

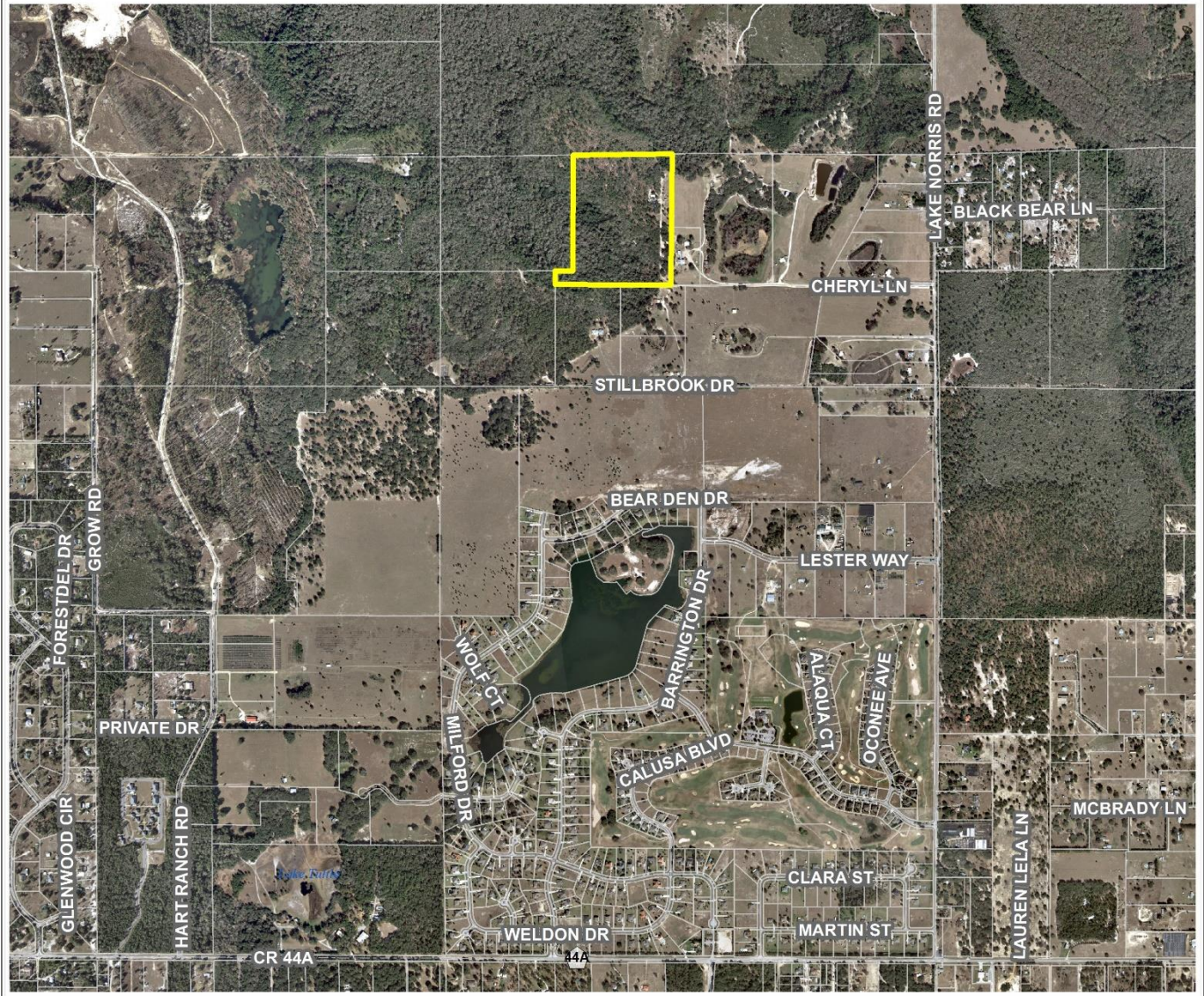
**LAKE COUNTY OFFICE OF PLANNING AND ZONING
BOARD OF ZONING ADJUSTMENT STAFF REPORT**

Board of Adjustment



November 9, 2017

VAR-17-34-5 Quails Property	Commissioner District 5	Agenda Item #2
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Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 14.12.05, *Final Submittal*, to exclude the requirement to provide a boundary survey showing all structures, easements, flood zones with base flood elevation, and wetlands showing the total acreage inside and outside of the wetland jurisdiction line, for an application for a lot line deviation.

