

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

Board of Adjustment



March 8, 2018

<p><b>VAR-18-04-4</b> Moreau Property</p>	<p><b>Commissioner District 4</b></p>	<p><b>Agenda Item #2</b></p>
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**Applicant Requested Action:** Variance to Lake County Land Development Regulations (LDR) Section 7.00.04(B)(2)(c) to allow an accessory dwelling unit with a maximum area (under roof) of nine hundred twenty-one (921) square feet in lieu of eight hundred (800) square feet.

**Owners:** David Moreau and Patricia Moreau

**Applicant:** Bryan Smith (BP Smith Construction)

**- Site Location & Information -**

<b>Size</b>	4.8 +/- acres
<b>Location</b>	25420 Arundel Way, Sorrento, FL 32776
<b>Alternate Key #</b>	3265912
<b>Future Land Use</b>	Receiving Area A-1-20
<b>Existing Zoning District</b>	Agriculture Residential (AR)
<b>Overlay Protection Area</b>	Wekiva River Protection Area, Wekiva Study Area
<b>Commission District</b>	4
<b>ISBA/JPA</b>	None

**-Land Use Table-**

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Receiving Area A-1-20	Agriculture Residential	Road	Adjacent to Arundel Way
South	Receiving Area A-1-20	Agriculture	Residential	Adjacent to Island Club Drive
East	Receiving Area A-1-20	Agriculture Residential	Residential	Single Family Residence
West	Receiving Area A-1-20	Agriculture	Residential	Single Family Residence

**- Summary of Staff Determination -**

**STAFF RECOMMENDATION:** Staff recommends **APPROVAL** of the variance to Lake County Land Development Regulations (LDR) Section 7.00.04(B)(2)(c) to allow an accessory dwelling unit to have nine hundred twenty-one (921) square feet (under roof) in lieu of eight hundred (800) square feet.

**- Background -**

The subject property is zoned Agriculture Residential and has a Receiving Area A-1-20 Future Land Use Category designation. The property is generally located south of Arundel Way in the Sorrento area. The property is located within the Wekiva River Protection Area. The property is developed with a 3,245 square foot single family residence with an attached garage and a finished utility building.

**- Reason for Request -**

The Applicant is requesting a variance to Land Development Regulations (LDR) Section 7.00.04(B)(2)(c) to allow an accessory dwelling unit with a maximum area (under roof) of nine hundred twenty-one (921) square feet in lieu of eight hundred (800) square feet.

In December of 2017, the Applicant came to the Office of Planning and Zoning in order to obtain a zoning permit to construct a nine hundred twenty-one square foot accessory dwelling unit. Per Land Development Regulations (LDR) Section 7.00.04(B)(2)(c), an accessory apartment shall not exceed 800 square feet of principal structure (under roof), or twenty-five (25) percent of the gross square footage of the principal structure, whichever is less. The principle structure (single family dwelling) is 3,245 square foot, under roof; therefore, twenty-five (25) percent of the total are 811 square feet. As 800 square feet is less than 25% of the square footage of the living area of the existing single family dwelling unit, the proposed accessory dwelling unit cannot exceed 800 square feet (under roof). As the square footage of the Applicant's proposed accessory dwelling unit was inconsistent with the Land Development Regulations, the zoning permit was not issued and the Applicant was advised to apply for a variance.

– Staff Analysis –

LDR 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.

**1. Whether the purpose of the Land Development Regulation will be or has been achieved by other means.**

*“The accessory structure will follow all other codes and guidelines of the Wekiva River Protection Area.”*

The intent of the Code, LDR Section 7.00.02 (A.) is to provide an area where low-Density rural Development can occur while preserving Environmentally Sensitive areas and protect Environmentally Sensitive areas while encouraging rural uses which prevent further Encroachment by urban uses. The GIS Maps show that there are no sensitive areas on the subject parcel. The subject parcel is currently development with residential structures as depicted in Attachment A.

