



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 10

Public Hearing Date: November 10, 2022

Case No. and Project Name: VAR-22-41-4, Glasgow Property

Owner: Nancy Glasgow

Applicant: Nancy Glasgow

Requested Action: Variance to Land Development Regulations (LDR) Section 14.11.02.D.10 to allow for a property to be sold before the 5-year deed restriction has expired, for a property created via a Family Density Exception (FDE) Lot Split (LS-2018-28-4).

Case Manager: James Frye, Planner

Subject Property Information

Size: 32.06 +/- acres

Location: West of Britt Road in the unincorporated Mount Dora area of Lake County

Alternate Key No.: 3915735

Future Land Use: Rural Transition

Current Zoning District: Agriculture (A)

Flood Zone: "X"

Joint Planning Area (JPA) / ISBA: Mount Dora JPA

Overlay Districts: Wekiva Study Area

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	City of Mount Dora	City of Mount Dora	Agriculture	Large vacant agriculturally-exempt tract within the City of Mount Dora
South	Rural Transition	Agriculture (A)	Vacant Residential / Agriculture	Vacant residential parcel created by LS 2018-28-4; agriculturally-exempt.
East	Rural Transition	Agriculture (A)	Commercial	Developed with manufacturing and commercial uses (Cannabis Nursery)
West	City of Mount Dora	City of Mount Dora	Residential	Lakes of Mount Dora subdivision, within the City of Mount Dora

Summary of Request.

The subject property, identified as Alternate Key Number 3915735, contains 32.06 +/- acres, is zoned Agriculture (A), and is designated with a Rural Transition Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. Generally, the subject property is located west of Britt Road in the unincorporated Mount Dora area of Lake County. The subject property is currently vacant and undeveloped, with an Agricultural-Exemption for tax purposes through the Property Appraiser's Office.

LDR Section 14.11.02(D)(10), requires that parcels created for family members via an FDE lot split must be retained by the family members for a minimum of five (5) years, pursuant to County approved deed restrictions recorded in the public records. This requirement does not apply to institutional lenders who obtain ownership as a result of foreclosure or deed in lieu of foreclosure. The subject property was created via a FDE Lot Split (LS-2018-28-4) from a 102 +/- acre parent parcel. LS-2018-28-4 was approved on February 27, 2019 (Attachment "B" – Survey). The applicant has requested a Variance to LDR Section 14.11.02.D.10 to facilitate sale of the subject property before the mandated 5-year deed restriction has expired. If the Variance is not granted, the owner would have to retain the parcel until February 27, 2024.

A Pre-Submittal Application (Application Request No. 4803) for a proposed residential subdivision containing 196 lots with associated open space was previously submitted on March 22, 2022 for the subject property. A letter with comments pertaining to the pre-submittal was issued by staff on June 2, 2022 and the application was subsequently closed out. No further applications have been submitted under the proposed development plan.

The Variance application was provided to the Lake County Public Works Department and Lake County Chief Fire Inspector for review. The Public Works Department did not provide any comments nor opposition to the request. The Lake County Chief Fire Inspector provided one comment: "*Fire has no objection to the variance request.*"

The subject property is located within the Mount Dora Joint Planning Area (JPA). The Variance application was provided to the City of Mount Dora for courtesy review. Mount Dora provided the following response "*The City has no objections or concerns regarding the variance request but comments and/or concerns may be provided when a formal development application is submitted for the subject property.*"

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.

The intent of the Code, LDR Section 14.11.02.D.10, is to ensure that parcels created via FDE lot splits, which may not conform to the density and lot standards of the underlying zoning district and/or future land use category, are created for use by ascending/descending family members as a primary residence and not for transactional sale to unrelated parties.

Pursuant to LDR Section 14.11.02.F, *Exceptions to the Five Year Retention Requirement*, upon meeting the requirements of D. and E. of this Section, a Variance may be applied for from the requirement, if the following can be demonstrated by the property owner:

- a. Circumstances beyond the control of the property owner have caused a need for the property owner to sell the property, including but not limited to, death, divorce, employment obtained elsewhere, military service, etc.; and
- b. Without granting such variance, substantial hardship would be placed on the property owner.

To show that the intent of the code will be or has been achieved by other means, the Applicant provided the following statement, "*Almost three years of the five-year moratorium on sales after a lot split have already passed. Our family members need to sell the land now due to age/health related issues.*"

- 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.**

To show substantial hardship, the Applicant provided a written statement (Attachment "A").

Attachment "A" – Statement of Hardship

Lake County Office of Planning and Zoning Variance Application

What is the substantial hardship in meeting the specific code requirement?

