

LAKE COUNTY PLANNING AND ZONING DIVISION
BOARD OF ZONING ADJUSTMENT STAFF REPORT

Board of Adjustment



June 8, 2017

VAR-17-20-1 Archer Property	Commissioner District 1	Agenda Item #1
An aerial photograph of a rural area with property lines overlaid. A yellow rectangular box highlights a specific property. Several roads are labeled: "SOUTH FORK RANCH DR" in the lower left, "CATTLEMAN LN" running vertically through the center, "BERRY GROVES RD" running horizontally across the middle, and "SR 33" on the right side. There are some buildings and trees visible on the property.		

Requested Action: Variance from Lake County Land Development Regulations (LDR), Section 10.01.03 to allow an accessory dwelling unit to be 1,820 square feet in lieu of 1,200 square feet.

Owner/Applicant: Daniel D. Archer and Danielle Archer (the "Owners" and the "Applicants")

- Site Location & Information -

Size	5.007 +/- acres
Location	6440 Berry Groves Road, Clermont, FL 34714
Alternate Key #	2843098
Future Land Use	Green Swamp Core Conservation
Existing Zoning District	Agriculture (A)
Overlay Protection Area	Green Swamp Area of Critical State Concern
Commission District	1

-Land Use Table-

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Green Swamp Core Conservation	A (Agriculture)	Berry Groves Road	Single Family Residence
South, East and West	Green Swamp Core Conservation	A (Agriculture)	Residence and wetlands	Single Family Residence on large lot

- Summary of Staff Determination -

STAFF RECOMMENDATION: Staff recommends **APPROVAL** of the variance from Lake County Land Development Regulations (LDR), Section 10.01.03 to allow an accessory dwelling unit to be 1,820 square feet in lieu of 1,200 square feet.

- Summary of Analysis -

The subject property contains 5.007 +/- acres and is currently developed with a single-family residence, pool and two (2) barns housing livestock. The property is generally located westerly of the intersection of Berry Groves Road and Cattleman Lane in the Clermont area. The parcel is zoned Agriculture (A) with the Green Swamp Core Conservation Future Land Use Category, which is located in the Green Swamp Area of Critical State Concern. According to the Flood Insurance Rate map Information (flood determination) dated June 25, 2015, the property lies within fully within Flood Zone "A" (Attachment A). According to the submitted survey, the parcel contains wetlands (Attachment B).

The Lake County Property Appraiser's Office records (property record card) indicate that the existing living area of the single family residence is 2,135 square feet. Based on LDR Section 10.01.03.B.4, forty percent of the principle dwelling unit would equal to 854 square feet living area so the owner/applicant would be able to construct an accessory dwelling unit with a maximum living area of 1,200 square feet.

The owner/applicant is requesting a variance from Lake County Land Development Regulations, Section 10.01.03(B)(4), to allow an accessory dwelling unit to exceed the maximum allowed square footage of 1,200 square feet or forty (40) percent of the air conditioned, enclosed living area of the principal dwelling (excludes garages, patios, porches and the like), whichever is greater. The Owner intends to relocate his parents from another state to Florida to assist with the care of his father as his father is undergoing cancer treatments. Currently, his niece and nephew are under the Owner's parents' care and his intentions are to be able to provide his mother with assistance of his father's care. The owner/applicant is proposed to use a 1,820 square feet modular home as an accessory dwelling unit to provide housing for less expensive housing for his parents, niece and nephew.

The **intent of the Code**, LDR Section 10.01.03, is to provide for less expensive housing units to accommodate growth, provide housing for relatives and to provide for security. The owner/applicant intends to relocate his parents from another state to Florida to assist with the care of his father as his father is undergoing cancer treatments. By doing so,

he will be providing less expensive housing for his relatives. Currently, his niece and nephew are under Mr. Archer's parents' care and his intentions are to be able to provide his mother with assistance of his father's care.

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 owner/applicant has indicated a hardship statement indicating that both his parents are fully retired educators living on fixed incomes, who are caring for their juvenile grandchildren and he wants to be able to assist his mother with the care of his father as his father has cancer and is undergoing treatments.

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

"1. The requested variance meets the purpose of the Regulation in that it will permit my mother, father, niece and nephew to relocate to Lake County, Florida to allow for myself and my spouse to provide regular care and assistance to them while providing for all their needs and necessities.