The Applicant has provided a survey (See Attachment A) that shows that the location of the proposed accessory dwelling unit will meet all required setbacks and will not exceed the maximum allowed impervious surface ratio as described in Lake County’s Land Development Regulations (LDR) Table 3.02.05 and Table 3.02.06. The proposed accessory dwelling unit is consistent with the requirements as described in Lake County Land Development Regulations (LDR) Section 10.01.03.

**2. Whether the 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.**

*“The code states that the accessory structure can not [sic] exceed 800sf. This puts the homeowner 121sf over. The homeowner has plans already drawn and engineered for the 921sf based knowing they would have to pay impact fees but not aware of the Wekiva River Protection Area.”*

The Applicant has indicated that the Owners would suffer great financial burden if they had to pay for new construction plans to redesign the proposed accessory dwelling unit.

**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, as residential uses are permitted within the Agriculture Residential (AR) Zoning District; and
- This request is consistent with Land Development Regulations (LDR) Table 3.02.05, Setbacks, which ensures the adherence of safe distances between structures and right-of-way; and
- This request is consistent with the standards for accessory dwelling units as found in Land Development Regulations (LDR), Section 10.01.03, Accessory Structures that are Dwellings.

The Applicant has submitted evidence of meeting the intent of the Code and has provided evidence 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** of the variance to Lake County Land Development Regulations (LDR) Section 7.00.04(B)(2)(c), to allow an accessory dwelling unit with a maximum area (under roof) of nine hundred twenty-one (921) square feet in lieu of eight hundred (800) square feet.

