



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: January 9, 2020

Case No. and Project Name: VAR-19-49-5, Benton Property

Applicant: Howard N. Benton

Owner: Howard N. Benton and Judith Benton

Requested Action: Variance to Lake County Land Development Regulations (LDR) Table 3.02.05 Note 3(a), to allow an after-the-fact pole barn to be located at 4.4 feet from the northern property line (Comstock Road) and an after-the-fact shed to be located at 2.7 feet from the northern property line (Comstock Road) in lieu of 25 feet.

Case Manager: Janie Barrón, Senior Planner

Subject Property Information

Size: 5+/- acres

Location: Intersection of Rachel Lane and Comstock Road in the Eustis area.

Alternate Key No.: 3269063

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

Current Zoning District: Agriculture (A)

Flood Zone: "A" and "X"

Joint Planning Area/ ISBA: None

Overlay Districts: Wekiva River Protection Area
Wekiva Study Area

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	WRPA A-1-20 Sending Area	Agriculture (A)	Street	Comstock Road, Single-Family Dwelling Units on Large Tracts of Land
South	WRPA A-1-20 Sending Area	Agriculture (A)	Residential	Single-Family Dwelling Units on Large Tracts of Land
East	WRPA A-1-20 Sending Area	Agriculture (A)	Street	Rachel Lane, Vacant Large Agriculture Tracts of Land
West	WRPA A-1-20 Sending Area	Agriculture (A)	Hayfield	Large Agriculture 40-Acre Tract of Land

Summary of Request.

The subject 5 +/- acre parcel is identified by Alternate Key Number 3269063. The parcel is zoned Agriculture (A) and are designated as Wekiva River Protection Area A-1-20 Sending Area Future Land Use Category (FLUC) by the 2030 Comprehensive Plan, and is located within the Wekiva Study Area. The subject parcel is currently developed with a single-family dwelling unit, stable, shed, and horse corral areas (Attachment A). The Owner seeks approval to allow an after-the-fact pole barn to be located at 4.4 feet from the northern property line (Comstock Road) and an after-the-fact shed to be located at 2.7 feet from the northern property line (Comstock Road). However, Lake County Land Development Regulations (LDR) Table 3.02.05 Note 3(a), requires a 25-foot secondary front yard setback. Therefore, the application seeks a variance to Lake County Land Development Regulations (LDR) Table 3.02.05 Note 3(a), to allow an after-the-fact pole barn to be located at 4.4 feet from the northern property line (Comstock Road) and an after-the-fact shed to be located at 2.7 feet from the northern property line (Comstock Road) in lieu of 25 feet.

As depicted on the Concept Plan (Attachment A), the Owner has relocated Building #1 behind the existing single-family dwelling unit and plans to relocate Building #4 next to Building #1 to meet the minimum setbacks in accordance with LDR Table 3.02.05. In addition, the Owner has removed Building #3 from the subject parcel. The Owner requested the variance as a result of a code violation for constructing the structures without permits. Staff is unable to issue a zoning permit for the structures prior to an approved variance for a reduced setback.

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.

"Proposed moving building #1 and building #4 on the north side of the property to a new location behind the existing pole barn/shop. Proposed moving completely building #3 off the property. Need a variance on building #2 and existing small pole barn on drawing to remain where they area. Adjacent to this property is Comstock Rd. which is only used by 3 property owners. Comstock Rd. has a locked gate at the entrance. It is not open for public traffic. All the buildings will be over 50 feet from any wetland. The small pole barn was on the property when the property was purchased. (Detail A)"

