

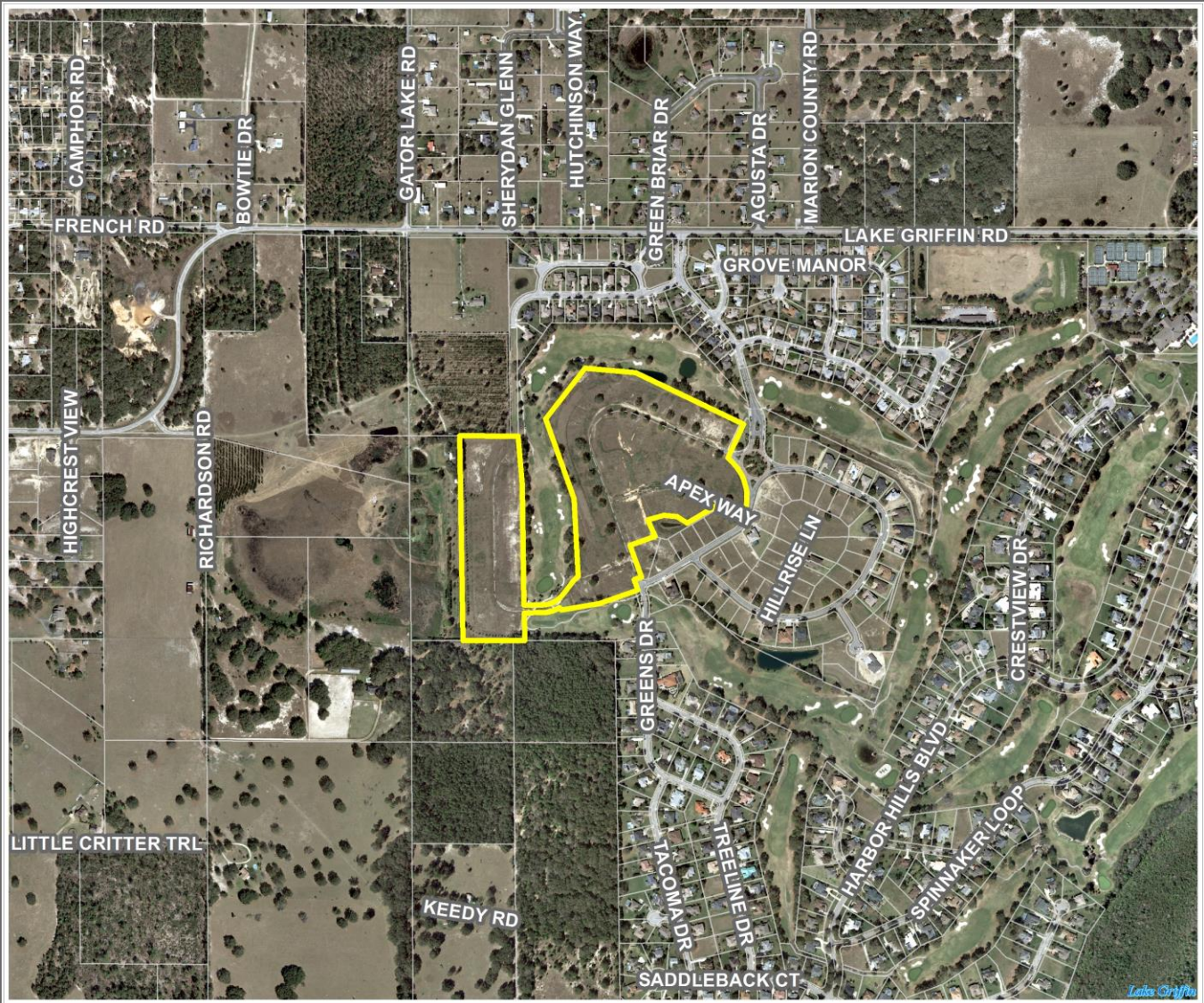
**LAKE COUNTY PLANNING AND ZONING DIVISION
VARIANCE STAFF REPORT**

Board of Adjustment



February 9, 2017

VAR-17-08-5 Harbor Hills Development	Commissioner District 5	Agenda Item #6
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Requested Action: A variance to Land Development Regulation (LDR) Section 14.08.00.C, to delay construction of the sidewalks which would be in front of the single-family residences within a residential subdivision without the developer completing a Developer’s Agreement and providing a security to ensure performance.

