



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 1

Public Hearing Date: June 5, 2024

Case No. and Project Name: PZ2023-264, Bernardes Property

Applicant: Patricia Goncalves Silva Bernardes

Owners: Patricia Goncalves Silva Bernardes, Raphael Alberto Xavier Metne, Isabella Goncalves Silva Bernardes, and Robson Alexandre Silva Bernardes

Requested Action: Variance to Land Development Regulations (LDR) Table 3.02.05 to allow two (2) unpermitted accessory structures (sheds) to remain 8-feet from the western property line, in lieu of the required 25-feet.

Case Manager: James Frye, Planner I

Subject Property Information

Size: 2.15 +/- acres

Location: 36720 Emerald Island Road, in the unincorporated Leesburg area

Alternate Key No.: 3334671

Future Land Use Category: Rural Transition (Attachment "A")

Current Zoning District: Agriculture (A) (Attachment "B")

Flood Zones: "A" and "X"

Joint Planning Area (JPA) / ISBA: N/A

Overlay District: Economic Development Overlay District

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural Transition	Agriculture (A)	Vacant	Vacant / Wetlands
South	Rural Transition	Agriculture (A)	Right-of-Way and Residential	Single-Family Residence south of Emerald Island Road
East	Rural Transition	Agriculture (A)	Vacant	Vacant / Wetlands
West	Rural Transition	Agriculture (A)	Residential	Single-Family Residence

Summary of Request.

The subject property, identified as Alternate Key Number 3334671, contains 2.15 +/- acres, is zoned Agriculture District (A), is designated with a Rural Transition Future Land Use Category (FLUC) by the 2030 Comprehensive Plan and located within the Economic Overlay District. The subject property is located generally north of Emeraldal Island Road and east of Emeraldal Avenue, in the Leesburg area of unincorporated Lake County. GIS maps indicate that wetlands exist on the subject parcel and that the parcel lies partially within flood zones "AE" and "X".

The Applicant has requested a variance to LDR Table 3.02.05 to allow two (2) unpermitted after-the-fact accessory structures (sheds) to remain 8-feet from the western property line, in lieu of the required 25-feet as depicted in the Plot Plan (Attachment "D"). The Plot Plan (Attachment "D") depicts a single-family residence (mobile home), sheds, well and septic tank. A search of our records reflects that on December 21, 2023, a zoning permit (Zoning Permit #52976) single-family residence (mobile home) was recently issued and on March 15, 2024, a building permit (Permit #2023121216) was issued. At the time of the issuance of the zoning permit, the plot plan did not depict the unpermitted after-the-fact accessory structures (Attachment "E"). LDR Table 3.02.05 indicates that within the Agriculture District (A) accessory structures shall maintain a side setback of 25 feet from the property line.

On September 26, 2023, the Office of Building Services issued a Notice of Code Violation for building without a permit (Attachment "F"). This notice was issued for the sheds on the property with electrical and AC units without permits. The code violation is currently open and pending hearing, under Case Number SM2023-08-0177.

On November 27, 2023, the variance application was sent to the Public Works Department and the Chief Fire Plans Examiner for review for a determination of consistency with their regulations. The Chief Fire Plans Examiner and Public Works Department did not identify any comments to the request.

Should the Board of Adjustments approve this variance request, the applicant will be required to obtain zoning and building permits to comply with Lake County Land Development Regulations.

- 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 3.02.05, is to promote a logical development pattern, provide for safe setbacks between structures, and encourage a visually pleasing environment.