Owner: Ronald W. Quails (deed name)/Ronald D. Quails (the "Owner")

Applicant: David M. Berman, Esq. (Infantino & Berman Attorneys at Law) (the "Applicant")

- Site Location & Information -

Size	39.69 +/- acres
Location	24501 Cheryl Lane, Eustis, FL 32736
Alternate Key #	2619481
Future Land Use	Sending Area A-1-20
Existing Zoning District	Agriculture (A)
Overlay Protection Area	Wekiva River Protection Area Wekiva Study Area
Commissioner District	5

-Land Use Table-

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Conservation	Agriculture (A)	Undeveloped	Owned by St. John's River Water Management District
South	A-1-20 Sending Area	Agriculture (A)	Residential	Single Family Residences on large tracts with wetlands
East	A-1-20 Sending Area	Agriculture (A)	Residential	Single Family Residences on large tracts
West	A-1-20 Sending Area	Agriculture (A)	Undeveloped	Large tracts with wetlands

- Summary of Staff Determination -

STAFF RECOMMENDATION: Staff recommends **APPROVAL with Conditions** of the Variance to Lake County Land Development Regulations (LDR) Section 14.12.05, *Final Submittal*, to exclude the requirement to provide a boundary survey showing all structures, easements, flood zones with base flood elevation, and wetlands showing the total acreage inside and outside of the wetland jurisdiction line, for an application for a lot line deviation.

- Summary of Analysis -

The property is zoned Agriculture (A) and is part of the A-1-20 Sending Area Future Land Use Category. The property is located within the Wekiva River Protection Area. The parcel is located within the Wekiva Study Area. According to GIS map data, the parcel lies within flood zones "A" and "X", and there are wetlands on the site.

The owner inquired about developing on the property and discovered that the subject property was not recognized on Lake County Zoning Maps. The parcel did not meet Land Development Regulations (LDR) Section 14.07.02, *Platting Required*, which indicates that no application for a single-family building permit for construction in the unincorporated area of Lake County shall be granted unless a plat including such parcel of land has been approved by the Board of County Commissioners and recorded in the official records of Lake County, Florida. The only exceptions to mandatory platting are as follows:

- A. Lots of Record. Pursuant to subsection 3.02.01, Land Development Regulations, a building permit shall be issued for a single-family dwelling unit or duplex on a lot of record.
- B. Lots created via administrative lot split. Pursuant to Section 14.11.00, Land Development Regulations, a building permit shall be issued for a single-family dwelling unit or duplex on a lot created via the minor lot split, family density exception or agricultural lot split processes.
- C. Developers Agreements. The County Manager or designee may, by agreement, allow up to six (6) building permits to be issued for a parcel of land prior to plat approval, but while the plat is in the process of

approval, such agreement shall be acceptable to the County Attorney and shall prohibit the issuance of a certificate of occupancy until the plat is recorded.

A Lot of Record is defined in LDR Chapter II as:

A Lot in a Plat recorded in Plat Books 1—22, Public Records of Lake County. A Lot created by a deed which was recorded in the Public Records of Lake County prior to May 20, 1981 and legally describes a Parcel of Land by metes and bounds; A Lot created by a Contract for Deed which was recorded in the Public Records of Lake County prior to May 20, 1981 and legally describes a Parcel of Land by metes and bounds; or a Lot in an unrecorded Plat, recognized by Lake County and identified on the official Zoning Map of Lake County.