**WRITTEN COMMENTS FILED:**

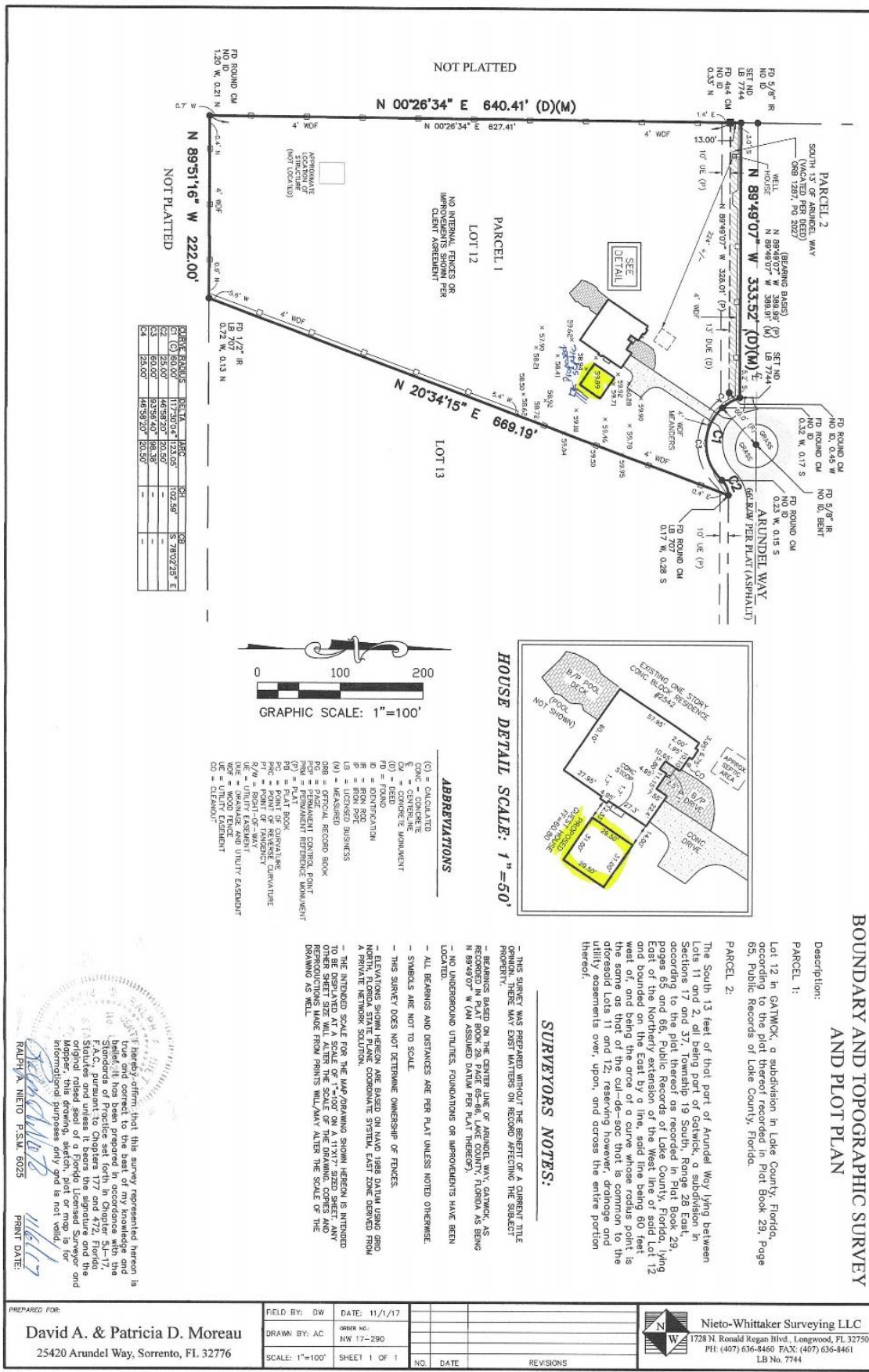
**Supportive: -0-**

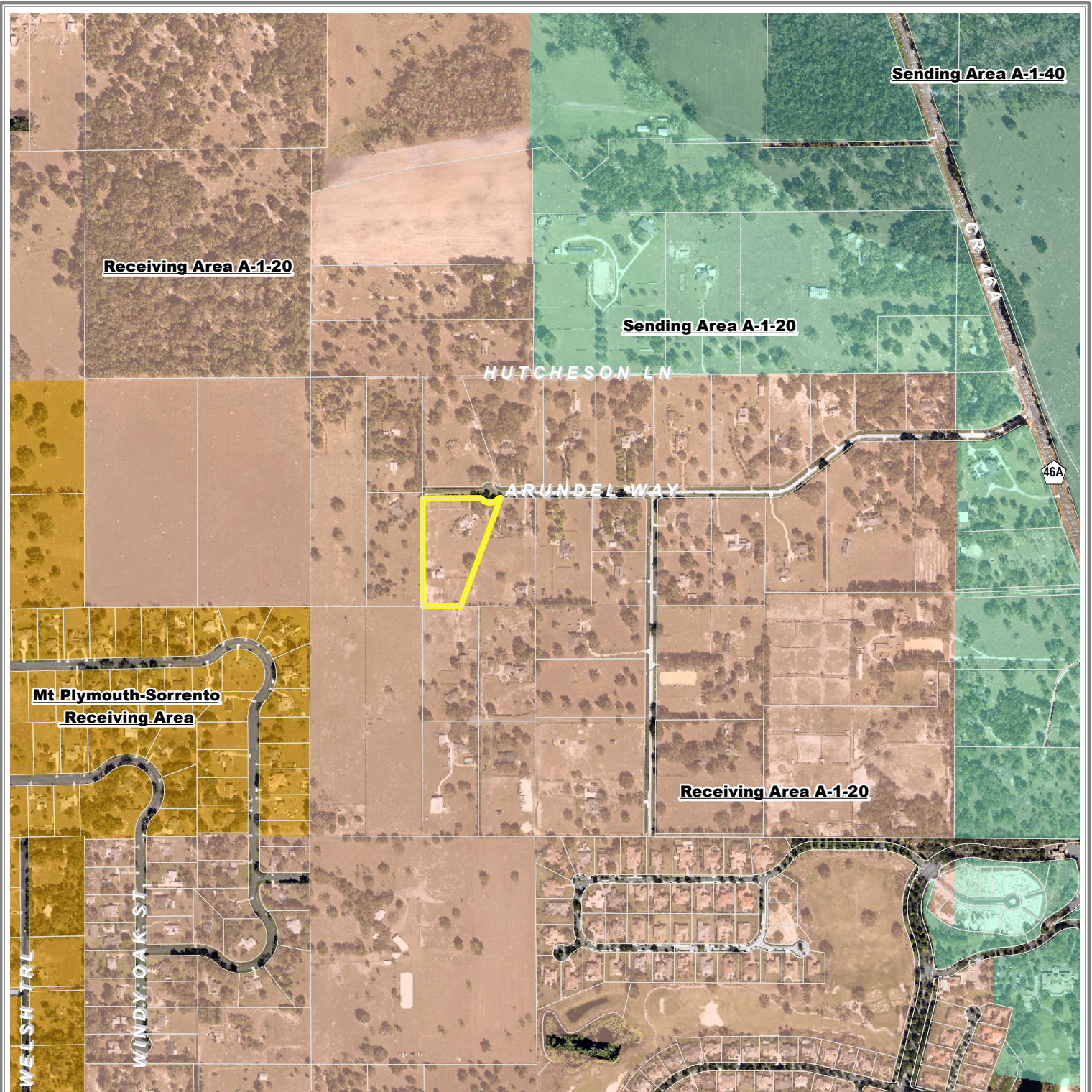
**Concern: -0-**

**Opposition: -0-**

**Case Manager:** Ruth Mitchell, Associate Planner

# Attachment A – Survey

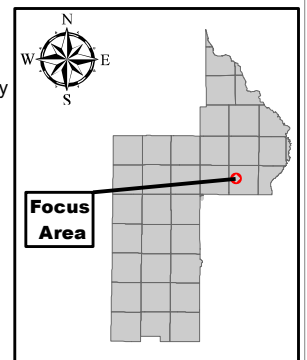


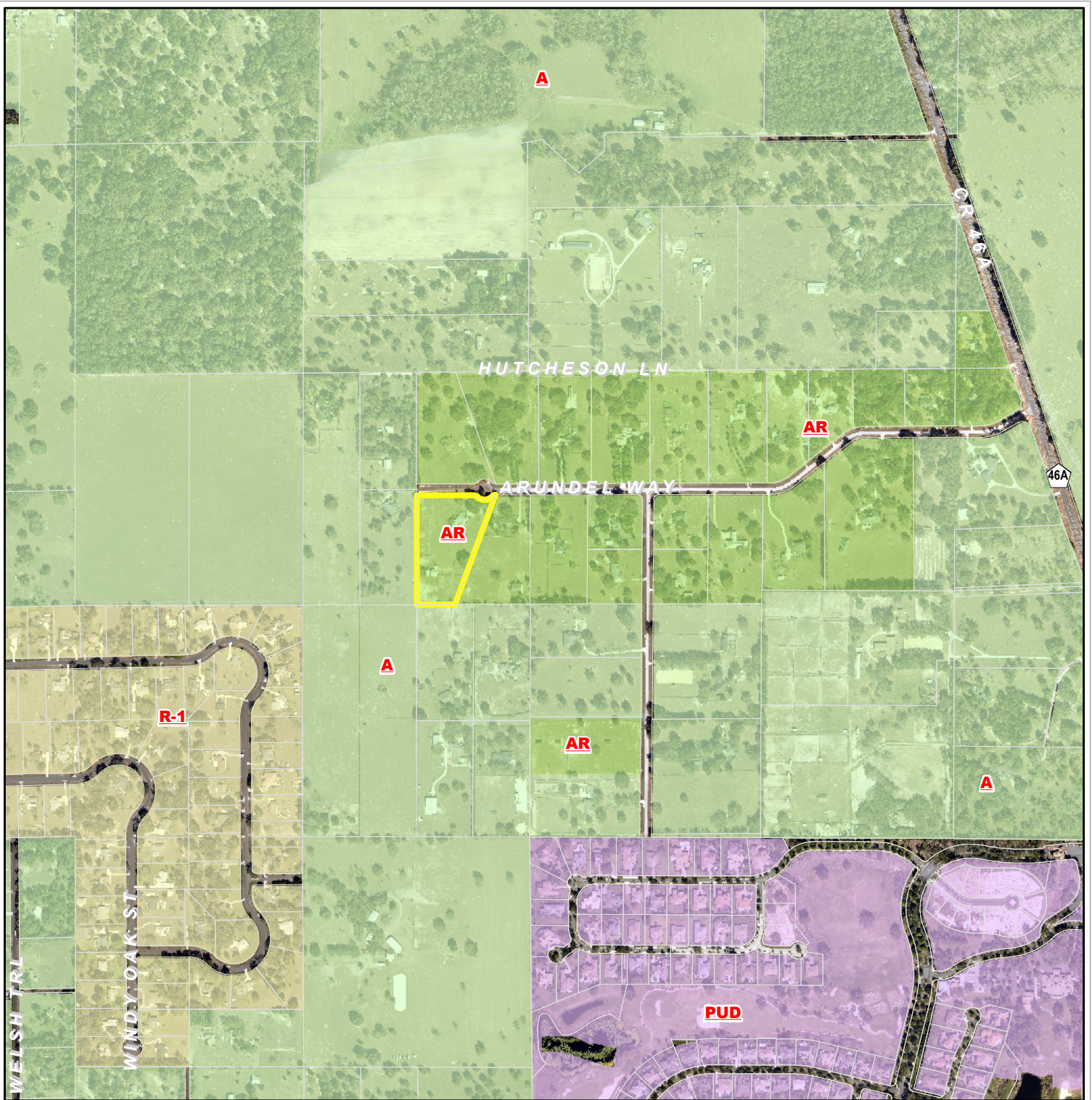


**FUTURE LAND USE LEGEND**

- |                                |  |                          |                      |
|--------------------------------|--|--------------------------|----------------------|
| 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:** MOREAU PROPERTY  
**CASE NUMBER:** VAR-18-04-4  
**LOCATION (S-T-R):** 17-19-28  
**REQUEST:** ACCESSORY DWELLING UNIT  
SQUARE FOOTAGE ADJUSTMENT

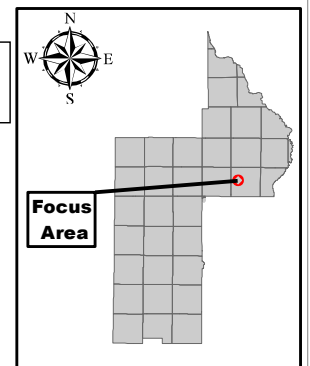




**ZONING LEGEND**

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	

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**SQUARE FOOTAGE ADJUSTMENT**



**Final Development Order  
VAR-18-04-4  