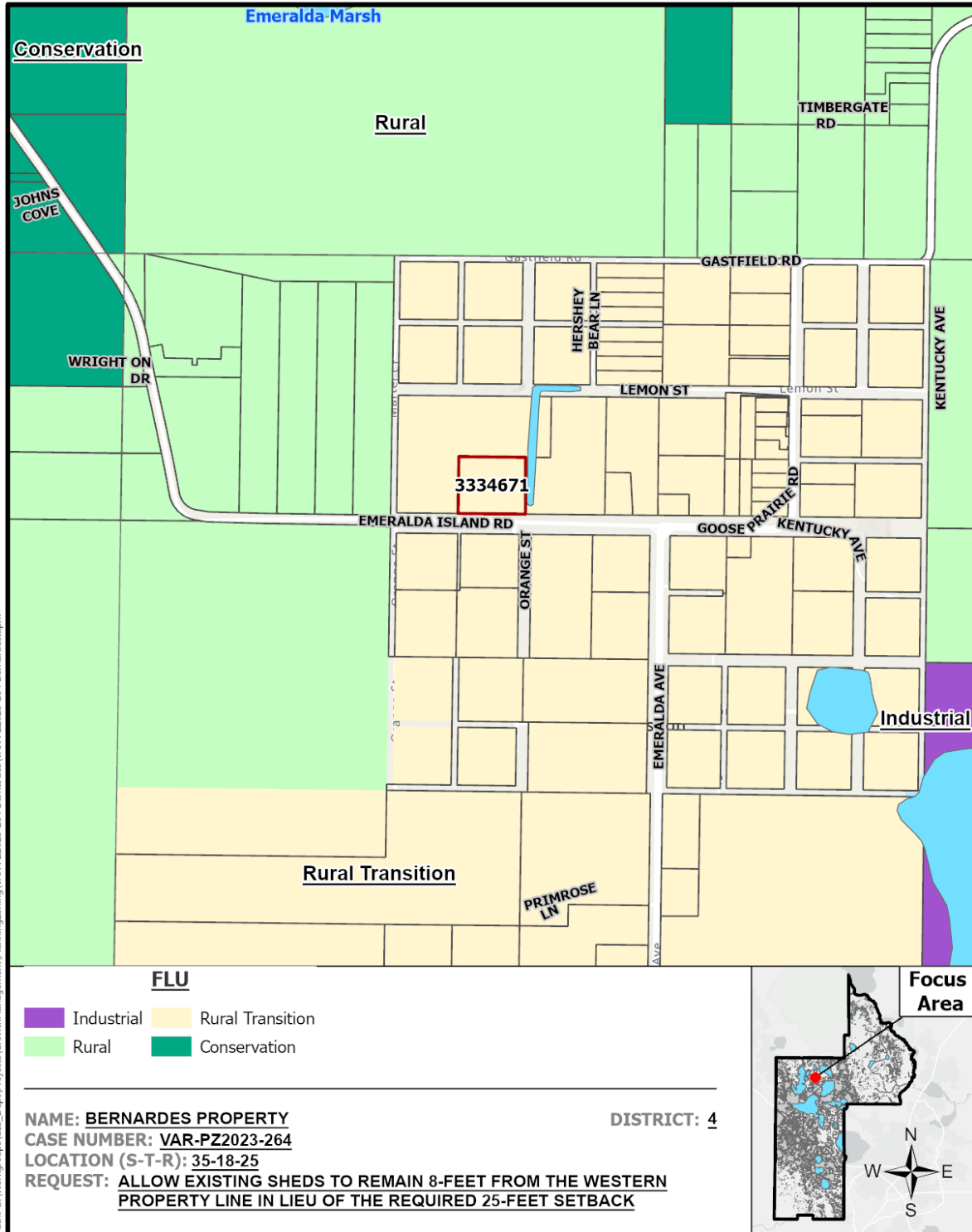
The Applicant provided the following statement as evidence that the intent of the Land Development Regulations will be or has been achieved by other means, *"Overall, while strict adherence to zoning regulations is important, flexibility and creativity in finding alternative means to achieve the underlying goals can lead to more effective and sustainable development outcomes. We are committed to working collaboratively with the Lak County Office of Planning and Zoning to ensure that the proposed development at 36720 Emeraldal Island Road aligns with the broader vision for the community."*

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.

The Applicant provided the following statement, *"The challenge in meeting the precise code requirements stems from the fact that when we acquired this property, the two sheds outlined in the survey were already constructed on the premises. They stand at a distance of 8 feet from the neighbor's boundary line and cannot be relocated due to their concrete foundation. Moreover, we lack the financial means to undertake their removal, especially given that we require these sheds for storage purposes. Storage of clothes, furniture that will not be used in the main house, bicycles and garden utensils."*