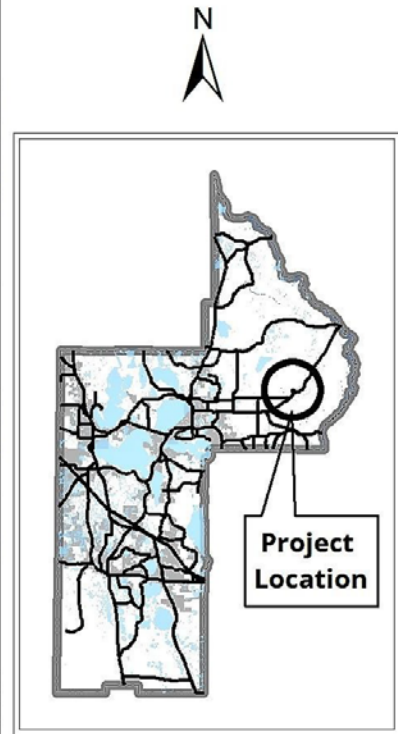
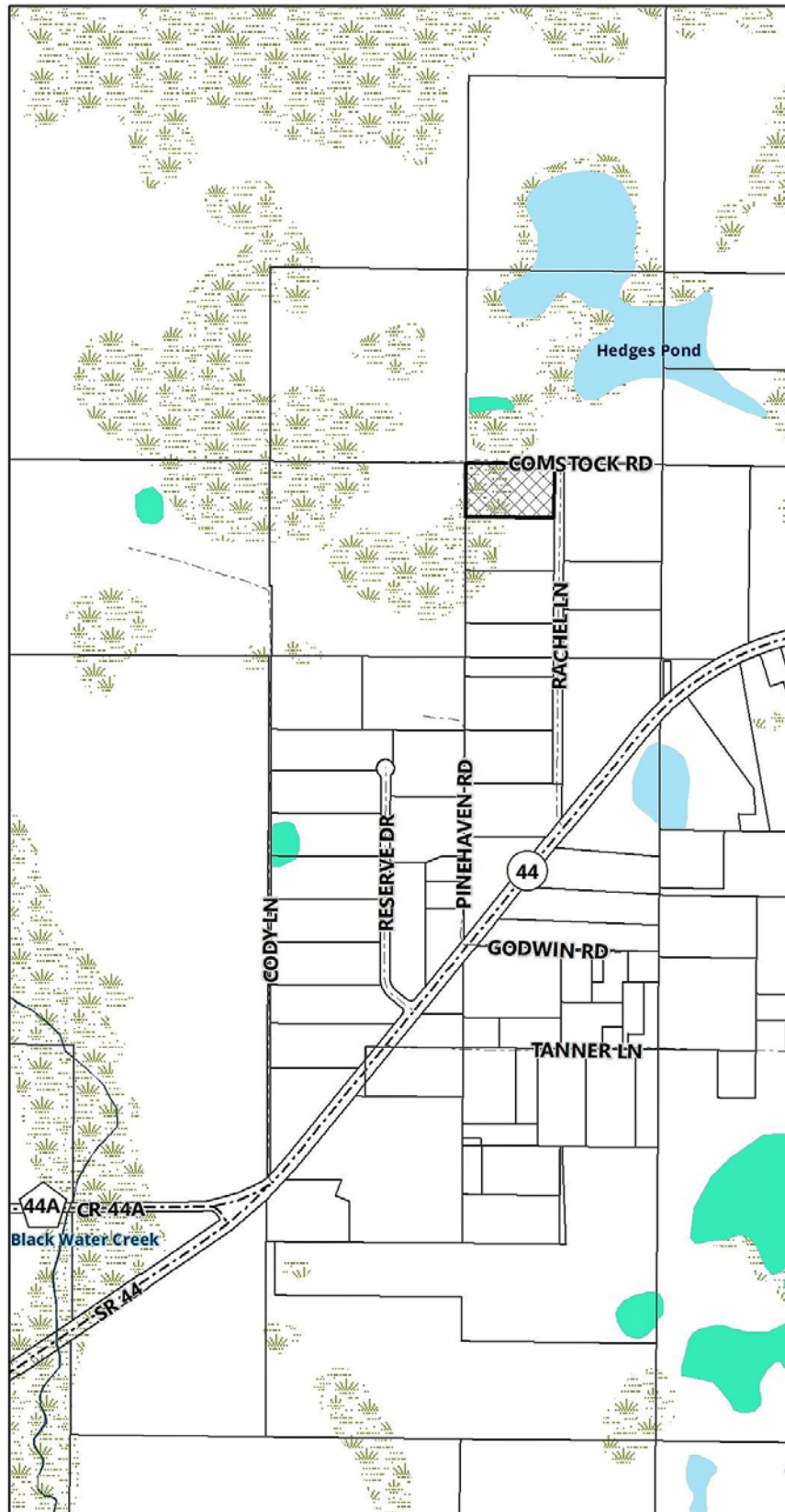
The intent of the Code, LDR Section 3.02.05, is to promote a logical development pattern, provide for safe setbacks between structures, and encourage a visually pleasing environment.

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.

