

LAKE COUNTY PLANNING AND ZONING DIVISION  
VARIANCE STAFF REPORT



Board of Adjustment

August 11, 2016

LAKE COUNTY  
FLORIDA

VAR-16-20-4 Baywood Forest Plat	District 4	Agenda Item #1
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**Requested Action:** A variance to Land Development Regulation (LDR) Section 14.08.00.B.2. to allow for an additional 4 year extension from the expiration date (April 30, 2017) of the Developer's Agreement for Construction of Improvements for the Baywood Forest Final Plat, with conditions as set forth in the attached Final Development Order.

**Owner and Applicant:** Baywood Village LLC, registered agent Donald Maheux (the "Owner" and "Applicant")

**- Site Location & Information -**

<b>Size</b>	4.61 +/- acres
<b>Location</b>	Southwest of CR 19, in the Mount Dora area
<b>Alternate Key No.</b>	3865404, 3865405, 3865406, 3865407, 3865408, 3865409, 3865410, 3865411, 3865412, 3865413, 3865414, 3865415, 3865416, 3865417, 3865418, 3865419, and 3865420
<b>Future Land Use</b>	Urban High
<b>Zoning District</b>	Mixed Residential District (R-7)
<b>Overlay Districts</b>	Major Commercial Corridor
<b>Joint Planning Area/ISBA Area</b>	Mount Dora JPA and ISBA

**-Land Use Table-**

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
<b>North</b>	Urban High	Mobile Home Rental Park District (RMRP)	Residential	Single Family Residences on 18.1 acre lot
<b>South</b>	Urban High	Residential Professional (RP)	Utilities and Vacant	Sprayfield and vacant residential land
<b>East</b>	Urban High	Residential Professional (RP)	Residential	Single Family Residences on lots less than an acre
<b>West</b>	Urban High	Residential Professional (RP)	Residential and Vacant	Single Family Residences on large lots

**- Summary of Staff Determination -**

**STAFF RECOMMENDATION:** Staff recommends **APPROVAL** of the variance from Lake County Land Development Regulations Section 14.08.00.B.2. to allow for an additional 4 year extension from the expiration date (April 30, 2017) of the Developer's Agreement for the Baywood Village Final Plat, with conditions as set forth in the attached Final Development Order.

**-Staff Analysis-**

The subject properties are 4.61 +/- acres and are located southwest of CR 19, in the Mount Dora area. The properties are zoned Mixed Residential District (R-7) and are part of the Urban High Density Future Land Use Category. The properties are located within the Mount Dora ISBA and JPA and are currently vacant.

The Baywood Forest Plat was approved by the Board of County Commissioners of Lake County on September 7, 2007. As part of the subdivision process, the developer is required to submit improvement plans to be approved by the County for certain roads, street, storm water management and drainage facilities, and other improvements for the Baywood Forest Plat.

In accordance with LDR Section 14.08.00.B., the approval of any final plat prior to the completion of the infrastructure is subject to the developer providing assurance that all required improvements, including, but not limited to, storm drainage facilities, streets and highways, water and sewer lines, wetlands mitigation, uplands mitigation, landscape requirements, and replacement trees, will be satisfactorily constructed according to the approved construction plans. The developer and Lake County entered into a Developer's Agreement to ensure the installation of the required landscaping would be complete within one year of receiving final plat approval. The developer provided a surety bond in the amount of \$4,395.00 (110% of the cost of the improvements) to guarantee that the required improvements would be installed.

The Developer's Agreement was amended three times to extend the agreement until June 28, 2013. On July 1, 2013, the Lake County Department of Growth Management provided a letter extending the Developer's Agreement until December 31, 2015 pursuant to Ordinance 2013-17. On December 15, 2015, the Lake County Economic Growth Department issued a letter

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to extend the Developer's Agreement to August 31, 2016, pursuant to Section 252.363, Florida Statutes, and the Governor's Executive Order Number 15-173, declaring a state of emergency due to Tropical Storm Erika. On July 26, 2016, the Lake County Economic Growth Department issued a letter to extend the Developer's Agreement to April 30, 2017, pursuant to Section 252.363, Florida Statutes and the Governor's Executive Order Number 16-136, declaring a state of emergency due to Tropical Storm Colin.

The applicant is requesting a variance to LDR Section 14.08.00.B, to allow a four (4) year extension of the Developer's Agreement. The intent is to delay the installation of the landscaping until the construction of the single family residences. The applicant states that maintaining landscaping on vacant land would be a misuse of resources.

The **intent of the Code**, [LDR Section 14.08.00.B.] is to obtain assurance that the developer will complete the required improvements after the subdivision receives final plat approval. This is done by completing a Developer's Agreement between Lake County and the Developer. LDR Section 14.08.00.B.2 requires the term of the agreement to not exceed two (2) years from the recording of the plat. The applicant is seeking to delay the installation of the landscaping required within the Developer's Agreement until time of construction because the landscaping would need to be maintained until the residences are constructed and sold. This would be a misuse of resources and would be inconsistent with LDR Section 9.01.01 which encourages water conservation. The applicant has stated that they anticipate beginning construction within a few years.