My parcel of land is contiguous to the parcel held by my sister, Susan Taylor. Susan and my brother-in-law, Bill, are elderly and in poor health with an immediate financial need resulting from many hospitalizations and nursing home care for which they do not have the necessary funds. KB Homes wishes to buy both our parcels and will only purchase my sister's land if they can purchase my land as well.

Some background: This land was given to our father, Harry Bailes, by his father in the 1950s and our father was a citrus grower for decades until the hard freezes of the 1980s. He passed away in 2005. After our mother's death in 2017, our brother, David, suggested that the three siblings split the inherited land because we were all at different stages of our lives with diverging needs. Susan and Bill are now in urgent need of the funds that can be realized by selling the land. Making the decision to sell has not been easy as I grew up in our parents' home, located on Susan's parcel, and both of my siblings and their spouses have lived on the land since early adulthood and raised their families there. In addition, the land has provided us with an emotional connection to our father, who was kind, loving and generous to his children and grandchildren.

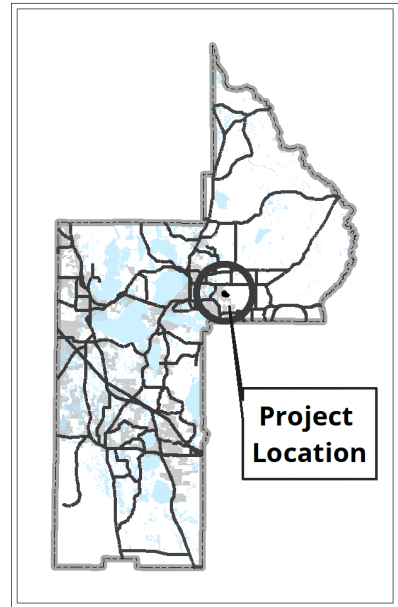
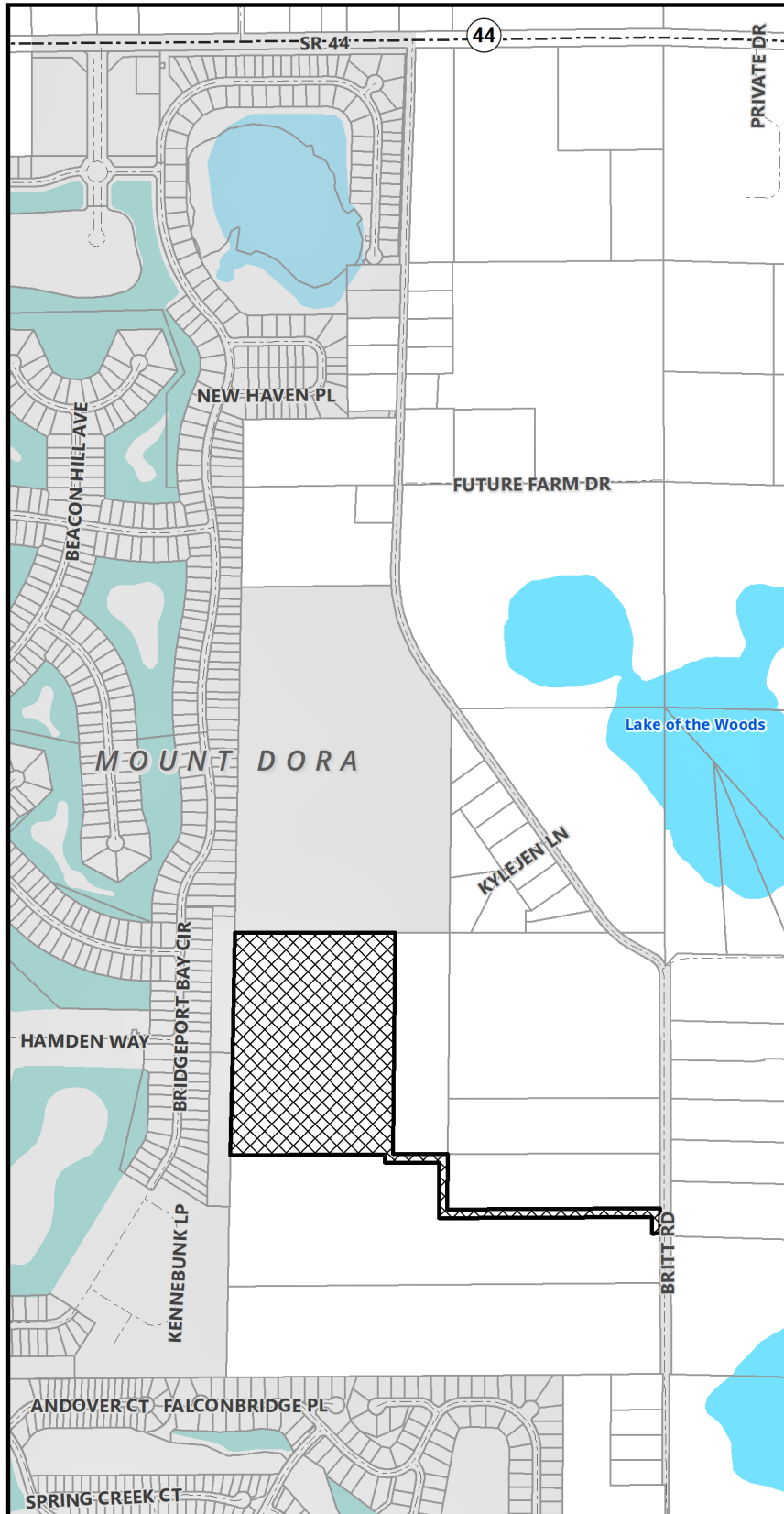
My husband and I also are facing challenges related to health. My husband of 31 years has been the primary breadwinner, working in a highly specialized software field, and has faced several serious health issues over the past decade, including: a traumatic brain injury with severe bleeding on both sides of his brain, which should have rendered him unable to work; kidney cancer and kidney removal; pancreatitis resulting in cardiac arrest, cascade organ failure, and almost two months in the ICU on a ventilator in a medically-induced coma; type 2 insulin-dependent diabetes (as a result of pancreatitis); and diabetic peripheral neuropathy, which is incurable and causes excruciating pain in his feet. He has been a Code Blue and has had to relearn, at various times, how to walk, sign his name, and identify everyday images and words. And yet he has continued to work as a software engineer. Our savings have been depleted by medical bills and although we are not currently in a desperate situation, selling the land now at the current price offered would alleviate ongoing concerns about my husband's health and his ability to work and provide for us.

