



VARIANCE REQUEST
 Presented to
LAKE COUNTY BOARD OF ADJUSTMENT
 August 9, 2012

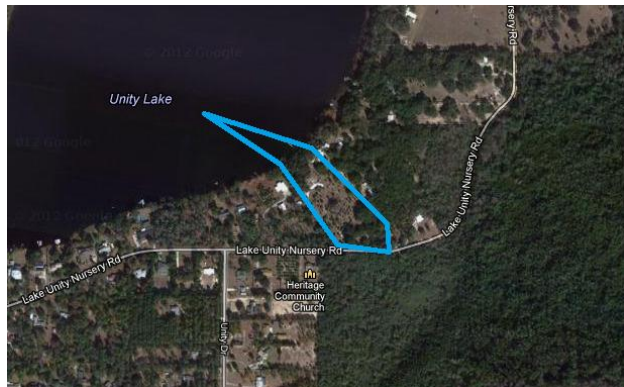
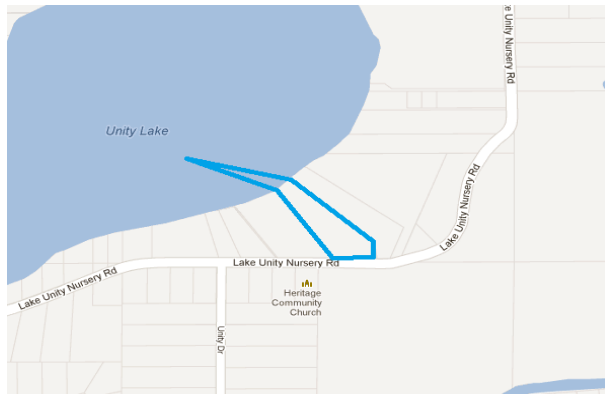
CASE NO.: BOA# 23-12-5

AGENDA ITEM #: 3

OWNERS & APPLICANTS: George and Virginia Utz

REQUESTED ACTION: The owners are requesting a variance from the **Lake County Land Development Regulations (LDRs) 10.01.01.E & 10.01.02.C.** to allow a detached storage building to be located in the front yard and to allow the storage building to exceed 80% of the main floor living area of the permitted principal structure (+/- 5 acres).

GENERAL LOCATION: Fruitland Park area –North on US Hwy 27 to Eagles Nest Road, Lake Unity Nursery Road to site on right #36049, AK# 1585091 (Sec. 35, Twp. 18, Rng. 24).



FUTURE LAND USE DESIGNATION: Rural Transition

EXISTING ZONING: R-1 (Rural Residential)

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
North	Lake Unity	Lake Unity	Lake Unity
South	Conservation	R-1 (1 du / ac)	Conservation
East	Rural Transition (1 du / 10ac)	R-1 (1 du / ac)	Single-Family Dwelling Unit
West	Rural Transition (1 du / 10ac)	R-1 (1 du / ac)	Single-Family Dwelling Unit
DATE POSTED:	July 23, 2011 at Unity Drive and Lake Unity Nursery Road, Fruitland Park		

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 the 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.

ANALYSIS: The owners are requesting a variance to allow the construction of a storage building in the front yard and to allow that storage building to be larger than 80% of the permitted principal structure. The Code (10.01.02.C Accessory Uses and Structures) allows storage buildings, non-commercial greenhouses, and the like to be permitted in side and rear yards. The Code (10.01.01.E General Standards and Requirements) limits the size of accessory structures to not exceed 80% of the main floor area of the existing single-family dwelling unit.

The parcel is approximately 1740 feet deep and 290 feet wide and is approximately five acres in size; the parcel fronts on Lake Unity Nursery Road, a County-maintained paved road, along the south property line and Lake Unity along the north property line. The majority of the parcel is located outside of the 100-year flood zone; the rear of the parcel near the lake is located within the 100-year flood zone designated as “A” and is steeply sloped. There are jurisdictional wetlands along the boundary with Lake Unity.

The owners are proposing to construct a 40 foot wide by 60 foot deep detached storage building in front of the dwelling unit; it will be located approximately 290 feet from the south property line, 150 feet from the west property line, 11 feet from the east property line and 350 feet from the water’s edge of Lake Unity. The proposed location of the storage building will meet all of the required setbacks; there is not sufficient room to locate the storage building in the side yards, and the owners stated that it would be difficult to construct the storage building behind the dwelling unit because of the slope and several mature oak trees. A copy of the plot plan detailing the location of the storage building is attached (Exhibit #1).