2. The requested variance meets the Standards and Regulation as it pertains to agricultural zoning districts as follows:

a. The Lot of Record is a 5.03 acre parcel and is legally described as:

b. With the addition of the accessory dwelling unit subject to this requested variance, the Lot of Record will have only one (1) principal dwelling and one (1) accessory dwelling.

c. The Accessory Dwelling will be a stand-alone, pre-manufactured building.

d. The Accessory Dwelling will exceed the one thousand two hundred (1,200) square feet or forty (40) percent of the air conditioned, enclosed living area of the principal dwelling (excludes garages, patios, porches and the like), for which a variance is being sought due to the number of residents who will be residing there. As stated previously in the application, this number includes my mother and father who are fully retired educators and my niece and nephew, whom are minors in the care of my parents.

e. The Accessory Dwelling is designed and will be located on the Lot of Record in such a manner as to prevent any manner of interference with the appearance of the principal dwelling as a one-family Dwelling unit.

f. The Accessory Dwelling units will meet the setback requirements of the principal dwelling once installed.

The principal dwelling unit and the accessory dwelling unit, once installed, will utilize a common driveway to access the property from the same right-of-way on Berry Groves Road.

h. Upon approval of the requested variance, Impact Fees will be paid on the Accessory Dwelling as if it were a separate dwelling."

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**:

"My parents are both fully retired educators living on fixed incomes and caring for my juvenile niece and nephew. My father is undergoing treatment for cancer and requires more assistance than my mother is able to give. Permitting an additional residence on property will allow for better access to my parents and the ability of my wife and myself to provide regular assistance with their needs and necessities."

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

- This request is consistent with Land Development Regulations (LDR), Section 3.00.02(C) Purpose and Intent of District, which describes the intent of the Agriculture Zoning District; and
- This request is consistent with Land Development Regulations (LDR) Table 3.01.03, Schedule of Permitted and Conditional Uses, which permits single-family dwelling units in the Agriculture Zoning District; and
- This request is consistent with Comprehensive Plan Policy I-4.2.5 Green Swamp Core/Conservation Future Land Use Category, which allows residential uses as a permitted use; and
- This request is consistent with the intent of Land Development Regulations (LDR), Section 10.01.03, which is to provide less expensive housing to accommodate growth, provide housing for relatives and to provide for security.

The owner/applicant has 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 recommend **Approval** of the Variance from Lake County Land Development Regulations (LDR), Section 10.01.03 to allow an accessory dwelling unit to be 1,820 square feet in lieu of 1,200 square feet.

WRITTEN COMMENTS FILED:

Supportive: -0-

Concern: -0-

Opposition: -0-

Case Manager: Janie Barrón, Planner

Attachment A

Flood Insurance Rate Map Information Dated June 25, 2015

Date: 6/25/2015



Sec: 6 Twp: 24 Rng: 25

Department of Public Works
323 N. Sinclair Ave.
Tavares, FL 32778

LAKE COUNTY
FLORIDA

Voice: (352) 253-9081
FAX: (352) 253-6016

FLOOD INSURANCE RATE MAP INFORMATION

Person Inquiring: DAVID MERCER

Phone Number: _____

Fax Number: _____

Email: workyworky1@msn.com

Lake County Community No: 120421

Map No: 12069C Panel No: 0650E

Effective Date: 12/18/2012

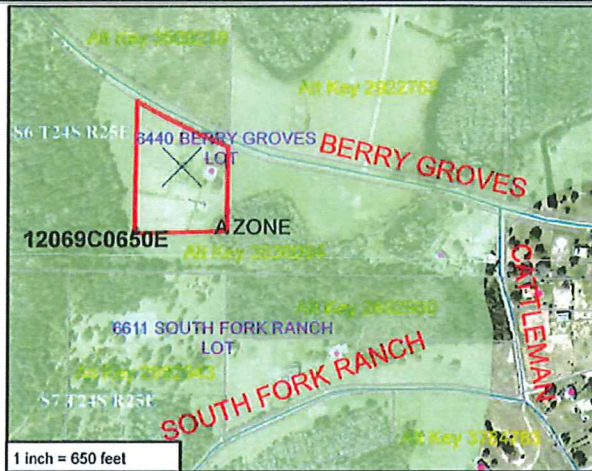
LEGAL DESCRIPTION OF PROPERTY:

BEG SE COR SW 1/4, RUN N 0DEG 46MIN E 200 . . .

