



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 5

Public Hearing Date: June 13, 2019

Case No. and Project Name: VAR-19-14-5, Pitts Property

Owners/Applicants: John Gary Pitts and Nila Sue Pitts

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 7.00.04.B.2.c, *Permitted Uses in the Wekiva River Protection Area*, to allow an accessory dwelling unit with a maximum under roof area of one-thousand four-hundred (1,400) square feet in lieu of eight-hundred (800) square feet.

Staff Determination: Staff recommends approval of the variance request with the conditions contained in the development order.

Case Manager: Janie Barrón, Senior Planner

Subject Property Information

Size: 40 +/- acres (no wetlands or water bodies on subject property)

Location: West of Pitts Road in the Eustis area.

Alternate Key No.: 1312515

Future Land Use: Wekiva River Protection Area Sending Area A-1-20

Current Zoning District: Agriculture (A)

Flood Zones: "A/X"

Joint Planning Area/ ISBA: N/A

Overlay Districts: Wekiva River Protection Area and Wekiva Study Area

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	N/A	N/A	Street	Wekiva Trail
South	Wekiva River Protection Area Sending Area A-1-40	Rural Residential (R-1)	Residential	Single-family dwelling units
East	N/A	N/A	Street	Soaring Hawk Lane
West	Wekiva River Protection Area Sending Area A-1-40	N/A	Street	Lone Pine Lane

Summary of Request.

The Owners are proposing to construct an accessory dwelling unit on the subject parcel. The Owners are requesting a variance to LDR Section 7.00.04.B.2.c, to allow for construction of an accessory dwelling unit with an under roof square footage of 1,400, in lieu of 800 square feet.

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

Summary of the Owner's purpose of the LDR achievements (Attachment B).

"Owners have lived on the property for the past 45 years. Owners have preserved the land and natural habitat that lives on the subject parcel."

The intent of the Code, LDR Section 7.00.04, is to provide an area where low density rural development can occur, while preserving environmentally sensitive areas. The proposed use is consistent with LDR Section 7.00.04, *Permitted Uses in the Wekiva River Protection Area*, which allows accessory apartments in the agriculture zoning district, provided that the following requirements are met: no more than one accessory apartment is permitted on any residential lot; the accessory apartment may be attached or freestanding, shall not exceed 800 square feet, shall be located and designed not to interfere with the appearance of the principal structure, and in no case shall the accessory apartment be constructed prior to the principal dwelling unit. The proposed accessory apartment meets all the conditions with the exception of the maximum allowed square footage. The Owners have submitted a concept plan (Attachment A), which demonstrates that the proposed area where they plan to construct the accessory dwelling unit meets the minimum setbacks.

2. 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.

Summary of the Owner's hardship (Attachment B).

"An 800 square foot home is a little too small to comfortably raise a young family. We are simply asking for a variance to allow us to building a small home with a total of less than 1400 square feet. This home will be the asscessory [sic] dwelling built on our forty acres for our son's family. We need our son and his family close as our health declines. I have neurological damage to my inner ear which keeps me in a constant state of vertigo. That is bad enough, but add to that the fact that as a brittle diabetic I am constantly fighting high and low blood sugar issues which have diminished my vision and left me struggling each day with various complications."

LDR Section 14.15.04, states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. The Owners are proposing to construct an accessory dwelling unit for their son and his family so that they can assist with their care and maintain the large tract of land.