The applicant has submitted the following reasons as proof of **meeting the intent of the Code**:

*"The purpose of the Land Development Regulation can be achieved by installing the required landscaping at the start of construction."*

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

*"It would be a substantial hardship and misuse of resources to maintain and irrigate landscaping on vacant/unused land."*

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

1. The request is consistent with the LDR Section 14.08.00 Guarantees and Sureties, which indicates it is acceptable to delay the construction of infrastructure, landscaping, or the construction of other required improvements which includes the required sidewalk, while at the same time providing a guarantee to Lake County that such other improvements will be provided; and
2. The developer has provided a performance bond that will remain in effect until June 27, 2017 for 110% of the landscaping improvements described in Exhibit A of the Developer's Agreement and will be renewed on an annual basis; and
3. The applicant wishes to delay the installation of the landscaping until time of construction; and
4. The applicant has stated that they intend on beginning construction within four (4) years; and
5. Installing and maintaining landscaping on vacant land would be a misuse of resources and inconsistent with LDR Section 9.01.01 which encourages water conservation.

The owner and applicant 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 stated above, Staff recommends **approval** of the variance request to allow for a 4 year extension from the expiration date (April 30, 2017) of the Developer's Agreement for the Baywood Village Final Plat, with conditions as set forth in the attached Final Development Order.

**WRITTEN COMMENTS FILED:**

**Support: -0-**

**Questions: -0-**

**Opposition: -0-**

**Case Manager:** Michele Janiszewski, Planner

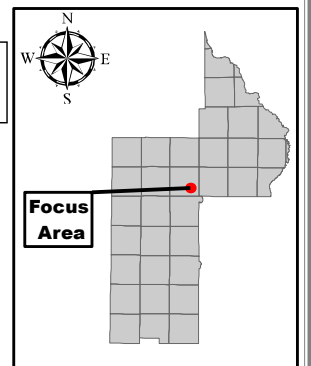




**ZONING LEGEND**

A	RA	R-2	R-4	R-7	RMRP	RV	C-2	LM	MP	PUD
AR	R-1	R-3	R-6	RP	RM	C-1	CP	HM	CFD	

**NAME: BAYWOOD FOREST - MAHEUX**  
**CASE NUMBER: VAR-16-20-4**  
**LOCATION (S-T-R): 26-19-26**  
**REQUEST: LANDSCAPE VARIANCE**







**FUTURE LAND USE LEGEND**

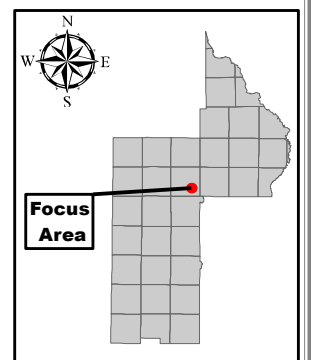
- |                                |  |                     |                      |
|--------------------------------|--|---------------------|----------------------|
| Bella Collina                  | Heavy Industrial                           | Recreation          | Urban Low Density    |
| Cagans Crossing                | Mt Plymouth-Sorrento Main Street District  | Regional Commercial | Urban Medium Density |
| Conservation                   | Mt Plymouth-Sorrento Neighborhood          | Rural               |                      |
| Green Swamp Core Conservation  | Mt Plymouth-Sorrento Receiving Area        | Rural Transition    |                      |
| Green Swamp Ridge              | Regional Office                            | Sending Area A-1-20 |                      |
| Green Swamp Rural              | Public Service Facility and Infrastructure | Sending Area A-1-40 |                      |
| Green Swamp Rural Conservation | Receiving Area A-1-20                      | Urban High Density  |                      |

**NAME: BAYWOOD FOREST - MAHEUX**

**CASE NUMBER: VAR-16-20-4**

**LOCATION (S-T-R): 26-19-26**

**REQUEST: LANDSCAPE VARIANCE**



**Final Development Order  
Baywood Village Subdivision  
VAR-16-20-4**

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

**WHEREAS**, Baywood Village LLC, registered agent Donald Maheux (the "Owner" and "Applicant") requested a variance to Land Development Regulation (LDR) Section 14.08.00.B.2. to allow for an additional 4 year extension from the expiration date (April 30, 2017) of the Developer's Agreement for the Baywood Village Final Plat; and

**WHEREAS**, the subject properties consist of 4.61+/- acres and are located west of Southwest of CR 19, in the Mount Dora area, in Section 26, Township 19 South, Range 26 East, Alternate Key Numbers 3865404, 3865405, 3865406, 3865407, 3865408, 3865409, 3865410, 3865411, 3865412, 3865413, 3865414, 3865415, 3865416, 3865417, 3865418, 3865419, and 3865420 and are more particularly described below (hereinafter referred to as the "Property"):