The owner’s storage building will exceed the maximum square footage allowed in the Code by 92 square feet; this is a 3% increase over the maximum amount allowed. This minimal overage will allow the owner to construct the building to standard dimensions and will not negatively affect the aesthetics of the parcel or surrounding area.

The parcel is zoned R-1 and the future land use is Rural Transition. The parcels to the east and west sides of the subject parcel are developed with single-family dwelling units. The parcel to the south is being used for conservation purposes. All of the adjoining parcels have extensive plantings between the homes and the road.

The **intent of the Code** (10.01.02) is to regulate the configuration of accessory structures in order to ensure that they are not harmful either aesthetically or physically to residents and surrounding areas. The area is characterized by treed lakefront parcels with occasional small citrus plantings. The addition of a storage building will not be visible from the road and will not negatively affect the surrounding area.

The owners submitted the following as proof of meeting the **intent of the Code**:

“There is no space behind home without taking out 1 large Live Oak and several other trees. There is more than 2 acres in front with a heavy tree and brush barrier at road. We also request building to be 40’ x 60’ for ease of construction and allow enough room for tractor+ trailer to be stored. 2302 SF = 80% of home’s square footage. This is only 92 SF larger than allowed amount.”

The owners submitted the following as proof that the application of the Land Development Regulation would create a **substantial hardship or would violate principles of fairness**:

“Garage will be built same style as home. Trees will also shield garage from Lake Unity Nursery Road.”

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

- This request is consistent with LDR 10.01.02, which attempts to protect surrounding parcels from negative visual impacts.
- There is not sufficient buildable area to the side or rear of the home to construct additional structures due to existing structures and vegetation.

The owners have submitted proof of meeting the intent of the Code and have shown proof of a substantial hardship or that the application of the Code would violate principles of fairness. Based on the Findings of Fact and Analysis, Staff recommends **approval** of the variance request **with the following conditions**:

1. **The detached storage building must be constructed in the same architectural style as the single-family dwelling unit; the walls and roofing materials must be of the same material and color as the dwelling unit.**
2. **The detached storage building must be constructed in the location as indicated on Exhibit “1”.**
3. **An inspection of the detached storage building, to ensure the conditions as stated above are met, must be conducted and approved by the Planning and Community Design Division prior to a final inspection by the Building Services Division.**

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

10.01.01 General Standards and Requirements. Accessory Structures within residential and agricultural zoning districts may be allowed on a Lot, provided that the following requirements are met:

A. There shall be a Permitted Principal Structure on the Lot that is in full compliance with all standards and requirements of these Regulations.

B. A structure for agricultural purposes (General and Non-Intensive), on conforming Lots in Agriculture (A), Ranchette (RA) and Agricultural Residential (AR) Zoning Districts shall be considered the Principal Structure.

C. All Accessory Structures shall comply with applicable standards and Codes, unless exempted or superseded elsewhere in these Regulations.

D. Accessory Structures shall not be located in a required Buffer area, Landscape Buffer Strips, or minimum Building Setback area.

E. Accessory Structure square footage shall not exceed 80% of the main floor square footage of the enclosed living area of the Permitted Principal Structure, excluding features such as garages, patios, and porches. If there is more than one Accessory Structure, the combined square footage shall apply.

F. Accessory Structures shall not exceed the height of the Principal Structure or 25 feet, whichever is greater.

G. Conforming Lots within the Agriculture (A), Ranchette (R) and Agricultural Residential (AR) Zoning Districts that are two (2) acres in size or larger shall be exempt from Sections E. and F. above.

10.01.02 Storage Buildings, Utility Buildings, Non-Commercial Greenhouses.

A. No Accessory Buildings used for industrial storage of hazardous, incendiary, noxious, or pernicious materials Shall be located nearer than one hundred (100) feet from any property line.

B. Storage Buildings, non-commercial greenhouses, and the like shall be Permitted only in compliance with standards for distance between Buildings, and Setbacks, if any, from property lines.

C. Storage Buildings, non-commercial greenhouses and the like Shall be Permitted only in side and rear yards, and Shall not encroach into any required Building Setback from an abutting Right-of-Way.

D. Vehicles, including Manufactured Housing and Mobile Homes, Shall not be used as storage Buildings, utility Buildings, or other such uses.

Definitions:

Frontage. The length of the Property line of any one (1) premise along a public right-of-way on which it borders.

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.