Moreau Property**

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

**WHEREAS**, Bryan Smith (the “Applicant”) on behalf of David Moreau and Patricia Moreau (the “Owners”) requested a variance to Land Development Regulations (LDR) Section 7.00.04(B)(2)(c), to allow an accessory dwelling with a maximum area (under roof) of nine hundred twenty-one (921) square feet in lieu of eight hundred (800) square feet; and

**WHEREAS**, the subject property consists of 4.8 +/- acres and is located south of Arundel Way in the Sorrento area, in Section 17, Township 19, Range 28, having an Alternate Key Number 3265912 and is more particularly described below as:

LOT 12 IN GATWICK, A SUBDIVISION IN LAKE COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 29, PAGE 65, PUBLIC RECORDS OF 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 variance would be presented to the Board of Adjustment of Lake County, Florida, on March 8, 2018; 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 March 8, 2018, 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-18-04-4 to allow an accessory dwelling unit with a maximum area (under roof) of nine hundred twenty-one (921) square feet in lieu of eight hundred (800) 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, the holding will in no way affect the validity of the remaining portions of this Ordinance.

*{Remainder of page intentionally left blank}*



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

**ENACTED this 8<sup>th</sup> day of March, 2018.**

**EFFECTIVE March 8, 2018.**

**BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA**

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**Catherine Hanson, Chairman**

**STATE OF FLORIDA  
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of March, 2018, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_, as identification and who did \_\_\_\_\_ or did not \_\_\_\_\_ take an oath.

**(SEAL)**

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**Signature of Acknowledger**