The subject property was deeded off from a larger property in 1983, therefore, the subject property does not meet the definition of a lot of record. The subject property was not approved through an administrative lot split or lot line deviation when it was deeded from the larger parcel and there is no Developer's Agreement to allow model homes on the subject property. LDR Section 14.00.02, *Prohibition*, states that no development activity, use of land, or subdivision of land may be undertaken unless the activity, use or subdivision is authorized by the appropriate development order.

The owner/applicant applied for a Lot Line Deviation to deviate the configuration of two recognized lots on the Lake County Zoning map. If the lot line deviation is approved, the subject property would be recognized on the Lake County Zoning Map as it is depicted on the Lake County Property Appraiser's Tax Maps.

The applicant has submitted an application for a lot line deviation. Pursuant to LDR Section 14.02.05, *Final Submittal*, lot line deviations creating lots less than forty (40) acres must provide a boundary survey prepared by a professional land surveyor registered in the State of Florida showing all structures, easements, flood zones with base flood elevation, and wetlands showing the total acreage inside and outside of the wetland jurisdiction line. Pursuant to LDR Section 14.12.05, if the lot line deviation/adjustment contains parcels greater than forty (40) acres in size, a sketch of description for the land area containing such parcels may be accepted instead of a boundary survey.

The applicant has submitted a variance application requesting a variance from 14.12.05, *Final Submittal*, which states in order to complete the lot line deviation, the applicant must provide a boundary survey showing "all structures, easements, flood zones with base flood elevation, and wetlands showing the total acreage inside and outside of the wetland jurisdictional line." The applicant is seeking to provide a sketch of description in lieu of providing a boundary survey of the subject property to complete the lot line deviation. A sketch of description is a sketch that illustrates the written legal description of the subject property with bearing lines and distances and can provide the approximate location of site improvements. A boundary survey measures and determines the physical location of a parcel of land. A boundary survey is based on a legal description and physically verified by surveying the property corners, typically witnessed by monuments or markers, such as (iron rods, pipes, nails or concrete monuments). A final boundary survey includes all pertinent land lines, marker descriptions (set or held) and above ground permanent features including (houses, sheds, power poles, concrete, asphalt, etc.).

The **intent of the Code**, LDR Section 1.03.01, is to establish the regulations, procedures and standards for review and approval of all proposed Development in the unincorporated area of the County; To foster and preserve public health, safety, and welfare; to adopt an efficient, effective and equitable development review process; and to implement the Lake County Comprehensive Plan.

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

"Owner will provide sketch depicting wetland delineation where owner intends to place structure and will include wetlands within 50' feet of the proposed new structure location."

The property is part of the A-1-20 Sending Area Future Land Use Category which has a base density of one (1) dwelling unit per twenty (20) net acres. Pursuant to Policy I-1.2.4, *Calculation of Residential Density*, the density of the Future Land Use Categories defined as the total allowable number of dwelling units that may be constructed on the “net buildable area” of a parcel. “Net buildable area” shall be defined as the total area of a parcel, or combination of parcels, proposed for development, less wetlands and water bodies.

The applicant is proposing to provide a sketch of description in lieu of a boundary survey. The sketch of description would need to provide the approximate net acreage of each deviated parcel to ensure that the parcels meet their density requirements. The applicant has provided a sketch of the description (Attachment A) showing the subject properties and the approximate wetland line, per the National Wetlands Inventory. The provided sketch shows the two (2) proposed parcels containing 22.10 and 28.40 acres of uplands each. This is sufficient to address this requirement in the Comprehensive Plan. In order to ensure all development on the property meets the fifty (50) foot wetland setback, staff has included a condition in the development order requiring the survey/plot plan submitted for a zoning permit to be a sealed survey and either show the jurisdictional wetland line or include a statement that there are no wetlands within fifty (50) feet of the proposed development.

The Lake County Land Development Regulations Section 14.15.02 states that variances will 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.

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

“Cost to comply with requirements could exceed \$15,000.00 for surveyor field work, and could place surveyors in danger due to wild state of wetlands in north west [sic] portion of the parcel, thereby potentially subjecting Lake County to liability for complying with stated requirements in 14.12.05. Further, owner intends to place structure on south east [sic] portion of parcel, completely outside of wetland area.”