RECEIVED

AUG 01 2022

Planning & Zoning

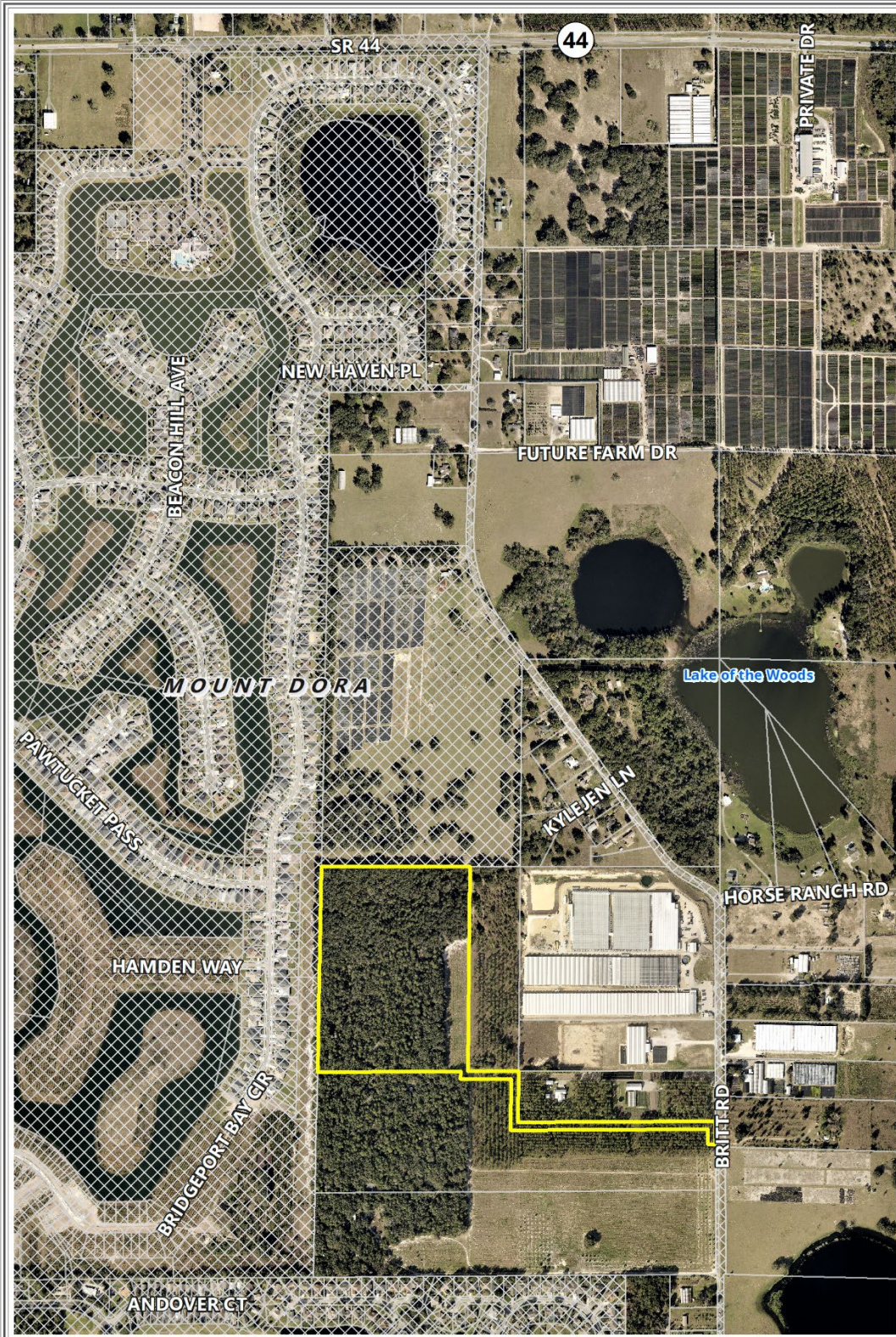
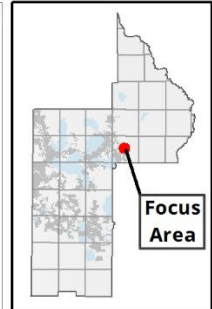
Map of Subject Property