Owner/ Applicant: Harbor Hills Development LP, Michael A. Rich as the Registered Agent (the “Owner” and “Applicant”)

- Site Location & Information -

Size	41.46 +/- acres
Location	Lady Lake area, West of Lake Griffin in the Harbor Hills Subdivision
Alternate Key No.	3388780
Future Land Use	Rural Transition
Zoning District	Planned Unit Development (PUD) by Ordinance 2011-57
Overlay Districts	None
Joint Planning/ISBA Area	None

-Land Use Table-

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Rural Transition	Planned Unit Development (PUD)	Residential	Harbor Hills Phase III
South	Rural and Rural Transition	Planned Unit Development (PUD) and Rural Residential (R-1)	Residential and Undeveloped	Harbor Hills Subdivision and Vacant School Board Property
East	Rural Transition	Planned Unit Development (PUD)	Residential	Harbor Hills Phase VIA
West	Rural and Rural Transition	Estate Residential (R-2) and Rural Residential (R-1)	Timber	Undeveloped

- Summary of Staff Determination -

STAFF RECOMMENDATION: Staff recommends **APPROVAL** with conditions, of the variance request to LDR Section 14.08.00.C, to delay construction of the sidewalks which would be in front of the single-family residences without the developer completing a Developer's Agreement and providing a security to ensure performance.

-Staff Analysis-

The subject property is 41.46 +/- acres and is located south of Lake Griffin Road, east of the City of Lady Lake. The Lake County Geographic Information Services (GIS) wetland map indicates that there are wetlands abutting the western boundary of the property. According to the 2012 Federal Emergency Management Agency (FEMA) maps, the western portion of the subject property lies within the 100-year flood zone. The property is zoned Planned Unit Development (PUD) by Ordinance 2011-57 and is part of the Rural Transition Future Land Use Category.

The Construction Plans for Phase 6 of the Harbor Hills Subdivision was approved by Public Works on January 30, 2008. The developer divided the development into Phase 6A and Phase 6B, and proceeded with the development of Phase 6A. The final plat for Harbor Hills Subdivision Phase 6A was recorded on October 15, 2008 in Plat Book 65, Page 67, Public Records of Lake County, Florida.

The construction Plans for Harbor Hills Phase 6B expired on January 30, 2012. The applicant resubmitted construction plans for Phase 6B on April 9, 2015. Public Works approved the Construction plans for Harbor Hills Subdivision Phase 6B on July 22, 2015. The applicant has submitted an application for a final plat of Phase 6B. At this time, there are no sidewalks installed within Phase 6B of the subdivision.

When a developer wishes to record a record a final plat for a residential subdivision prior to installing the required sidewalks fronting the residential lots, the developer completes a Developer's Agreement with Lake County. This agreement requires the developer to provide an estimate of the cost of construction prepared by an engineer and a security of one hundred and ten (110) percent of the total construction costs for the installation of the sidewalks. The agreement states that upon failure of the applicant to construct such sidewalks according to the schedule for making those improvements, the County will utilize the security provided in connection with the agreement to make the improvements. Per LDR Section 14.08.00.C.2, the term of the Agreement cannot exceed four (4) years from the recording date of the final plat. This Section of the LDR was established by Ordinance 2009-62, approved by the Board of County Commissioners on December 1, 2009.

The applicant is applying for a variance to Land Development Regulation (LDR) Section 14.08.00.C, to delay the construction of the sidewalks which would be in front of the single-family residences without the developer completing a Developer's Agreement and providing a security to cover the costs associated with the installation of the sidewalks to ensure performance.