The LDR allows sketches of descriptions on deviated parcels greater than forty (40) acres in size. The subject property is 39.69 acres and would be costly to provide a boundary survey showing the jurisdictional wetland line based on field verification. Allowing a property of this size to provide a sketch of description in lieu of a sealed boundary survey would not be inconsistent with the intent of the code.

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

- The applicant has demonstrated that they meet the intent of the code by providing a sealed sketch of description with pertinent information for staff to review all the application; and
- The applicant has demonstrated a sufficient hardship.

The owner/applicant has submitted proof of meeting the intent of the Code and has provided proof of a substantial hardship indicating that the application of the Code would violate principles of fairness. Based on the Findings of Fact and Analysis stated above, staff recommends **Approval with Conditions** of the Variance to Lake County Land Development Regulations (LDR) Section 14.12.05, *Final Submittal*, to exclude the requirement to provide a boundary survey showing all structures, easements, flood zones with base flood elevation, and wetlands showing the total acreage inside and outside of the wetland jurisdiction line for an application for a lot line deviation with the following conditions:

1. The Owner shall provide a sketch of description of the subject property in conjunction with the application for a Lot Line Deviation.
 - a. The sketch of description must contain the legal descriptions of original parcels and the created/adjusted parcels;
 - b. The sketch of description must show the 2012 Flood zones; and
 - c. The sketch of description must show the location of wetlands and the acreage of each proposed lot with and without wetlands to ensure that each deviated lot will meet its density requirements.
2. If the Owner fails to obtain approval of the lot line deviation within twelve (12) months after approval of the variance, the variance will be null and void.
3. The variance may only be utilized one (1) time. Any additional lot reconfiguration or site development will need to adhere to the Land Development Regulations and Comprehensive Plan, as amended.
4. Any application for a zoning permit will need to provide a sealed survey showing the jurisdictional wetland line or a statement that there are no wetlands within fifty (50) feet of the proposed development.