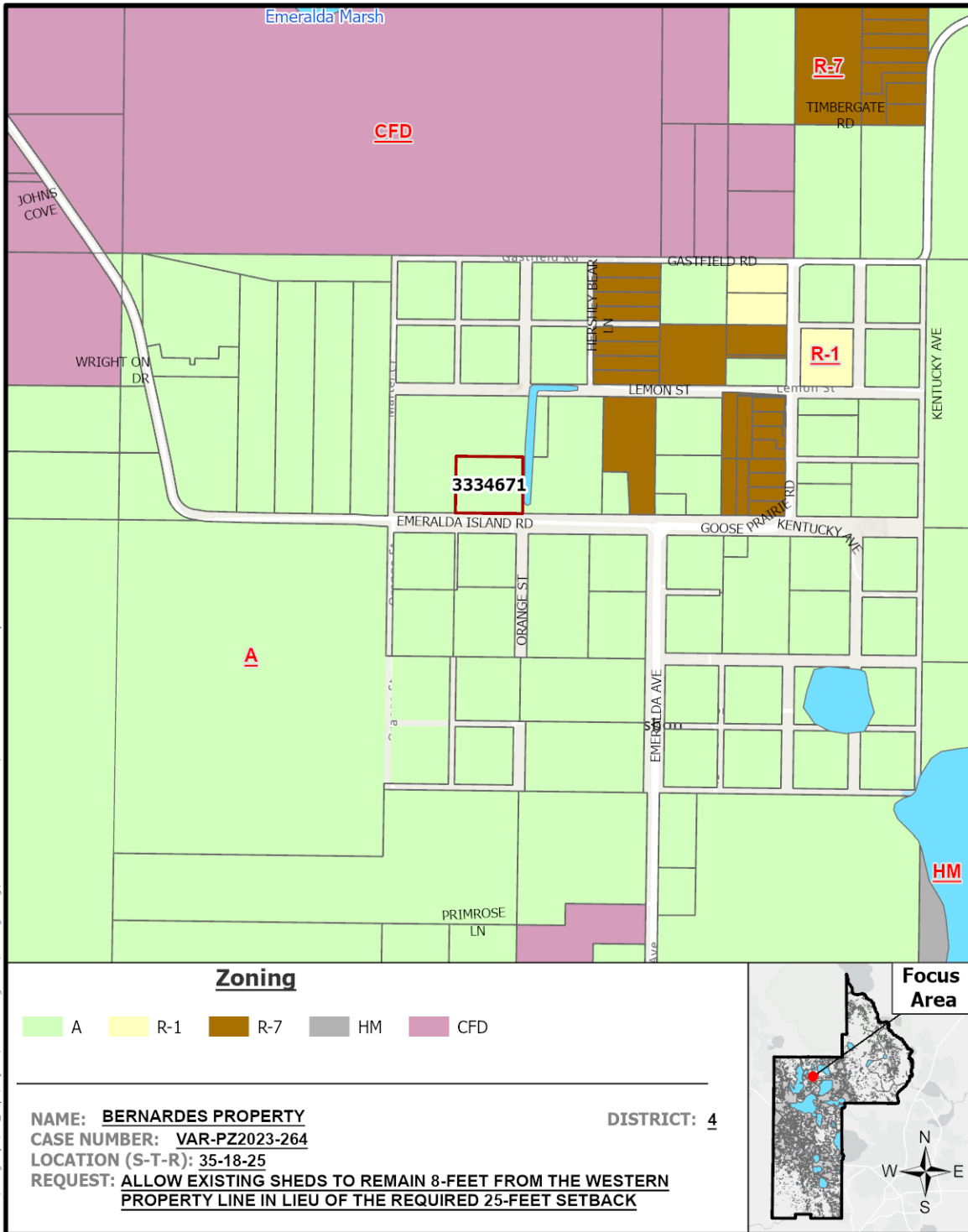
Attachment "A" – Future Land Use Map

CURRENT FUTURE LAND USE



Attachment "B" – Zoning Map

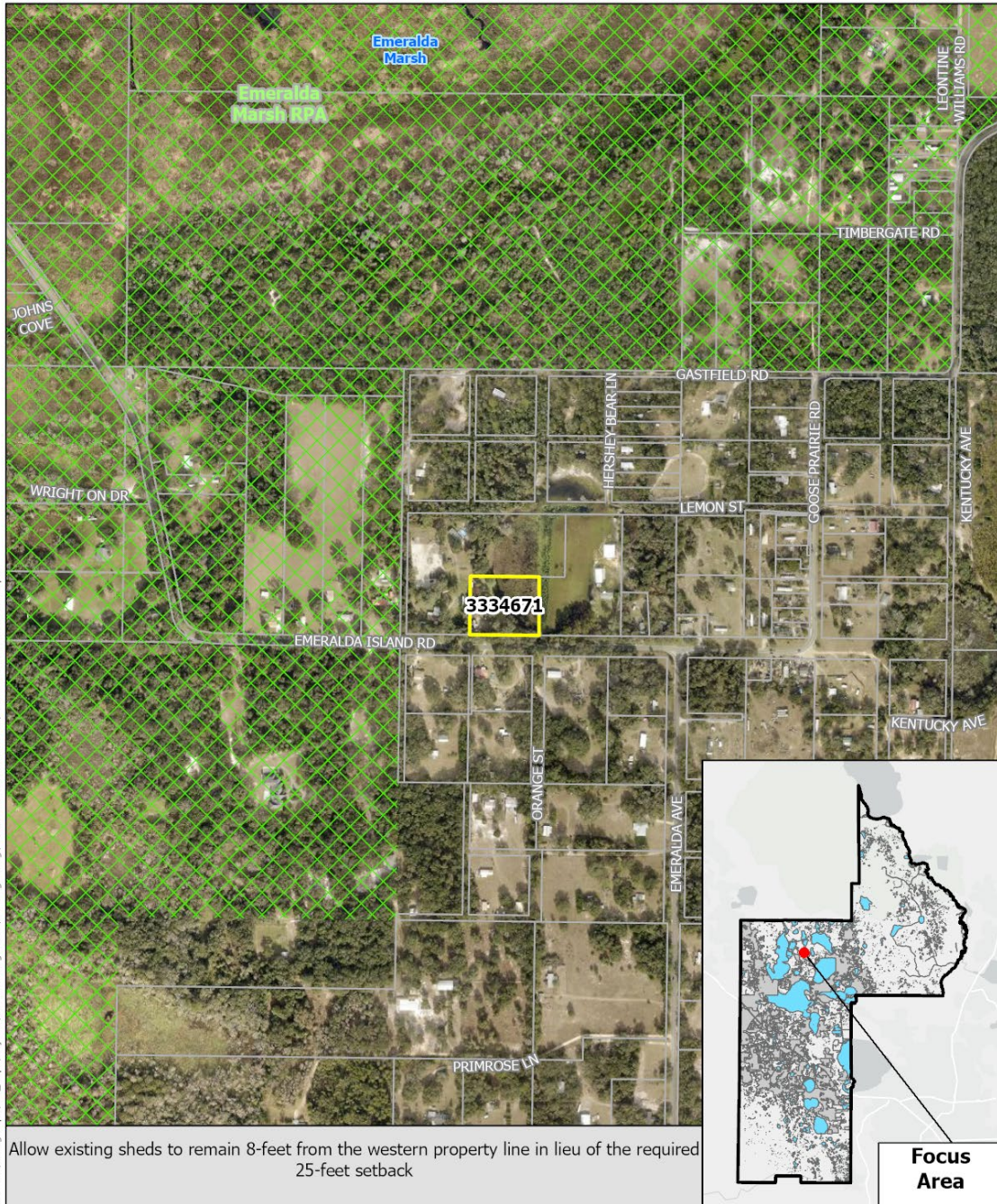
CURRENT ZONING



Attachment "C" – Overlay District Map



VAR-PZ2023-264
Bernardes Property

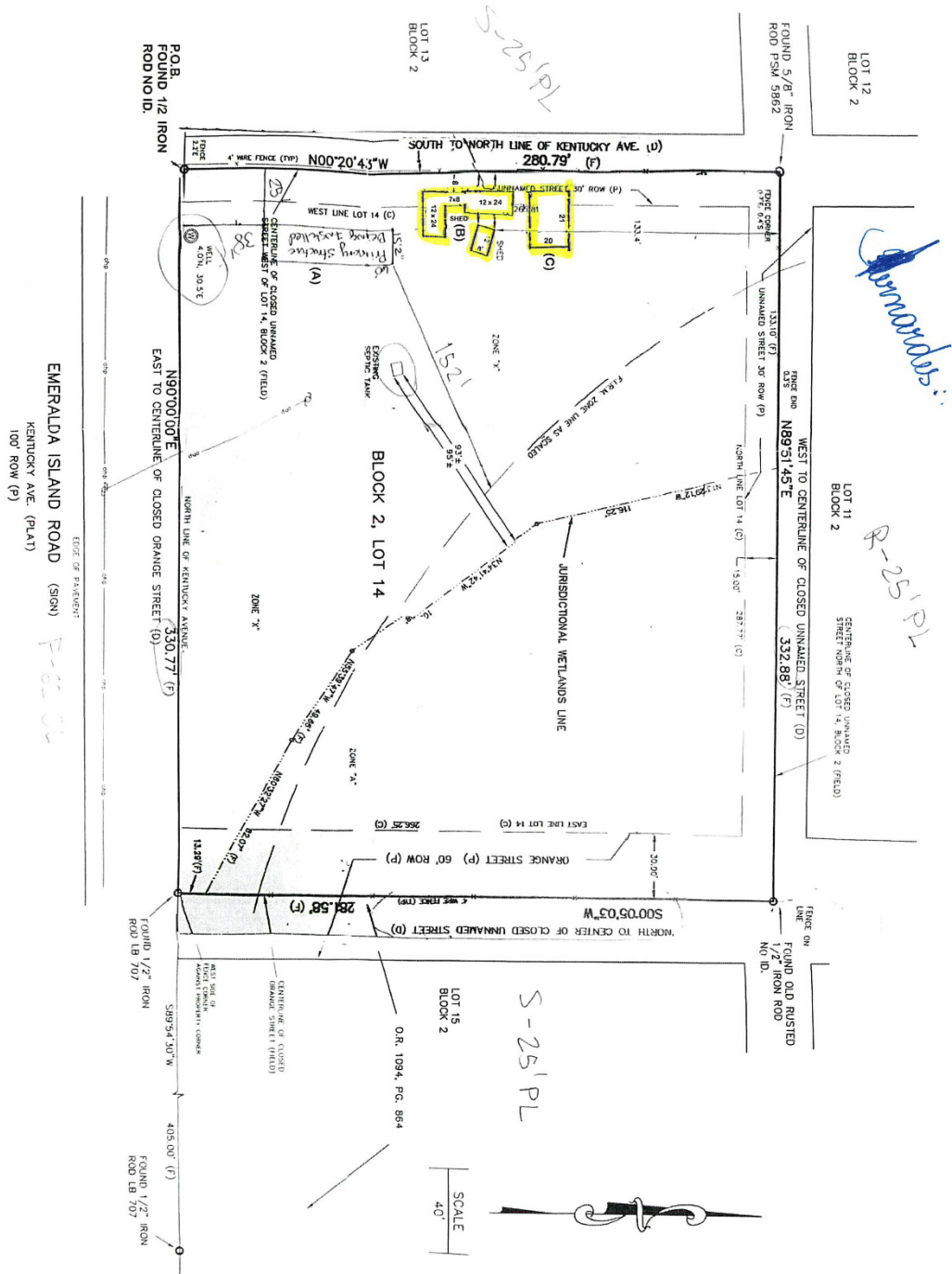


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Allow existing sheds to remain 8-feet from the western property line in lieu of the required 25-foot setback

4/10/2024

Attachment "D" – Plot Plan



Attachment "F" – Notice of Code Violation