ALT KEY NUMBER 2843098

PARCEL I.D. NUMBER 06-24-25-000300000304

6440 BERRY GROVES RD., CLERMONT, FL 34714



This Property is Located (Partially, Fully) in the Special Flood Hazard Area (SFHA):

- ZONE "X" (Areas of minimal flooding; no shading)
- ZONE "X Shaded" (Areas between limits of the 100-yr flood and the 500-yr flood; light shading)
- ZONE "A" (Areas of 100-yr flood; BFE not determined by FEMA)
- ZONE "AE" (Areas of 100-yr flood; BFE determined by FEMA)

Please note: Lake County Base Flood Elevation Determinations of "A" Zones may be used for development activities not requiring commercial / subdivision site plan approval and which are less than five (5) acres or fifty (50) lots. Reference Lake County Land Development Code Chapter IX & XIV and Title 44 CFR Sec. 60.3.

- BASE FLOOD ELEVATION (BFE): 112 FT. NAVD 1988 , DERIVED FROM:
 - Flood Insurance Rate Map (FIRM) identified above (Panel Number)
 - Base Flood Elevation (BFE) is undetermined by FEMA
- Exact location of property cannot be determined on the FIRM
- Aerial Topographic Map _____
- Flood Study _____
- USGS Survey (quad) Map LAKE NELLIE, FLORIDA

NOTES: BASED ON FEMA'S FLOOD INSURANCE RATE MAP (FIRM) THIS PARCEL IS FULLY WITHIN THE SPECIAL FLOOD HAZARD AREA (SFHA).

IF YOUR PROPERTY IS LOCATED IN A NUMBERED OR UNNUMBERED "A" ZONE, YOUR LOWEST FLOOR INCLUDING A BASEMENT, MUST BE ELEVATED AT LEAST 18" ABOVE THE BFE. (per LAKE COUNTY LAND DEVELOPMENT REGULATIONS: 9.06.05)

*** Some land may have the presence of Wetlands even if no floodplain is located there. Please refer to those agencies that handle wetlands issues such as FL. D.E.P., S.J.R.W.M.D. and S.W.F.W.M.D for more information ***

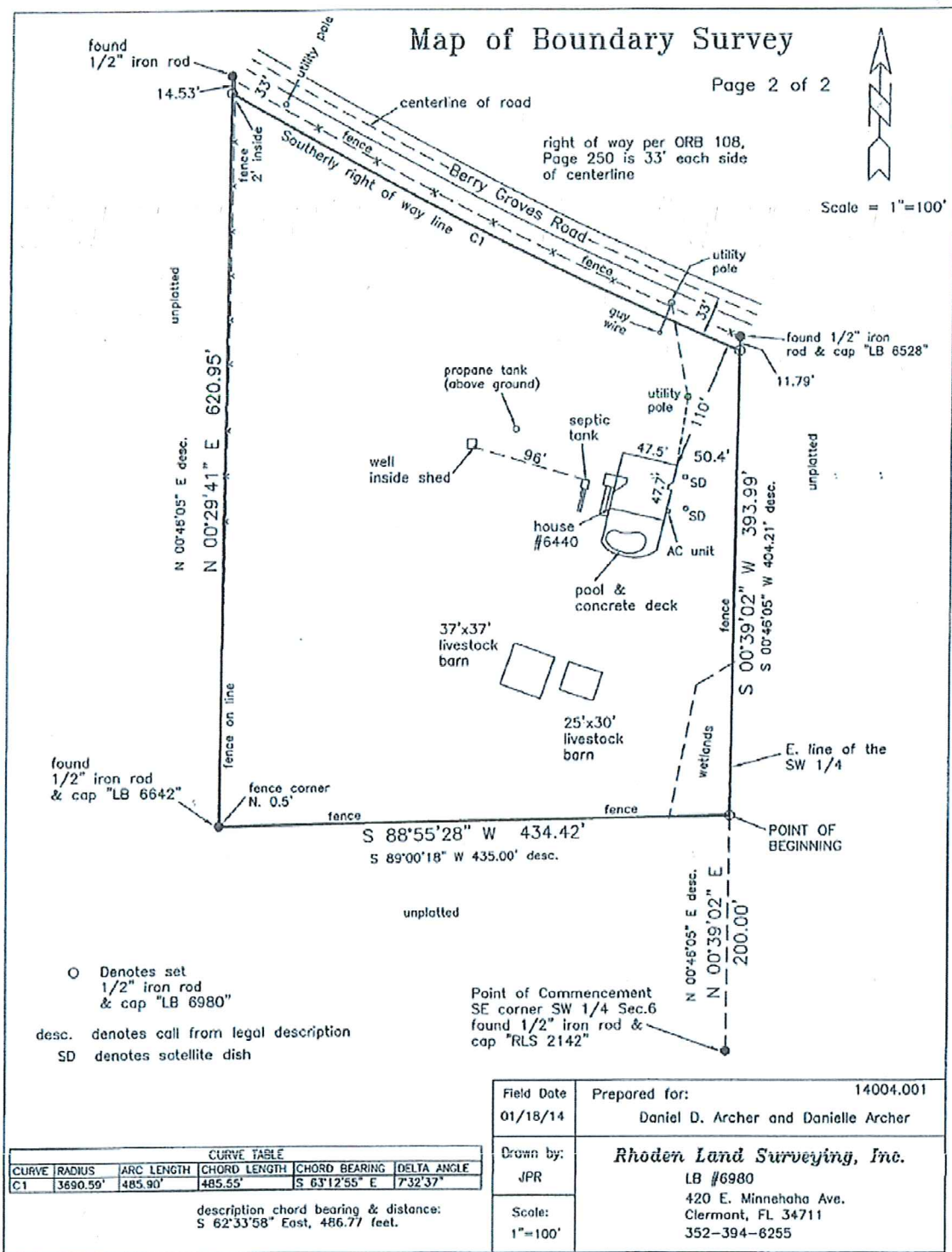
Federal law requires that a Flood Insurance Policy be obtained as a condition of a Federally backed mortgage or loan that is secured by the building located in a flood zone. For more information on flood insurance visit your public library system or ask your insurance agent. NOTE: This information is based on the Flood Insurance Rate Map (FIRM) for Lake County. This Document does not imply that the referenced property will or will not be free from flooding or damage. A property not located in a Special Flood Hazard Area may be damaged by a flood greater than that predicted on the FIRM or from a local drainage problem not shown on the map. This document does not create liability on the part of Lake County, nor any officer or employee thereof, for any damage that results from reliance on this determination.