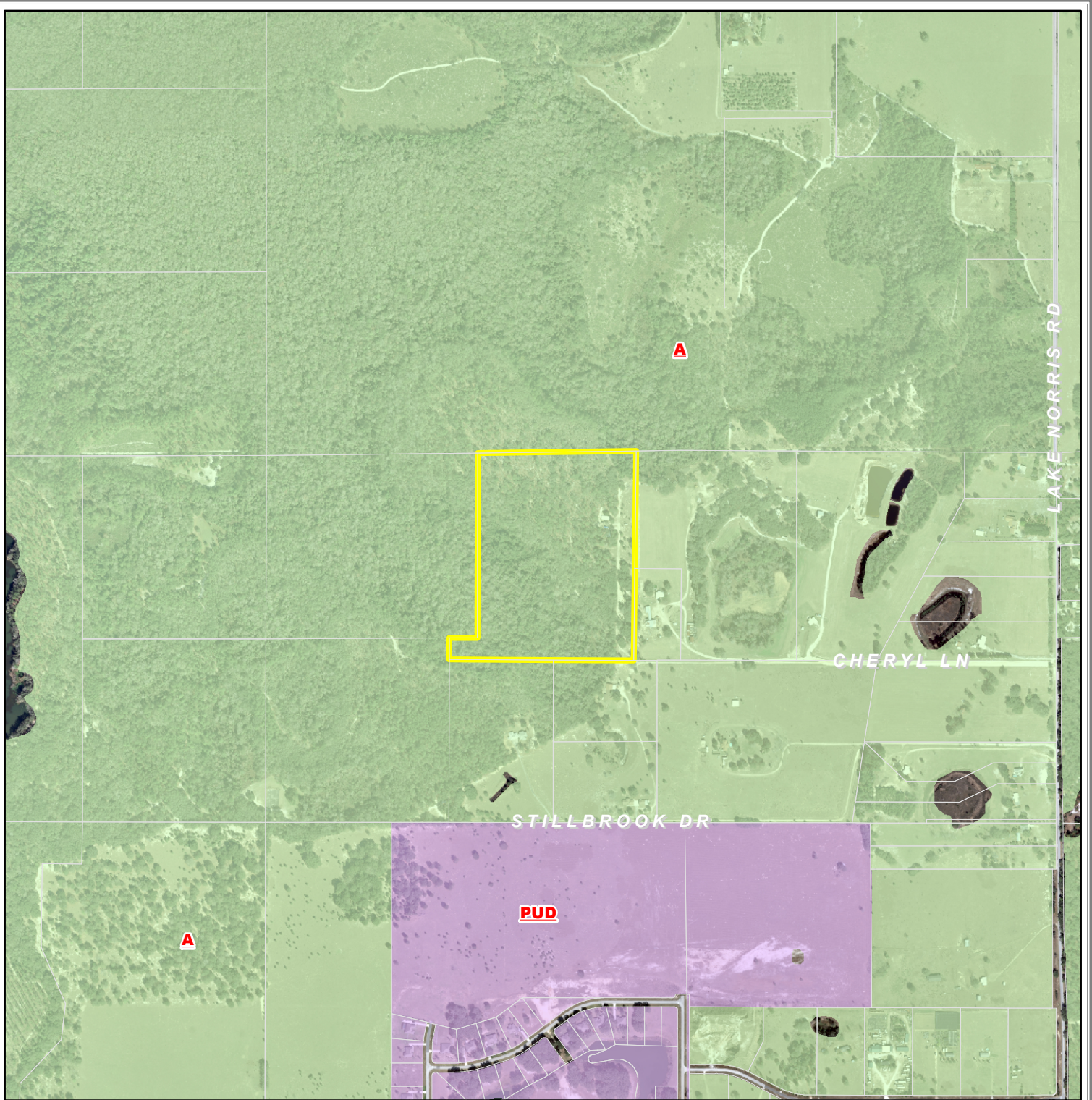
Written Comments Filed:

Supportive: -0-

Concern: -0-

Opposition: -0-

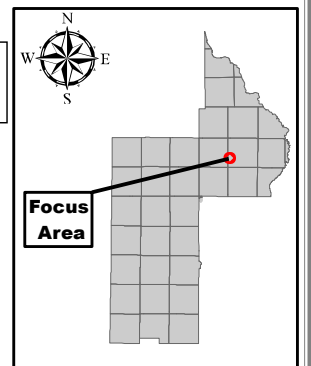
Case Manager: Michele Janiszewski, Chief Planner