The applicant does not want to complete a Developer's Agreement with the County for the sidewalk installation, provide a security to ensure the sidewalks are completed, or be restricted to providing sidewalks within four (4) years of the final plat being recorded. The applicant is seeking to defer the installation of the sidewalks until the single family residences are built. The application indicated that since they are not a large building firm, the homes do not sell as quickly and the four (4) year limit included with the Developer's Agreement would not be sufficient time to build-out Phase 6B of the Harbor Hills Subdivision. When the subject property first obtained Construction Plan approval in 2008, the LDR did not require a Developer's Agreement or require the developer to provide a security of one hundred and ten (110) percent of the total construction costs for the installation of the sidewalks. This portion of the code was established in 2009.

Development Orders approved by Lake County often contain requirements for the construction of infrastructure, the installation of landscaping, or other required improvements to be constructed by a developer in connection with the approved development. In some instances, it is acceptable to delay the construction of infrastructure, the installation of landscaping, or the construction of other required improvements. The **intent of the Code**, LDR Section 14.08.00.A.1, is to provide a mechanism for such delay, while at the same time providing a guarantee to Lake County that such infrastructure, landscaping, or other improvements will be provided.

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**:

"Private gated community not within a walkable school area. Do not want to spend money before homes are built not knowing where driveways are built and then have driveways and sidewalks broken up and ripped out depending on site and location of homes. We are not a track builder and our homes do not sell overnight (closest school is 4.8 miles away).

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

"We will install sidewalks and driveways as homes are built per plat."

The Lake County Land Development Regulations, Section 14.15.02 states that 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.

The applicant is not a large building firm and requiring the installation of the sidewalks within four (4) years of the final plat being recorded would be an economic hardship for the applicant. Installing the sidewalks prior to constructing the homes would be a technological hardship to the applicant because the sidewalks could be damaged during the construction of the home. When the subject property initially received Construction Plan approval, this section of the code had not been adopted.

The intent of the code is to provide a mechanism to delay the installation of sidewalks by guaranteeing that sidewalks would be installed. The applicant is proposing to meet the intent of the code by installing sidewalks concurrently with the single family residences. Withholding the Certificate of Occupancy (CO) for the single family residences until the sidewalks in front of the residences are installed would meet the intent of the code. With this means of installation of the sidewalk improvements, requiring the applicant to enter a developer's agreement and provide a security is no longer necessary because long-term construction is not contemplated.

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

1. Requiring the applicant to complete the sidewalks within four (4) years and providing a security to ensure the sidewalks would be complete within this time frame would be an economic hardship for the applicant; and
2. This portion of the code was established after the subject property received construction plan approval in 2008; and
3. Installing the sidewalks prior to constructing the single family residences could constitute a technological hardship since the sidewalks would be damaged during construction of the residences; and
4. The request is consistent with the intent of the code by guaranteeing, through conditions placed in the draft development order, that the sidewalks in front of the single family residences are installed prior to issuing a Certificate of Occupancy (CO) for the subject single family residence. This means of installation of the sidewalk improvements renders moot the requirement that the applicant enter into a developer's agreement and provide a security.

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 with conditions** of the variance request to LDR 14.08.00.C, to delay construction of the sidewalks which would be in front of the single-family residences without the developer completing a Developer's Agreement and providing a security to ensure performance.