ENVIRONMENTAL ISSUE: There are jurisdictional wetlands on the parcel.

FLOODPLAIN: Portions of the parcel lie in the 100-year flood zone designated as "A".

JOINT PLANNING AGREEMENT: N/A

LAKE APOPKA BASIN: N/A

WEKIVA RIVER PROTECTION AREA: N/A

TRANSPORTATION IMPROVEMENTS: N/A

GREEN SWAMP AREA OF CRITICAL STATE CONCERN: N/A

**BOA# 23-12-5
Photo Evidence**



Views of the site



Views of the postings

**Final Development Order
George and Virginia Utz
BOA # 23-12-5**

A VARIANCE OF THE LAKE COUNTY BOARD OF ADJUSTMENT AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, George and Virginia Utz (the "Owners") made a request to allow a detached storage building to be located in the front yard and to allow the storage building to exceed the size limitations of 80% of the main floor living area of the permitted principal structure; and

WHEREAS, the subject property consists of 5 acres +/- and is generally located east of Fruitland Park in Section 35, Township 18 South, Range 24 East, being composed of Alternate Key Number 1585091, and is more particularly described as:

FROM SE COR OF SEC RUN N ALONG E LINE 844.08 FT, N 89DEG 59MIN 50SEC W 456.2 FT, S 21DEG 15MIN 30SEC W 906.7 FT TO S LINE OF SEC, N 89DEG 59MIN 30SEC W ALONG S LINE OF SEC 146.6| FT TO POB, RUN N 08DEG 34MIN 10SEC W 152.79 FT, N 48DEG 10MIN 30SEC W 740 FT TO LAKE UNITY, NW'LY TO A PT ON N LINE OF S 3/4 OF SW 1/4 OF SE 1/4, SAID PT BEING 156 FT E OF W LINE OF SW 1/4 OF SE 1/4 ALSO BEING PT A, BEG AGAIN POB, RUN N 89DEG 59MIN 30SEC W ALONG S LINE OF SEC 274.76 FT, N 35DEG 50MIN W 679.52 FT, N 35DEG 50MIN W 10 FT TO LAKE UNITY, NW'LY INTO LAKE UNITY TO PT A--LESS S 33 FT FOR LAKE UNITY NURSERY RD R/W

AND, after giving Notice of Hearing on petition for a variance to the Lake County Land Development Regulations, including notice that said variance would be presented to the Board of Adjustment of Lake County, Florida, on August 9, 2012; and

WHEREAS, the Board of Adjustment reviewed said petition, staff report, and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised; and

WHEREAS, on August 9, 2012, the Lake County Board of Adjustment approved the variance for the above property; and

NOW THEREFORE, BE IT ORDAINED by the Board of Adjustment of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above subject property subject to the following terms:

Section 1. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of BOA# 23-12-5 to allow a detached storage building to be located in the front yard and to

allow the storage building to exceed the size limitation of 80% of the main floor living area of the permitted principal structure:

1. The detached storage building must be constructed in the same architectural style as the single-family dwelling unit; the walls and roofing materials must be of the same material and color as the dwelling unit.
2. The detached storage building must be constructed in the location as indicated on Exhibit "1".
3. An inspection of the detached storage building, to ensure the conditions as stated above are met, must be conducted and approved by the Planning and Community Design Division prior to a final inspection by the Building Services Division.

Section 2. Severability: If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 3. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED this 9th day of August, 2012.

EFFECTIVE August 9, 2012.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Donald Schreiner, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this August 9, 2012 by DONALD SCHREINER, who is personally known to me.
(SEAL)

