming use of neighboring lands or un-permitted use of neighboring lands shall not be considered grounds for authorization of a variance.

**14.15.02 Generally.** Variances shall be granted when the person subject to a Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For purposes of this Section, "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation. Variances may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as, contributing to a district listed on the National Register of Historic Places, Florida Master Site File or local surveys of historical resources. In such instance, the variance shall be the minimum necessary to protect the historical integrity of the structure and its site.

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**COMPREHENSIVE PLAN POLICY: Policy 1-1.13: Land Use Density and Intensity Standards.** Upon adoption of this Plan, the following land use density and intensity standards shall apply. Land Development regulations adopted to implement this Comprehensive Plan shall be based on and be consistent with the following standards for densities and intensities as indicated below:

1. Residential:

a. High Density/Intensity Urban

- (1) The maximum impervious surface ratio shall be no greater than seventy percent (70%) of the gross area, and a minimum of twenty percent (20%) of the gross area shall be dedicated as open space. The area to be dedicated as open space shall not be construed to be in addition to the maximum impervious surface requirements, but may include pervious area used to comply with the maximum impervious surface area ratio.
- (2) Residential densities shall range from seven (7) units per acre up to fifteen (15) dwelling units per gross acre. Development at densities less than seven (7) units per acre shall not be permitted.

- (3) Commercial development shall not exceed a ratio of 100 gross leasable square feet per dwelling unit.
- (4) Approval of industrial or office development shall be required concurrent with the approval of residential development, and shall be subject to a minimum standard of three (3) gross leasable square feet per dwelling unit.
- (5) Approval of active recreation sites, open to the public, shall also be required concurrent with the approval of residential development, and shall be subject to a minimum standard of two (2) acres per one-thousand dwelling units.
- b. Urban areas: residential densities shall be permitted up to 7 units per gross acre. The maximum impervious surface ratio shall be no greater than 65% of the gross development parcel.
- c. Urban Expansion areas: residential densities shall be permitted up to 4 units per gross acre. The maximum impervious surface ratio shall be no greater than 45% of the gross development parcel. Maximum building height is 40 feet.
- d. Suburban areas: residential densities shall be permitted up to 3 units per gross acre. Residential development greater than 1 unit per acre must be permitted as a Planned Unit Development (PUD). The maximum impervious surface ratio shall be no greater than 30% of the gross development parcel. Maximum building height is 40 feet.
- e. Rural Village: residential densities shall be permitted up to 2 units per gross acre. The maximum impervious surface ratio shall be no greater than 30% of the gross development parcel. Maximum building height is 40 feet.
- f. Rural: residential densities shall be permitted up to 1 unit per five acres. The maximum impervious surface ratio shall be no greater than 20% of the gross development parcel. Maximum building height is 40 feet. Eighty percent (80%) of the project site shall be retained as open space.**
- g. Southlake Urban area: This is a vested residential development with residential densities permitted up to 13 units per gross acre.
- h. Green Swamp Area of Critical State Concern:
  - (1) Ridge area: residential densities shall be permitted up to 4 units per acre of uplands. Developments with a density greater than 1 unit per acre must be connected to a regional sewer system, defined as a central sewer system with a capacity of 500,000 GPD or greater. However, a central sewer system having a capacity of at least 100,000 GPD or more may be permitted on a temporary basis until such time as a regional system becomes available. The temporary system shall be staffed by a class C or higher operator for a minimum of three hours per day for five days per week and one visit on each weekend day. Further, these temporary facilities shall be planned, designed, and constructed so that they either serve as the nucleus of a future regional system that later developments will also connect to, or can be abandoned and the system merged into a regional sewer system constructed at another location. The maximum impervious surface ratio shall be no greater than 45% of the gross development parcel. Maximum building height is 40 feet.
  - (2) Transition area: residential densities shall be permitted up to 1 unit per acre of uplands.



The maximum impervious surface ratio shall be no greater than 30% of the gross development parcel. Maximum building height is 40 feet.

- (3) Rural/Conservation: residential densities shall be permitted up to 1 unit per 10 acres of uplands.
- (4) Core/Conservation: residential densities shall be permitted up to 1 unit per 20 acres of uplands.

**ENVIRONMENTAL ISSUE:** There are jurisdictional wetlands on the parcel.

**FLOODPLAIN:** Portion of the parcel located within the 100-year flood zone, designated as "A"

**JOINT PLANNING AGREEMENT:** N/A

**LAKE APOPKA BASIN:** YES

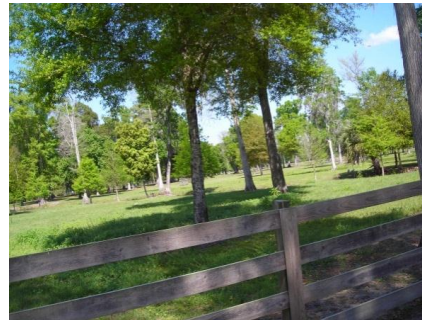
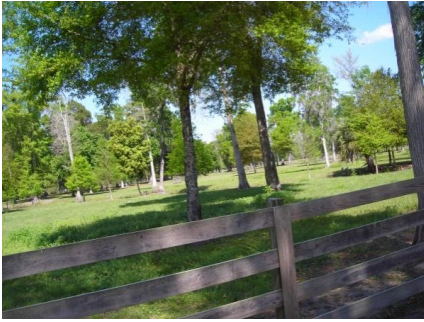
**GREEN SWAMP AREA OF CRITICAL STATE CONCERN:** N/A

**WEKIVA RIVER PROTECTION AREA:** N/A

**TRANSPORTATION IMPROVEMENTS:** N/A

| **WRITTEN COMMENTS FILED: SUPPORT: ~~0~~ OPPOSITION: ~~0~~**

**BOA# 4-11-3  
Photo Evidence**



**Views of the site**

**BOA# 4-11-3  
Photo Evidence**



**Views of the easement to the site**



**Views of the postings**