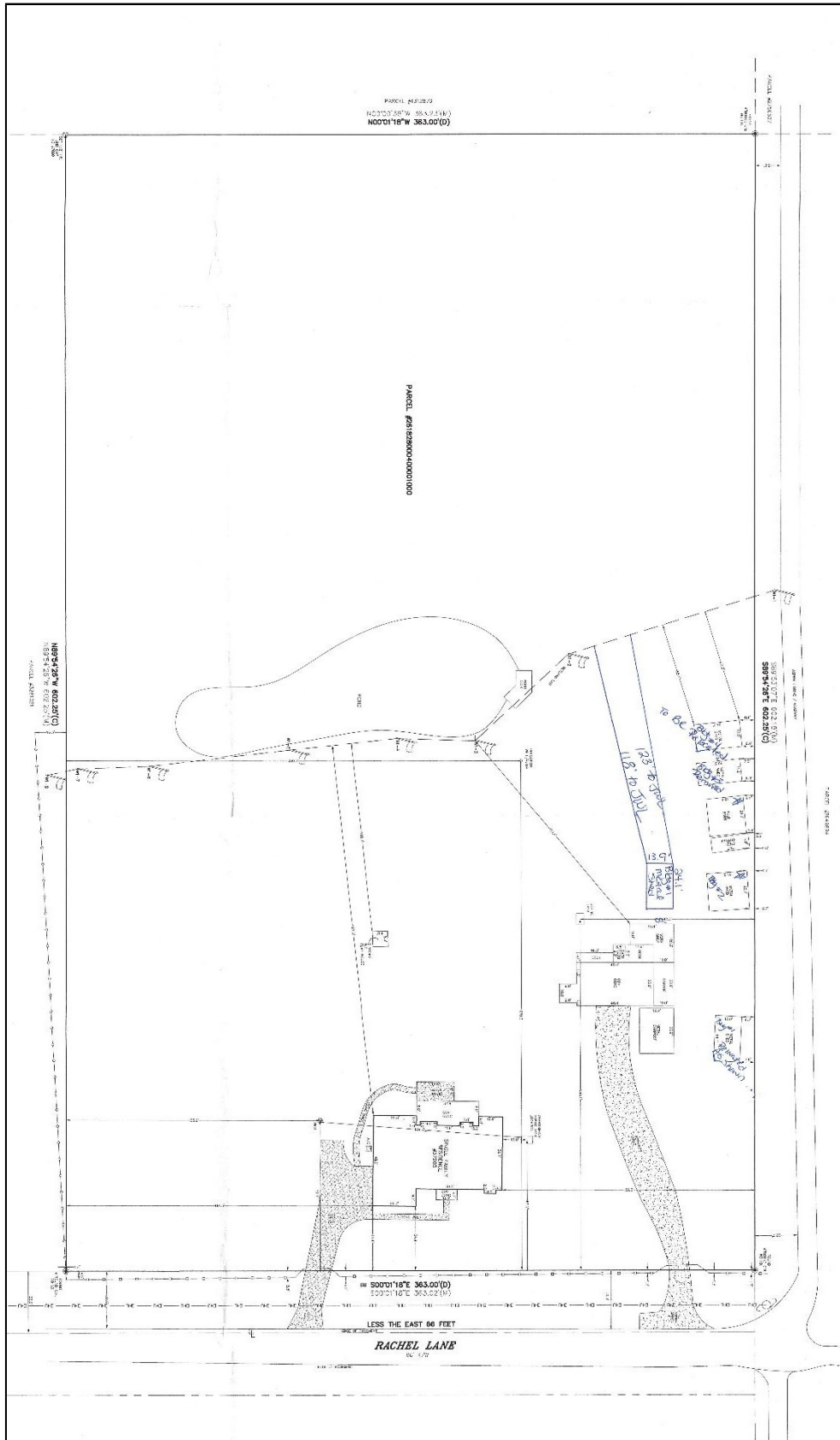
"Building is on a concrete slab. Would have to completely disassemble, pour a new slab and completely reassemble. "

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.

Map of Subject Property



Attachment A, Concept Plan.



**Final Development Order
VAR-19-49-5
Benton Property**

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

WHEREAS, Howard N. Benton (the "Owner" and "Applicant") requested a variance, on behalf of Judith Benton (the "Owner"), to Lake County Land Development Regulations (LDR) Table 3.02.05 Note 3(a), to allow an after-the-fact pole barn to be located at 4.4 feet from the northern property line (Comstock Road) and an after-the-fact shed to be located at 2.7 feet from the northern property line (Comstock Road) in lieu of 25 feet; and

WHEREAS, the subject property consists of 5 +/- acres and is located at 37205 Rachel Lane, in the unincorporated Eustis area of Lake County, Florida, in Section 26, Township 18 South, Range 28 East, having Alternate Key Number 3269063 and more particularly described as:

The North 363.00 feet of the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of Section 26, Township 18 South, Range 28 East, in Lake County, Florida, Less the East 66 feet thereof.

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 January 9, 2020; 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 January 9, 2020, 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-19-49-5 to allow an after-the-fact pole barn to be located at 4.4 feet from the northern property line (Comstock Road) and an after-the-fact shed to be located at 2.7-feet from the northern property line (Comstock Road) in lieu of 25-feet with the following condition:

1. Should the Owners intent to replace the existing accessory structures (shed and pole barn) in the future, the accessory structures shall be required to meet the minimum 25-foot setback from the property line/right-of-way from the northern property line as specified in the Land Development Regulations (LDR), as amended.

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.

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

ENACTED this 9th day of January, 2020.

EFFECTIVE January 9, 2020.

BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA

Lloyd Atkins, Chairman
James Argento, Vice-Chairman

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this 9th day of January, 2020, 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