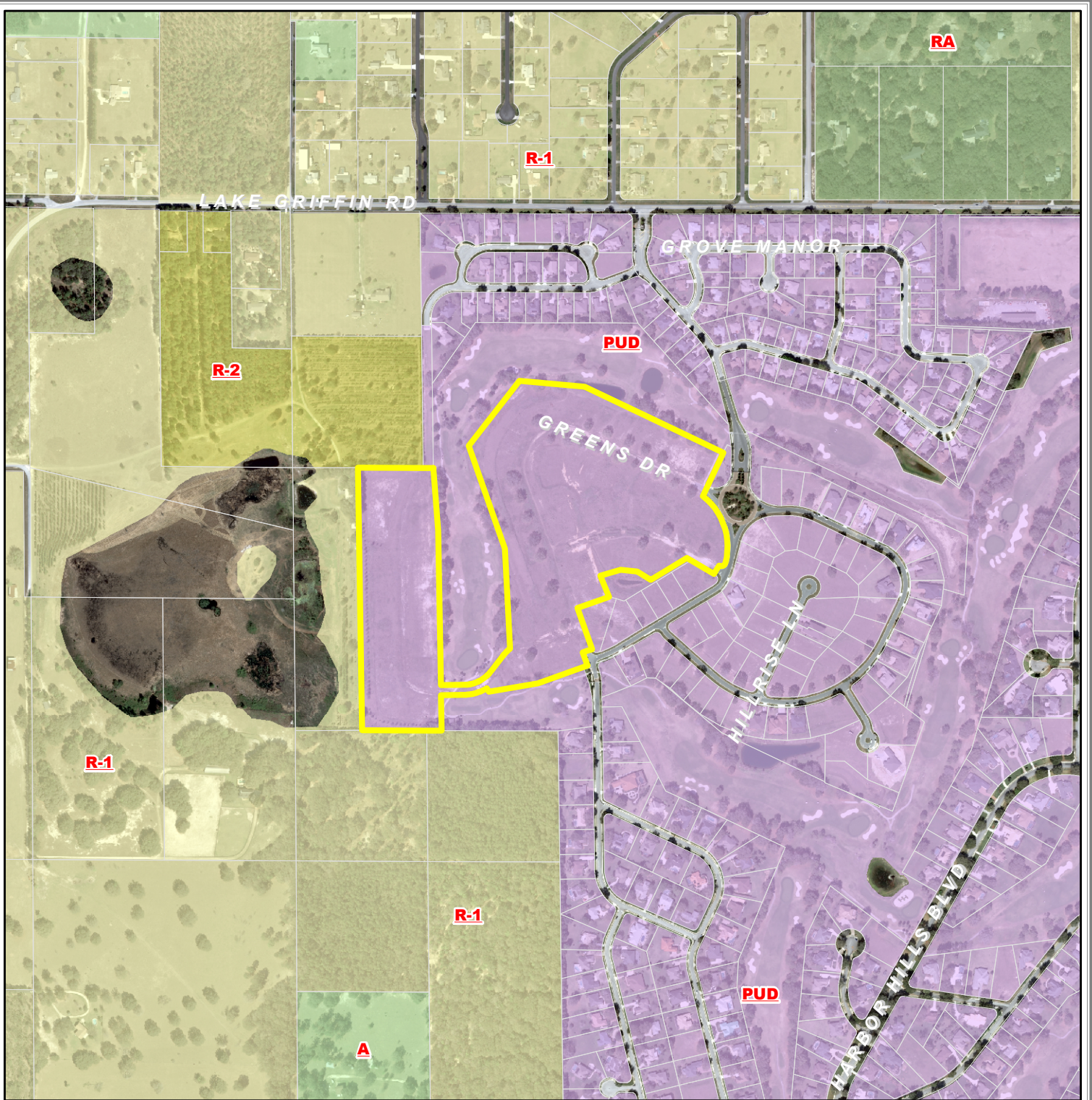
WRITTEN COMMENTS FILED:

Support: -0-

Questions: -0-

Opposition: -0-

Case Manager: Michele Janiszewski, Chief Planner



ZONING LEGEND

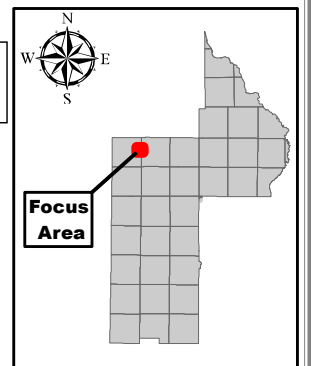
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AR	R-1	R-3	R-6	RP	RM	C-1	CP	HM	CFD	