Attachment A – Concept Plan

**John
Walter
Burr III**
Professional
Land Surveyor

30914 Deal Drive
Mount Plymouth
Florida 32776
(352) 383-4649 Voice
(352) 383-9573 Fax
jburr007@comcast.net

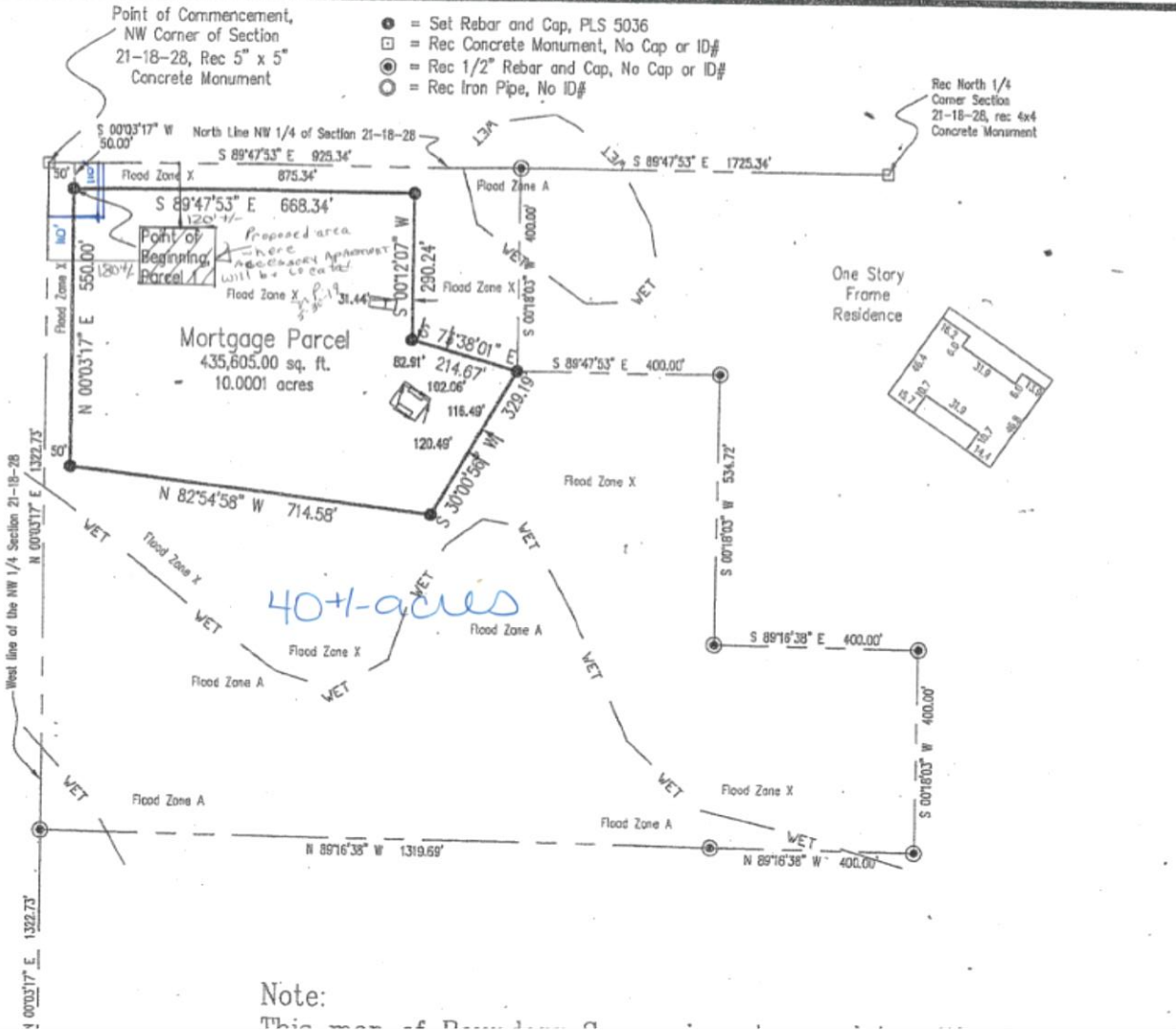


Map of
Boundary
Survey

PREPARED FOR
**Nila nd John
Pitts**
26200 Pitts Road
Eustis, Florida 32736
352-589-2261

IN SECTION 21,
TOWNSHIP 18 SOUTH,
RANGE 28 EAST

Field Data JWB 04/08/2004
F.B. McKee Leaf Notes



Attachment B. Hardship & LDR Intent Purpose Statements

Office of Planning and Zoning.
Variance Application Committee
315 W. Main St., Tavares, FL 35778

03/31/2019

To Whom It May Concern,

My wife Nila and I have lived on the property for which we are asking a zoning variance for the last 45 years. We have worked with diligence to preserve the land and natural habitat which lives there. While others have eliminated the timber for pasture we have been devoted to keeping the land in it's natural state.

My health over the last 20 years has been declining. I have neurological damage to my inner ear which keeps me in a constant state of vertigo. That is bad enough, but add to that the fact that as a brittle diabetic I am constantly fighting high and low blood sugar issues which have diminished my vision and left me struggling each day with various complications. I feel the need to build a small home for my son and his family so they can help as our health declines.

It is for these reasons that we are requesting a variance to the 800 square foot limit of an accessory dwelling on our land. We own 40.5 acres and there is plenty of high and dry land for him to build a small home near us. The plan for the small home is to be under 1400 square feet. Enclosed is a diagram of the footprint of the house as we hope it will be. We will follow all the land development guidelines of Lake County to comply with right of way, easements, setback requirements and all other codes to safeguard not only the environment but also the natural habitat as we have done for years. Thank you in advance for allowing this variance on our behalf.