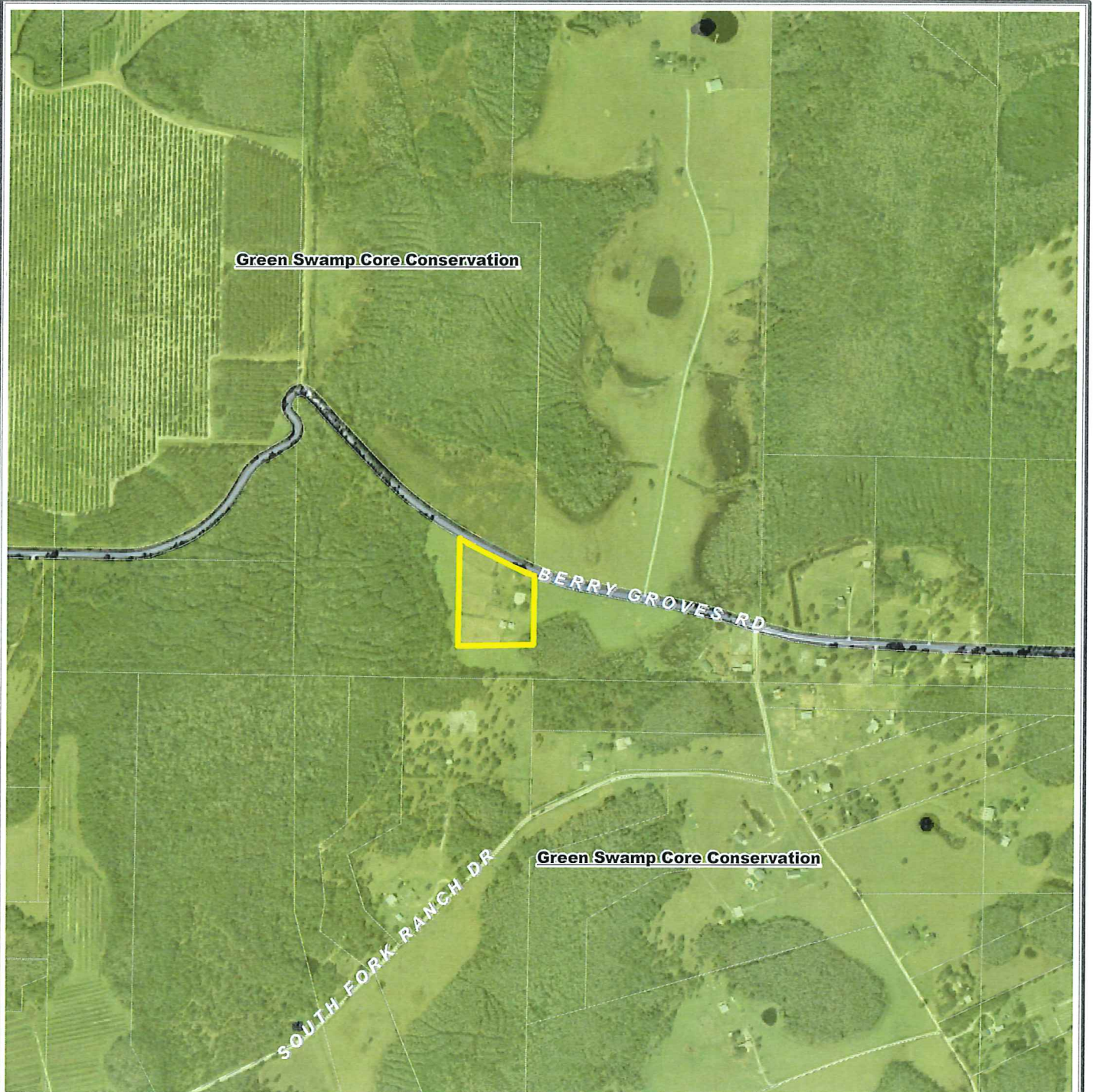
Insurance Information Distributed

County Official

Attachment B

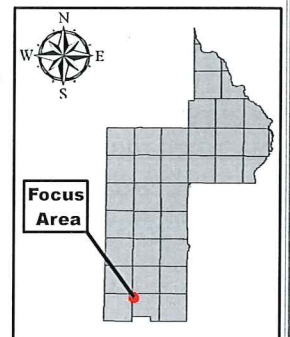
Survey



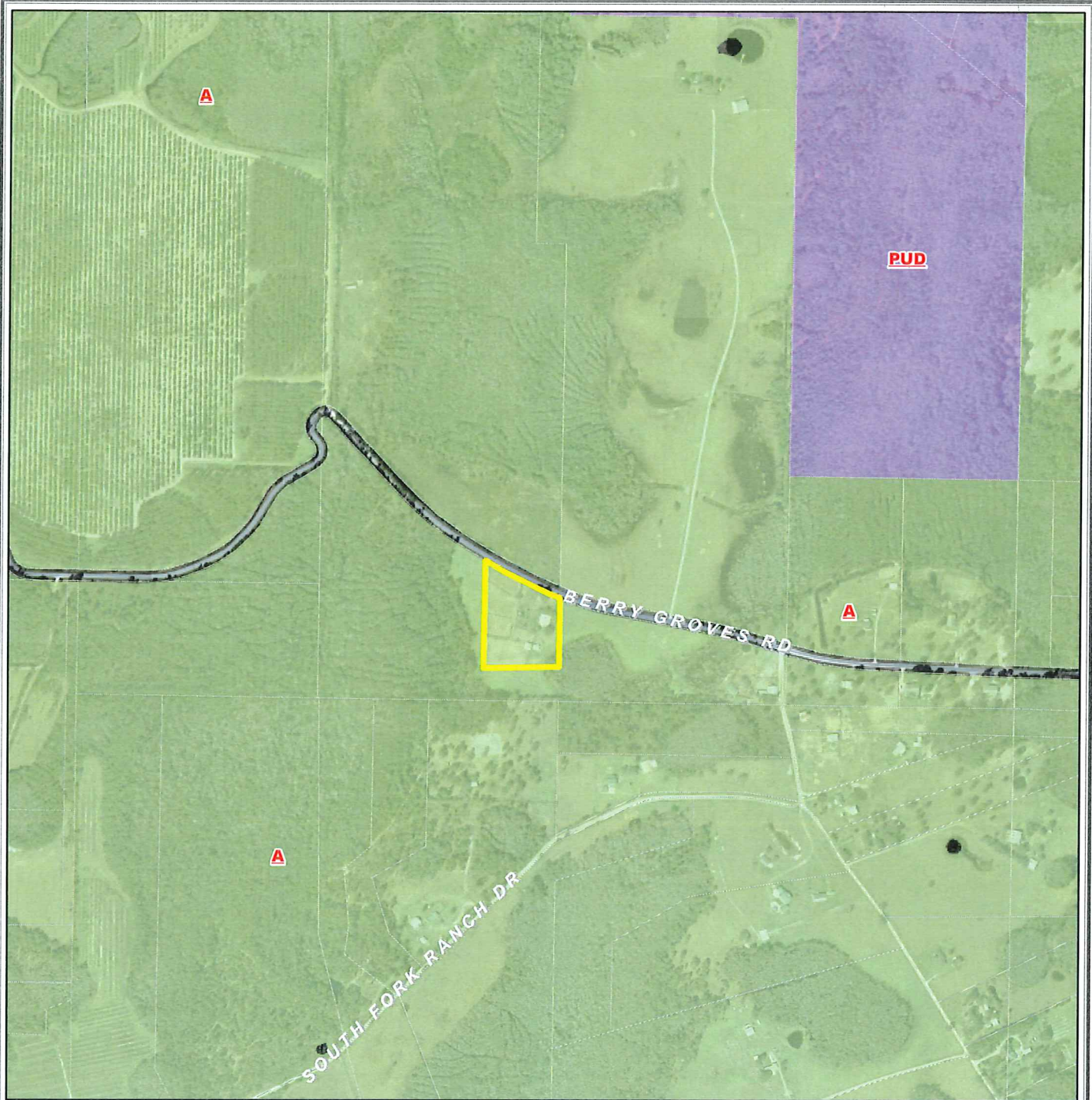


FUTURE LAND USE LEGEND

- | | | | |
|--------------------------------|--------------------------------------------|---------------------|----------------------|
| 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 | |

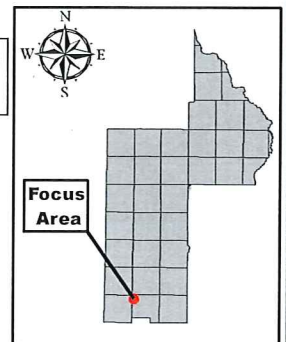


NAME: ARCHER PROPERTY
CASE NUMBER: VAR-17-20-1
LOCATION (S-T-R): 06-24-25
REQUEST: ACCESSORY DWELLING UNIT
SQUARE FOOTAGE ADJUSTMENT



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: ARCHER PROPERTY
CASE NUMBER: VAR-17-20-1
LOCATION (S-T-R): 06-24-25
REQUEST: ACCESSORY DWELLING UNIT
SQUARE FOOTAGE ADJUSTMENT

Final Development Order
VAR-17-20-1
Daniel D. Archer and Danielle Archer Property

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