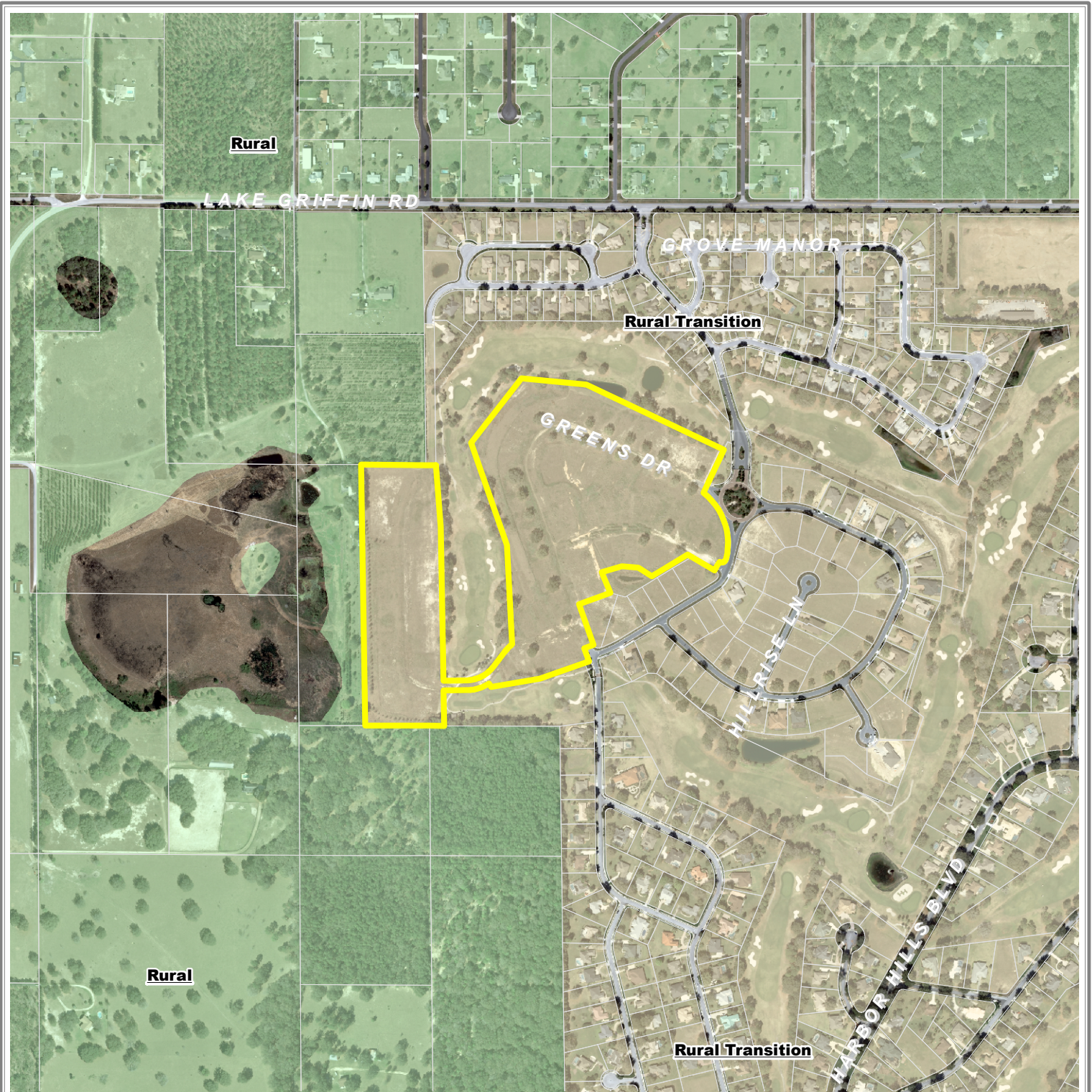
NAME: HARBOR HILLS DEVELOPMENT

CASE NUMBER: VAR-17-08-5

LOCATION (S-T-R): 13-18-24

REQUEST: SIDEWALK & DRIVEWAY CONSTRUCTION VARIANCE





FUTURE LAND USE LEGEND

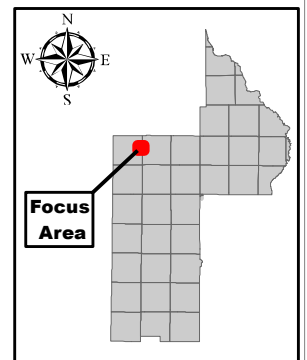
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|--------------------------------|--|---------------------|----------------------|
| Bella Collina | Heavy Industrial | Recreation | Urban High Density |
| Cagan Crossings | Mt Plymouth-Sorrento Main Street District | Regional Commercial | Urban Low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

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**Final Development Order
Harbor Hills Development L.P.
VAR-17-08-5**

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

WHEREAS, Michael A. Rich, the registered agent for Harbor Hills Development LP (the “Applicant” and “Owner”), requested a variance to Land Development Regulation (LDR) Section 14.08.00.C, to delay construction of the sidewalks which would be in front of the single-family residences without the developer providing assurance that the sidewalks will be satisfactorily constructed according to the approved construction plans by completing a Developer’s Agreement and providing a security to ensure performance; and

WHEREAS, the subject properties consist of 41.46+/- acres South of Lake Griffin Road, in Harbor Hills Subdivision, consisting of a portion of Alternate Key Number 3388780, and are more particularly described in Attachment A (hereinafter referred to as the “Property”):

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 February 9, 2017; 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 February 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 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-17-08-5 to delay construction of the sidewalks which would be in front of the single-family residences within a residential subdivision without the developer completing a Developer’s Agreement and providing a security to ensure performance, subject to the following conditions:

1. The sidewalks shall be installed in conjunction with the construction of the single family residences; and
2. No Certificate of Occupancy (CO) shall be issued for any dwelling unit unless sidewalks are installed on the lot, consistent with the approved construction plans for Harbor Hills Phase 6B.

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 9th day of February 2017.

EFFECTIVE February 9, 2017.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Donald Schreiner, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this February 9, 2017 by DONALD SCHREINER, who is personally known to me.

(SEAL)

