ORDINANCE SUMMARY
NONCONFORMING WETLAND SETBACK

This ordinance proposes to amend Chapter I, Section 1.08.00 of the Lake County Land Development Regulations (LDR), entitled "Nonconforming Development". This ordinance will update the LDR in accordance with a companion ordinance proposing to amend Policy III-2.2.7 of the Comprehensive Plan, to state that developments approved prior to September 22, 2011, with a wetland setback of less than 50 feet, shall be considered conforming. The ordinance also provides that the term "development" will include any type of variance, average setback determination, ordinance or waiver.

Currently, developments approved prior to September 22, 2011 with a wetland setback of less than 25 feet are considered nonconforming, and are not allowed to be developed at the previously approved wetland setback.

The proposed amendment will meet the requirements of the 2030 Comprehensive Plan, Policy III-2.2.7, entitled *Protection of Shorelines,* as amended, which recognizes developments approved prior to September 22, 2011 with a wetland setback of less than 50 feet; the proposed ordinance would permit development of the site at the setback prescribed by the prior development order or ordinance and would consider such development conforming.

Changes are shown as follows: ~~Strikethrough~~ for deletions and <u>Underline</u> for additions to existing Code sections. The notation "* * *" shall mean that all preceding or subsequent text remains unchanged (excluding any renumbering or relettering that might be needed).

Ordinance No. 2013-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; AMENDING THE LAKE COUNTY CODE, APPENDIX E, LAND DEVELOPMENT REGULATIONS; AMENDING CHAPTER I, "GENERAL PROVISIONS", SECTION 1.08.00, ENTITLED "NONCONFORMING DEVELOPMENT", IN ORDER TO PROVIDE THAT DEVELOPMENT ORDERS AND ORDINANCES APPROVED PRIOR TO SEPTEMBER 22, 2011, WITH A WETLAND SETBACK OF LESS THAN 50 FEET, SHALL BE CONSIDERED CONFORMING; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 22, 2011, the Lake County 2030 Comprehensive Plan became effective; and

WHEREAS, currently, Comprehensive Plan Policy III-2.2.7, entitled *Protection of Shorelines*, recognizes development approved prior to September 22, 2011, and with a wetland setback of between 25 and 50 feet, as conforming; and

WHEREAS, the Policy as currently written effectively restricts the developable area of lots approved prior to September 22, 2011 with a wetland setback of less than 25 feet, and causes some lots that were previously buildable to become unbuildable; and

WHEREAS, on July 3, 2013, the Planning & Zoning Board, in its capacity as the Local Planning Agency, considered and recommended approval of an amendment to Comprehensive Plan Policy III-2.2.7, entitled *Protection of Shorelines,* to recognize development approved prior to September 22, 2011, and with a wetland setback of less than 50 feet, as conforming, which creates the need for this companion ordinance to amend the Nonconforming Development section of the LDR accordingly; and

WHEREAS, the Planning & Zoning Board, in its capacity as the Local Planning Agency, considered this ordinance and recommended approval at a properly advertised public hearing on July 3, 2013; and

WHEREAS, the Board of County Commissioners (the "Board") desires to amend Chapter I, Section 1.08.00, to bring the LDR into conformity with the 2030 Comprehensive Plan by amending regulations pertaining to wetland setbacks; and

WHEREAS, on the 17th day of December, 2013, this Ordinance was heard at a public hearing before the Lake County Board of County Commissioners; and

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lake County, Florida, that:

Section 1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Amendment. Section 1.08.00, Lake County Code, Appendix E, Land Development Regulations, entitled "Nonconforming Development", shall be amended to read as follows:

1.08.00 - Nonconforming Development.

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1.08.03. Nonconforming Uses.

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E. Nonconforming Wetland Setbacks (excluding canals). Development approved prior to September 22, 2011, with a wetland setback of less than 50~~25~~ feet shall be considered ~~non~~conforming and shall ~~not~~ be allowed to develop at the previously approved ~~closer to~~

~~the~~ wetland~~s~~ setback as prescribed in the approved development order or ordinance. The term "development" as used in this subsection shall expressly include any type of variance, ordinance, average setback determination, or waiver. ~~(unless vested under Chapter 1, Land Development Regulations). However, a~~Additions to an existing residence may be allowed, if the addition does not extend beyond the existing rear and sides of the residence.

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Section 3. Severability. If any section, sentence, clause or phrase or the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portion of this Ordinance.

Section 4. Inclusion in the Code. It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lake County Code and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section", "article" or such other appropriate word or phrase in order to accomplish such intentions.

Section 5. Filing with the Department of State. The clerk shall be and is hereby directed forthwith to send a certified copy of this Ordinance to the Secretary of State for the State of Florida.

Section 6. Effective. This Ordinance shall become effective upon filing with the Secretary of the State.

Enacted this _____ day of _____, 2013.

Filed with the Secretary of State _____, 2013.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA

_____
Neil Kelly, Clerk of the
Board of County Commissioners
of Lake County, Florida

_____
_____, Chairman

Approved as to form and legality:

_____
Sanford A. Minkoff
County Attorney