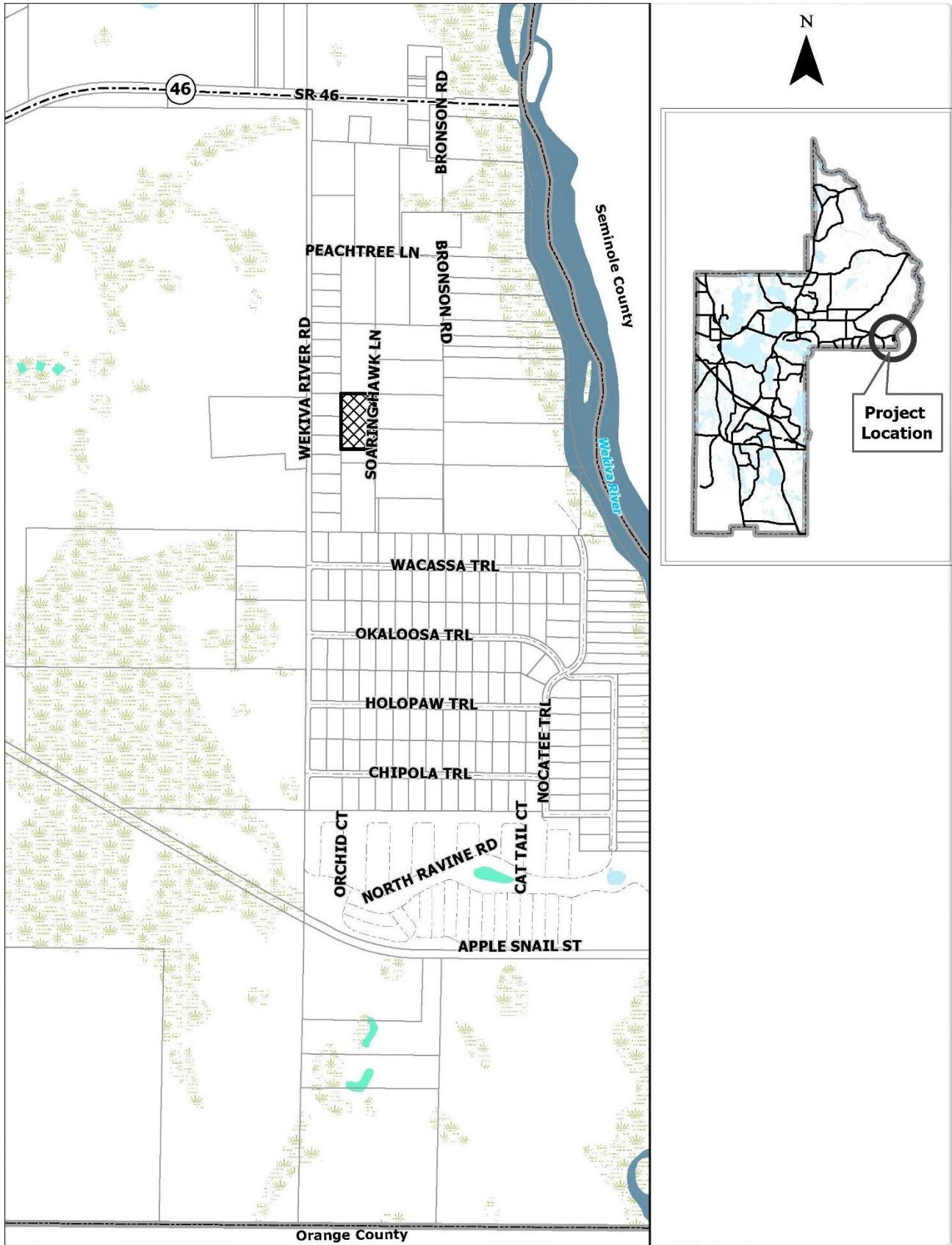
Sincerely,



John Gary Pitts and Nila Sue Pitts

26200 Pitts Rd. , Eustis, FL. 32736

Map of Subject Property



**Final Development Order
VAR-19-14-5
Pitts Property**

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

WHEREAS, John Gary Pitts and Nila Sue Pitts (the "Owners") made a variance request to Lake County Land Development Regulations (LDR) Section 7.00.04.B.2.c, to allow an accessory dwelling unit with a maximum under roof area of one-thousand four-hundred (1,400) square feet, in lieu of eight-hundred (800) square feet; and

WHEREAS, the subject property consists of 40 +/- acres and is generally located west of Pitts Road in the Eustis area, in Section 21, Township 18 South, Range 28 East, having Alternate Key Number 1312515 and more particularly described below;

The South 400 feet of the West 400 feet of the East 1/2 of the North 1/2 of the Northwest 1/4 of Section 21, Township 18 South, Range 28 East, and the West 1/2 of the North 1/2 of the Northwest 1/4 of Section 21, Township 18 South, Range 28 East, less the North 400 feet of the East 400 feet of the West 1/2 of the North 1/2 of the Northwest 1/4 of said Section 21, Township 18 South, Range 28 East all in Lake County, Florida.

WHEREAS, after giving notice of the hearing on the 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 June 13, 2019; 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 June 13, 2019, 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-19-14-5 to allow an accessory dwelling unit with a maximum under roof area of one-thousand four-hundred (1,400) 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.

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**Section 3. Effective Date. This Ordinance will become effective as provided by law.
ENACTED this 13th day of June, 2019.**

EFFECTIVE June 13, 2019.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Lloyd Atkins, Chairman

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 13th day of June, 2019, by _____, who is personally known to me or who has produced _____, as identification and who did _____ or did not _____ take an oath.

(SEAL)

Notary Public