WHEREAS, Daniel D. Archer and Danielle Archer (the "Owners" and the "Applicants") requested variance to Land Development Regulations (LDR), Section 10.01.03 to allow an accessory dwelling unit to be 1,820 square feet in lieu of 1,200 square feet; and

WHEREAS, the subject property consists of 5.007 +/- acres and is located westerly of the intersection of Berry Groves Road and Cattleman Lane in the Clermont area, in Section 06, Township 24 South, Range 25 East, having Alternate Key Number 2843098 and is more particularly described below as (the "Property"):

Commencing at the Southeast corner of the Southwest 1/4 of Section 6, Township 24 South, Range 25 East, Lake County, Florida, run North 00°46'05" East along the East line of the said Southwest 1/4, a distance of 200.00 feet to the Point of Beginning; thence run South 89°00'18" West a distance of 435.00 feet; thence North 00°46'05" East and parallel with the said East line of the Southwest 1/4 a distance of 620.95 feet to a point on the Southerly Right of Way of Berry Groves Road. (Dist. Rd. No. 2-0421); thence Southeasterly along the said Southerly Right of Way line, a chord bearing and distance of South 62°33'58" East, 486.77 feet to an intersection with the aforesaid East line of the Southwest 1/4; thence run South 00°46'05" West along said East line, 404.21 feet to the Point of Beginning. Said lands lying and being situated in Lake County, Florida.

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 June 8, 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 June 8, 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. Terms: The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-17-20-1 regarding the above described Property to allow an accessory dwelling unit that will exceed the maximum allowed square footage; the accessory dwelling unit will be 1,820 square feet in lieu of 1, 200 square feet.

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 8th day of June, 2017.
EFFECTIVE June 8, 2017.**

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Catherine Hanson, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 8th day of June, 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