Signature of Acknowledger

Exhibit A.
Legal Description of Harbor Hills Phase 6B

A PARCEL OF LAND LYING IN SECTION 13, TOWNSHIP 18 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA, AND BEING COMPRISED OF PORTIONS OF TRACTS "B", "C" AND "J", HARBOR HILLS UNIT 1, AS RECORDED IN PLAT BOOK 30, PAGES 13 THROUGH 27, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF TRACT "F", HARBOR HILLS PHASE 6A, AS RECORDED IN PLAT BOOK 63, PAGES 67 AND 68, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE ALONG THE WESTERLY BOUNDARY OF SAID HARBOR HILLS PHASE 6A THE FOLLOWING FIFTEEN (15) COURSES: S25°08'48"W FOR 286.70 FEET TO A POINT ON A NON TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 325.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE FROM A RADIAL LINE WHICH BEARS N38°12'32"E, THROUGH A CENTRAL ANGLE OF 66°13'22" FOR A DISTANCE OF 375.64 FEET TO A POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 22.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 106°11'56" FOR A DISTANCE OF 40.78 FEET TO A POINT OF NON TANGENCY; THENCE S30°37'50"W FOR 50.00 FEET; THENCE N59°22'10"W FOR 158.04 FEET; THENCE S58°41'31"W FOR 213.26 FEET; THENCE N57°41'42"W FOR 81.13 FEET; THENCE N85°01'20"W FOR 85.07 FEET; THENCE S73°28'32"W FOR 104.49 FEET; THENCE S19°44'11"E FOR 23.90 FEET; THENCE S23°20'32"E FOR 90.21 FEET; THENCE S70°15'49"W FOR 170.67 FEET; THENCE S19°44'11"E FOR 219.57 FEET; THENCE S70°15'49"W FOR 50.00 FEET; THENCE S19°44'11"E FOR 67.55 FEET; THENCE DEPARTING SAID WESTERLY BOUNDARY, S70°05'54"W FOR 415.93 FEET; THENCE N19°45'36"W FOR 140.54 FEET TO A POINT ON A NON TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 200.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE FROM A RADIAL LINE WHICH BEARS N51°57'19"W, THROUGH A CENTRAL ANGLE OF 08°31'23" FOR A DISTANCE OF 29.75 FEET TO THE POINT OF TANGENCY; THENCE S29°31'17"W FOR 15.46 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 200.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 29°49'17" FOR A DISTANCE OF 104.10 FEET TO THE POINT OF TANGENCY; THENCE S59°20'34"W FOR 35.83 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 200.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 41°26'25" FOR A DISTANCE OF 144.65 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 200.00 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°02'03" FOR A DISTANCE OF 28.04 FEET TO A POINT OF NON TANGENCY; THENCE S00°11'15"W FOR 172.06 FEET TO A FOUR INCH SQUARE CONCRETE MONUMENT MARKED "PRM LB7514" AND THE A POINT ON THE NORTHWEST 1/4 OF SAID SECTION 13; THENCE N89°49'30"W ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4 OF SECTION 13 FOR 401.62 FEET TO A FOUR INCH SQUARE CONCRETE MONUMENT MARKED "PRM LB1723" AND THE SOUTHWEST CORNER OF SAID TRACT "J" OF HARBOR HILLS UNIT 1; THENCE N00°55'25"W ALONG THE WEST LINE OF SAID TRACT "J" FOR 1325.22 FEET TO THE NORTHWEST CORNER OF SAID TRACT "J"; THENCE S89°50'34"E ALONG SAID NORTHERLY LINE OF SAID TRACT "J" AND ITS EASTERLY EXTENSION FOR 425.95 FEET (SAID LINE ALSO BEING THE NORTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 13); THENCE DEPARTING SAID NORTHERLY LINE, S00°21'00"W FOR 74.51 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 60.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 42°18'39" FOR A DISTANCE OF 44.31 FEET TO A POINT OF NON TANGENCY; THENCE S00°21'00"W FOR 47.84 FEET; THENCE S00°38'57"E FOR 940.30 FEET TO A POINT ON A NON TANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 250.00 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE FROM A RADIAL LINE WHICH BEARS N01°22'58"E, THROUGH A CENTRAL ANGLE OF 09°24'02" FOR A DISTANCE OF 41.02 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 150.00 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 41°26'25" FOR A DISTANCE OF 108.49 FEET TO THE POINT OF TANGENCY; THENCE N59°20'34"E FOR 35.83 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 150.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 29°49'17" FOR A DISTANCE OF 78.07 FEET TO THE POINT OF TANGENCY; THENCE N29°31'17"E FOR 15.46 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 250.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 40°14'27" FOR A DISTANCE OF 175.58 FEET TO A POINT OF NON TANGENCY; THENCE N19°54'41"W FOR A DISTANCE OF 153.37 FEET; THENCE N70°15'42"E FOR 24.61 FEET; THENCE N03°00'49"W FOR 383.04 FEET; THENCE N19°21'08"W FOR 550.00 FEET; THENCE N37°59'59"E FOR 415.59 FEET; THENCE S84°38'54"E FOR 329.66 FEET; THENCE S64°39'05"E FOR 796.36 FEET TO THE POINT OF BEGINNING.

CONTAINING 41.46 ACRES, MORE OR LESS.