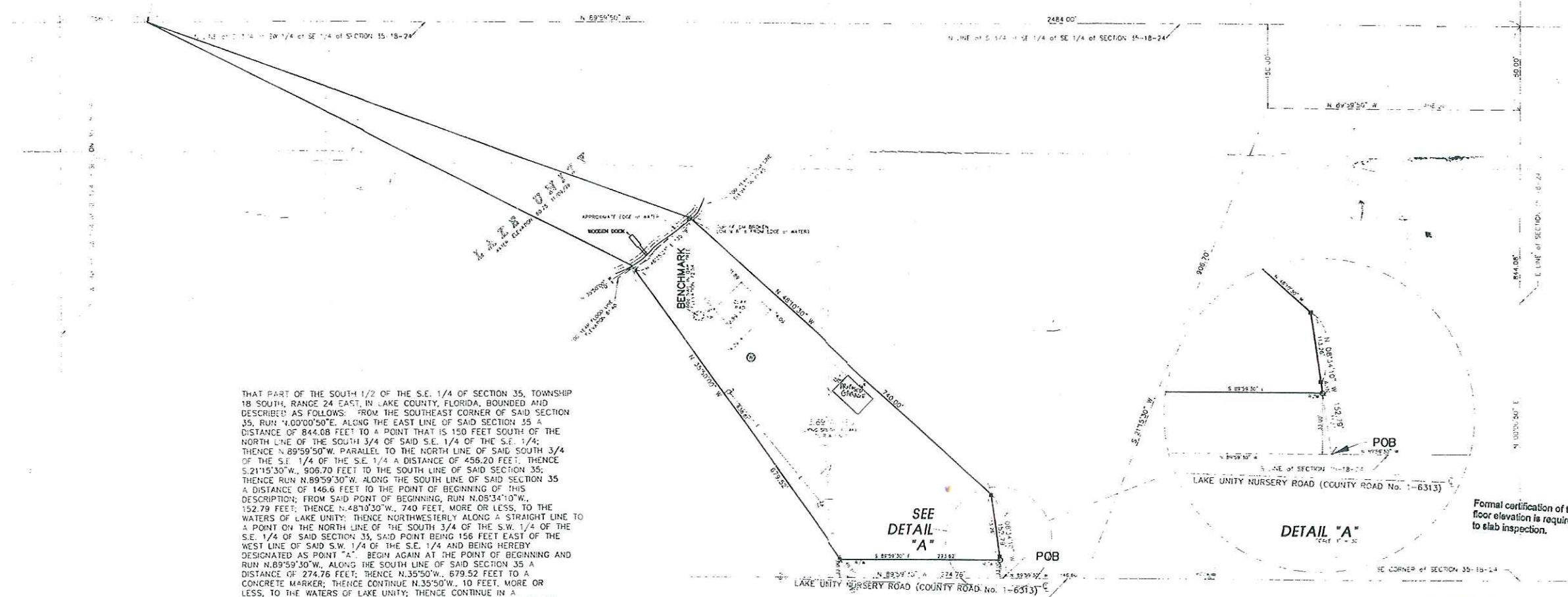
Signature of Acknowledger

Serial Number: _____

My Commission Expires: _____

BOA# 23-12-5
EXHIBIT "1"

POINT "A"

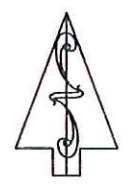


THAT PART OF THE SOUTH 1/2 OF THE S.E. 1/4 OF SECTION 35, TOWNSHIP 18 SOUTH, RANGE 24 EAST, IN LAKE COUNTY, FLORIDA, BOUNDED AND DESCRIBED AS FOLLOWS: FROM THE SOUTHEAST CORNER OF SAID SECTION 35, RUN 4.00'00" S0°E, ALONG THE EAST LINE OF SAID SECTION 35 A DISTANCE OF 844.08 FEET TO A POINT THAT IS 150 FEET SOUTH OF THE NORTH LINE OF THE SOUTH 3/4 OF SAID S.E. 1/4 OF THE S.E. 1/4; THENCE N 89°59'50"W, PARALLEL TO THE NORTH LINE OF SAID SOUTH 3/4 OF THE S.E. 1/4 OF THE S.E. 1/4 A DISTANCE OF 456.20 FEET; THENCE S 21°15'30"W, 906.70 FEET TO THE SOUTH LINE OF SAID SECTION 35; THENCE RUN N 89°59'30"W, ALONG THE SOUTH LINE OF SAID SECTION 35 A DISTANCE OF 146.6 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; FROM SAID POINT OF BEGINNING, RUN N 08°34'10"W, 152.79 FEET; THENCE N 48°13'30"W, 740 FEET, MORE OR LESS, TO THE WATERS OF LAKE UNITY; THENCE NORTHWESTERLY ALONG A STRAIGHT LINE TO A POINT ON THE NORTH LINE OF THE SOUTH 3/4 OF THE S.W. 1/4 OF THE S.E. 1/4 OF SAID SECTION 35, SAID POINT BEING 156 FEET EAST OF THE WEST LINE OF SAID S.W. 1/4 OF THE S.E. 1/4 AND BEING HEREBY DESIGNATED AS POINT "A". BEGIN AGAIN AT THE POINT OF BEGINNING AND RUN N 89°59'30"W, ALONG THE SOUTH LINE OF SAID SECTION 35 A DISTANCE OF 274.76 FEET; THENCE N 35°50'W, 879.52 FEET TO A CONCRETE MARKER; THENCE CONTINUE N 35°50'W, 10 FEET, MORE OR LESS, TO THE WATERS OF LAKE UNITY; THENCE CONTINUE IN A NORTHWESTERLY DIRECTION INTO LAKE UNITY TO THE ABOVE DESIGNATED POINT "A".
LESS RIGHT-OF-WAY FOR LAKE UNITY NURSERY ROAD.
SUBJECT TO ALL EASEMENTS, RIGHTS-OF-WAY AND RESTRICTIONS OF RECORD, IF ANY.