COMMENCE AT THE NORTHEAST CORNER OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 26 EAST, IN LAKE COUNTY, FLORIDA, RUN WESTERLY ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 26, A DISTANCE OF 2,310 FEET; THENCE S.34°43'18"W., 1,329.1 FEET; THENCE N.87°46' 42"W., 663.43 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, FROM SAID POINT OF BEGINNING RUN S.00°16'42"E., 273.50 FEET; THENCE S.34°43'18"W., 228.40 FEET; THENCE S.58°12'53"E., 341.88 FEET; THENCE S.00°16'42"E., 26.15 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF BAY ROAD, SAID RIGHT-OF-WAY BEING 50 FEET IN WIDTH; THENCE S.34°43'18"W. ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF BAY ROAD, A DISTANCE OF 43.90 FEET; THENCE N.58°12'53"W., 389.55 FEET; THENCE N.71°00'09"W., 130.14 FEET; THENCE N.24°46'52"E., 74.23 FEET; THENCE N.65°13'08"W., 32.47 FEET; THENCE N.87°46' 42"W., 106.05 FEET; THENCE N.02°13'18"E., 386.93 FEET; THENCE S.87°46'42"E., 406.85 FEET TO THE POINT OF BEGINNING.

**WHEREAS**, on September 4, 2007, the Baywood Forest Plat was approved by the Lake County Board of County Commissioners and recorded in Plat Book 62, Page 42, Lake County Public Records; and

**WHEREAS**, on September 4, 2007, a Developer's Agreement for Construction of Improvements for the Baywood Forest Plat, hereinafter referred to as "Developer's Agreement", was approved by the Lake County Board of County Commissioners; and

**WHEREAS**, the Developer's Agreement required the Developer to post a bond and to complete all required improvements within one year of recordation of the Plat making the expiration date; and

**WHEREAS**, the parties did enter into a First Amendment to the Developer's Agreement allowing the developer an additional year to complete the required infrastructure improvements; and

**WHEREAS**, Senate Bill 360, which provided for a two (2) year extension for any government-issued development order or building permit, was signed into law by Governor Crist on June 1, 2009, and the parties did enter into a second amendment to the Developer's Agreement allowing the developer an additional two years to complete the required infrastructure improvements; and



**WHEREAS**, on June 7, 2011, the Developer's Agreement was amended to allow for an additional two years to complete the sidewalk improvements which extended the Developer's Agreement expiration date to June 28, 2013; and

**WHEREAS**, Ordinance 2013-17, which provided for a two (2) year extension for any development order or building permit, was approved by the Board of County Commissioners, on July 1, 2013, Lake County Growth Management Department issued a letter to extend Developer's Agreement expiration date to December 31, 2015; and

**WHEREAS**, Section 252.363 Florida Statutes and the Governor's Executive Order #15-183 which provided for an eight (8) month extension, on December 15, 2015, Lake County Economic Growth Department issued a letter to extend Developer's Agreement expiration date to August 31, 2016; and

**WHEREAS**, Section 252.363 Florida Statutes and the Governor's Executive Order #16-136 which provided for an eight (8) month extension, on July 26, 2016, Lake County Economic Growth Department issued a letter to extend the Developer's Agreement expiration date to April 30, 2017; and

**WHEREAS**, 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 11, 2016; 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**, 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 11, 2016; 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 11, 2016, the Lake County Board of Adjustment approved the variance for the above property.

**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. Recitals:** The foregoing recitals are true and correct and incorporated herein by reference.

**Section 2. Terms:** The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-16-20-4 from Land Development Regulations Section 14.08.00.B.2 *Developer's Agreements Required Where a Plat is Recorded Prior to Completion of Infrastructure*, to allow for a 4 year extension from the expiration date (April 30, 2017) of the Developer's Agreement, with the following conditions:

- a. Other than allowing an extension to the term of the Developer's Agreement, this variance does not modify the conditions or requirements of the Developer's Agreement.
- b. The Developer's Agreement shall be amended for the additional 4 year extension before the actual expiration date of April 30, 2017.

- c. This variance becomes null and void if the installation of the improvements, as described in Exhibit A of the Developer's Agreement, are not completed within the additional 4 year extension period.
- d. No single family dwelling shall be given a certificate of occupancy until and unless all landscape improvements as described within the Developer's Agreement have been installed and approved by Lake County.
- e. The Developer hereby agrees to maintain a bond throughout the term of this variance from an insurance company or other surety approved by the County, letter of credit, or cash escrow in the amount of 110% of the cost of the improvements described in Exhibit A of the Developer's Agreement, to be determined by a sealed, State of Florida registered engineer's estimate or actual contract bid prices as indicated in the existing Developer's Agreement to guarantee the construction/installation of the improvements required for the Baywood Forest Plat.
- f. Failure of the Owner/Developer to install the improvements within the 4 year extension period shall give the County authority to enforce and utilize the security provided in connection with the agreement to make the sidewalks improvements.

**Section 3. 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 4. Effective Date.** This Ordinance shall become effective as provided by law.

**ENACTED** this 11<sup>th</sup> day of August, 2016.

**EFFECTIVE** August 11, 2016.

**BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA**

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**Donald Schreiner, Chairman**

**STATE OF FLORIDA  
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this August 11, 2016 by DONALD SCHREINER, who is personally known to me.

(SEAL)

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**Signature of Acknowledger**