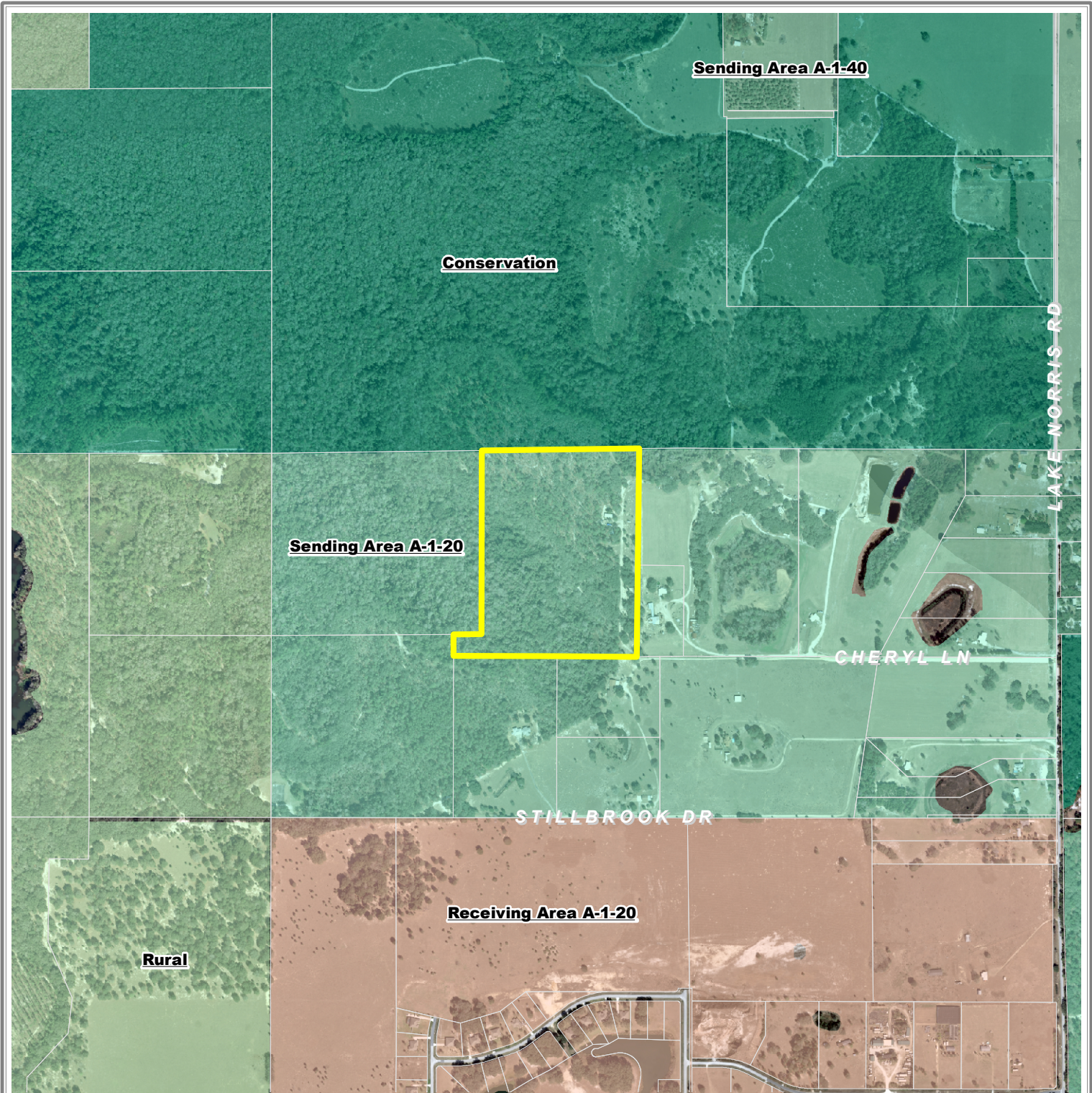


ZONING LEGEND

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: QUAILS PROPERTY
CASE NUMBER: VAR-17-34-5
LOCATION (S-T-R): 30-18-28
REQUEST: WETLANDS SETBACK ADJUSTMENT

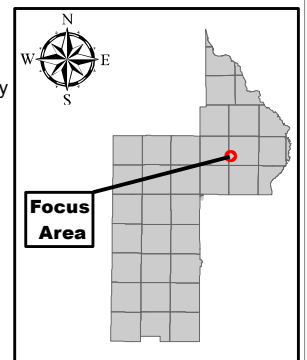




FUTURE LAND USE LEGEND

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|--------------------------------|--|--------------------------|----------------------|
| Bella Collina | Heavy Industrial | Recreation | Summer Bay |
| Cagan Crossings | Mt Plymouth-Sorrento Main Street District | Regional Commercial | Urban Low Density |
| Conservation | Mt Plymouth-Sorrento Neighborhood | Rural | Urban Medium Density |
| Green Swamp Core Conservation | Mt Plymouth-Sorrento Receiving Area | Rural Transition | Urban High Density |
| 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 | South Lake Regional Park | |