NOTE:
1. DESCRIPTION FURNISHED BY CLIENT.
2. NO IMPROVEMENTS (IF ANY) WERE LOCATED ON THIS SURVEY AT THE CLIENT'S REQUEST.
3. NO UTILITIES (IF ANY) WERE LOCATED ON THIS SURVEY.
4. BEARINGS BASED ON DESCRIPTION AS FURNISHED BY CLIENT.
5. RIGHT-OF-WAY OF LAKE UNITY NURSERY ROAD BASED ON RIGHT-OF-WAY DEED RECORDED IN O.R.B. 86#, PAGE 544, LAKE CO., FL.

GENERAL LEGEND

■ FOUND CONCRETE MONUMENT (NUMBER NOTED IF AVAILABLE)	BM BENCH MARK
● FOUND IRON ROD (NUMBER NOTED IF AVAILABLE)	CB CONCRETE BLOCK
○ FOUND IRON PIPE (NUMBER NOTED IF AVAILABLE)	CM CONCRETE MONUMENT
△ NAIL OR NAIL AND TAB (NUMBER NOTED IF AVAILABLE)	END FOUND
○ SET IRON ROD (5/8" I.D. 70')	IR IRON ROD/PIPE
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	LS REGISTERED LAND SURVEYOR NUMBER
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	LB LICENSED BUSINESS NUMBER
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	() UNRESOLVED BEARING OR DISTANCE
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	PT POINT OF TANGENCY
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	PC POINT OF CURVATURE
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	POC POINT OF CURVE
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	PL PLAT BOOK
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	N/T NAIL AND TAB
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	POB POINT OF BEGINNING
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	PG PLAT BOOK
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	PG PAGE
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	CRB GENERAL RECORDS BOOK
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	○ WELL
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	○ SPOT ELEVATION
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	○ BENCH MARK LOCATION (WHEN APPROPRIATE)
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	○ GAS METER/MARKER POS.
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	○ GAS VALVE
○ SET CONCRETE MONUMENT (4" x 4" I.D. 20')	○ W-THED END OF CURVE



REVISION	NO.	BY	DATE

SCALE 1" = 100'
DATE 11/20/99
DRAWN DJW

I hereby certify that this plan, map, or other work was prepared by me or under my direct supervision and that I am a duly licensed Professional Surveyor in the State of Florida.
NOTE: 1) Reproductions of this work are not valid unless embossed with the surveyor's seal and certification. 2) There are no easements or encroachments visible on the ground other than those shown hereon.

George L. Utz, Jr.
Professional Surveyor, License No. 11,330, State of Florida

BOUNDARY & LOCATION SURVEY
IN THE SE 1/4 OF SECTION 35-18-24
GEORGE L. + VIRGINIA L. UTZ
c/o GREG THOMAS
04207 BAIR AVENUE, FRUITLAND PARK, FL 34731

FARNER AND ASSOCIATES
SURVEYORS-ENGINEERS-PLANNERS
2007 W. BUTLER STREET, LEESBURG, FLORIDA 34748
PHONE: (352) 787-5115 FAX: (352) 787-0787
SERVING FLORIDA SINCE 1962
Formerly Natl. Turner & Associates, Inc.

PROJECT NUMBER: 39-1183 DRAWING FILE NUMBER: 91183001
SHEET 1

REVIEWED PLANS
ANY ERRORS OR OMISSIONS IN THESE PLANS SHALL BE MADE TO CONFORM WITH APPLICABLE CODE REQUIREMENTS PER SECTION 104.8.1 OF THE STANDARD BUILDING CODE
REVIEWED PLANS ARE TO BE KEPT ON JOB SITE
LAKE COUNTY BUILDING DEPARTMENT

Formal certification of the first floor elevation is required prior to slab inspection.

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