Aerial Map



VAR-22-41-4
Glasgow Property



Lot Split With
Deed Restriction
Adjustment

**Final Development Order
VAR-22-41-4
Glasgow Property**

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

WHEREAS, Nancy Glasgow (the “Applicant” and the “Owner”), requested a variance to Land Development Regulations (LDR) Section 14.11.02.D(10) to allow for a property to be sold before the 5-year deed restriction has expired, for a property created via a Family Density Exception (FDE) Lot Split (LS-2018-28-4); and

WHEREAS, the subject property consists of 32.06 +/- acres and is located west of Britt Road in the unincorporated Mount Dora area of Lake County, in Section 16, Township 19, Range 27, having Alternate Key Number 3915735, and more particularly described below; and

FROM SOUTH 1/4 CORNER OF SECTION 16 TOWNSHIP 19 SOUTH RANGE 27 EAST RUN NORTH 01-08-19 EAST ALONG WEST LINE OF SOUTHEAST 1/4 A DISTANCE OF 1332.82 FEET FOR POINT OF BEGINNING, CONTINUE NORTH 01-08-53 EAST 1333.23 FEET TO NORTHWEST CORNER OF SOUTHEAST 1/4 OF SECTION 16, SOUTH 89-50-14 EAST ALONG NORTH LINE OF SOUTHEAST 1/4 A DISTANCE OF 965.09 FEET, SOUTH 00-36-14 WEST 1327.45 FEET, NORTH 89-49-59 EAST 326.40 FEET, SOUTH 00-25-03 WEST 331.59 FEET, NORTH 89-44-20 EAST 1276.96 FEET TO WESTERLY LINE OF BRITT ROAD, SOUTH 00-02-02 EAST ALONG WESTERLY RIGHT OF WAY LINE OF BRITT ROAD A DISTANCE OF 150 FEET, SOUTH 89-44-20 WEST 50 FEET, NORTH 00-02-02 WEST 100 FEET, SOUTH 89-44-20 WEST 1277.35 FEET, NORTH 00-25-03 EAST 331.68 FEET, SOUTH 89-49-59 WEST 326.57 FEET, NORTH 00-36-14 EAST 50 FEET, SOUTH 89-49-59 WEST 927.58 FEET TO THE POINT OF BEGINNING ORB 5286 PG 676

WHEREAS, after giving notice of a hearing on a petition for a variance to the Lake County Land Development Regulations, including notice that the request for a variance would be presented to the Board of Adjustment of Lake County, Florida, on November 10, 2022; 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 November 10, 2022, 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-22-41-4, to allow for a property to be sold before the 5-year deed restriction has expired, for a property created via a Family Density Exception (FDE) Lot Split (LS-2018-28-4).

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 10th day of November 2022.

EFFECTIVE November 10, 2022.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

James Argento, Chairman

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 10th day of November 2022, by James Argento, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

Notary Signature

(SEAL)