NAME: QUAILS PROPERTY
CASE NUMBER: VAR-17-34-5
LOCATION (S-T-R): 30-18-28
REQUEST: WETLAND SETBACK ADJUSTMENT



**Final Development Order
VAR-17-34-5
Quails Property**

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

WHEREAS, David M. Berman, Esquire (the "Applicant"), on behalf of Ronald D. Quails, a/k/a Ronald W. Quails (the "Owner"), has requested a variance to Lake County Land Development Regulations (LDR) Section 14.12.05, *Final Submittal*, to exclude the requirement to provide a boundary survey showing all structures, easements, flood zones with base flood elevation, and wetlands showing the total acreage inside and outside of the wetland jurisdiction line for an application for a lot line deviation; and

WHEREAS, the subject property consists of 39.69 +/- acres and is located east of the intersection of Lake Norris Road and Cheryl Lane in the Eustis area, in Section 30, Township 18 South, Range 28 East, having Alternate Key Number 2619481 and more particularly described below as:

Commencing at the Northwest corner of the Northwest 1/4 of Section 30, Township 18 South, Range 28 East, Lake County, Florida run thence North 89°55'06" East along the North line of said Northwest 1/4 a distance of 1523.74 feet to the Point of Beginning. From said P.O.B. continue North 89°55'06" East along aforesaid North line of the Northwest 1/4 of Section 30 a distance of 1140.00 feet; thence South 0°40'00" West 1508.53 feet; thence North 89°42'56" West 1344.31 feet; thence North 0°41'38" East 170.00 feet; thence South 89°42'56" East 204.02 feet; thence North 0°40'44" East 1331.24 feet to the P.O.B.

Together with and subject to the following described Easement for ingress and egress; Commencing at the Southeast corner of the Northeast 1/4 of Section 30, Township 18 South, Range 28 East, Lake County, Florida, run North 0° 39' 10" East along the East line of said Northeast 1/4 a distance of 1130.33 feet to the Point of Beginning. From said P.O.B., run North 89°10' 44" West 2640.34 feet to the North-South Mid-Section line of said Section 30; thence North 89° 42' 56" West 416.67 feet; thence North 0°11' 03" East 66.00 feet; thence South 89° 42' 56" East 416.97 feet to the North-South Mid-Section line of said Section 30; thence South 89° 10' 44" East 2640.46 feet to aforesaid East line of the Northeast 1/4 of said Section 30; thence South 0° 39' 10" West along said East line 66.00 feet to the P.O.B. Lake County, Florida.

WHEREAS, after giving notice of a hearing on a petition for a variance to the Lake County Land Development Regulations, including notice that the request for a variance would be presented to the Board of Adjustment of Lake County, Florida, on November 9, 2017; and

WHEREAS, the Board of Adjustment reviewed the 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 November 9, 2017, 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:

Section 1. Terms. The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-17-34-5 to exclude the requirement to provide a boundary survey showing all structures, easements, flood zones with base flood elevation, and wetlands showing the total acreage inside and outside of the wetland jurisdiction line for an application for a lot line deviation with the following conditions:

1. The Owner shall provide a sketch of description of the subject property in conjunction with the application for a Lot Line Deviation.
 - a. The sketch of description must contain the legal descriptions of original parcels and the created/adjusted parcels;
 - b. The sketch of description must show the 2012 Flood zones; and
 - c. The sketch of description must show the location of wetlands and the acreage of each proposed lot with and without wetlands to ensure that each deviated lot will meet its density requirements.
2. If the Owner fails to obtain approval of the lot line deviation within twelve (12) months after approval of the variance, the variance will be null and void.
3. The variance may only be utilized one (1) time. Any additional lot reconfiguration or site development will need to adhere to the Land Development Regulations and Comprehensive Plan, as amended.
4. Any application for a zoning permit will need to provide a sealed survey showing the jurisdictional wetland line or a statement that there are no wetlands within fifty (50) feet of the proposed development.

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, the said holding will in no way affect the validity of the remaining portions of this Ordinance.

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

ENACTED this 9th day of November, 2017.

EFFECTIVE November 9, 2017.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Catherine Hanson, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 9th day of November, 2017, by _____, who is personally known to me or who has produced _____, as identification and who did _____ or did not _____ take an oath.

(SEAL)

Signature of Acknowledger