TIM HORTON
Licensing Investigator
Office of Building Services
tim.horton@lakecountyfl.gov
P 352-343-9725 F 352-343-9771
C 352-636-4948
Board of County Commissioners
P.O. Box 7800 • 315 W. Main St., Suite 525
Tavares, FL 32776-7800
LakeCountyFLBCC

OFFICE OF BUILDING SERVICES NOTICE OF CODE VIOLATION

**PATRICIA GONCALVES DA SILVA BERNARDES
36720 EMERALDA ISLAND RD
LEESBURG, FL 34748**

LOCATION OF VIOLATION: 36720 EMERALDA ISLAND RD., LEESBURG

IN ACCORDANCE WITH LAKE COUNTY CODE AND/OR LAND DEVELOPMENT REGULATIONS YOU ARE HEREBY NOTIFIED THAT THE ABOVE-DESCRIBED PROPERTY IS IN VIOLATION OF SECTION(S):

**Lake County Code Chapter 6, Section 6-3(a) PERMITS
Building without a permit.**

IN ORDER TO PREVENT ANY FURTHER ACTION, THE FOLLOWING CORRECTIVE MEASURES MUST BE TAKEN:

A building permit will need to be issued, within 10 days, for the sheds, as well as a/c, electrical and plumbing for the sheds. Sheds used for living space will need to be permitted as residential structures. A final inspection will need to be obtained within the required time frame of the building permit.

DAYS TO COMPLY: 10

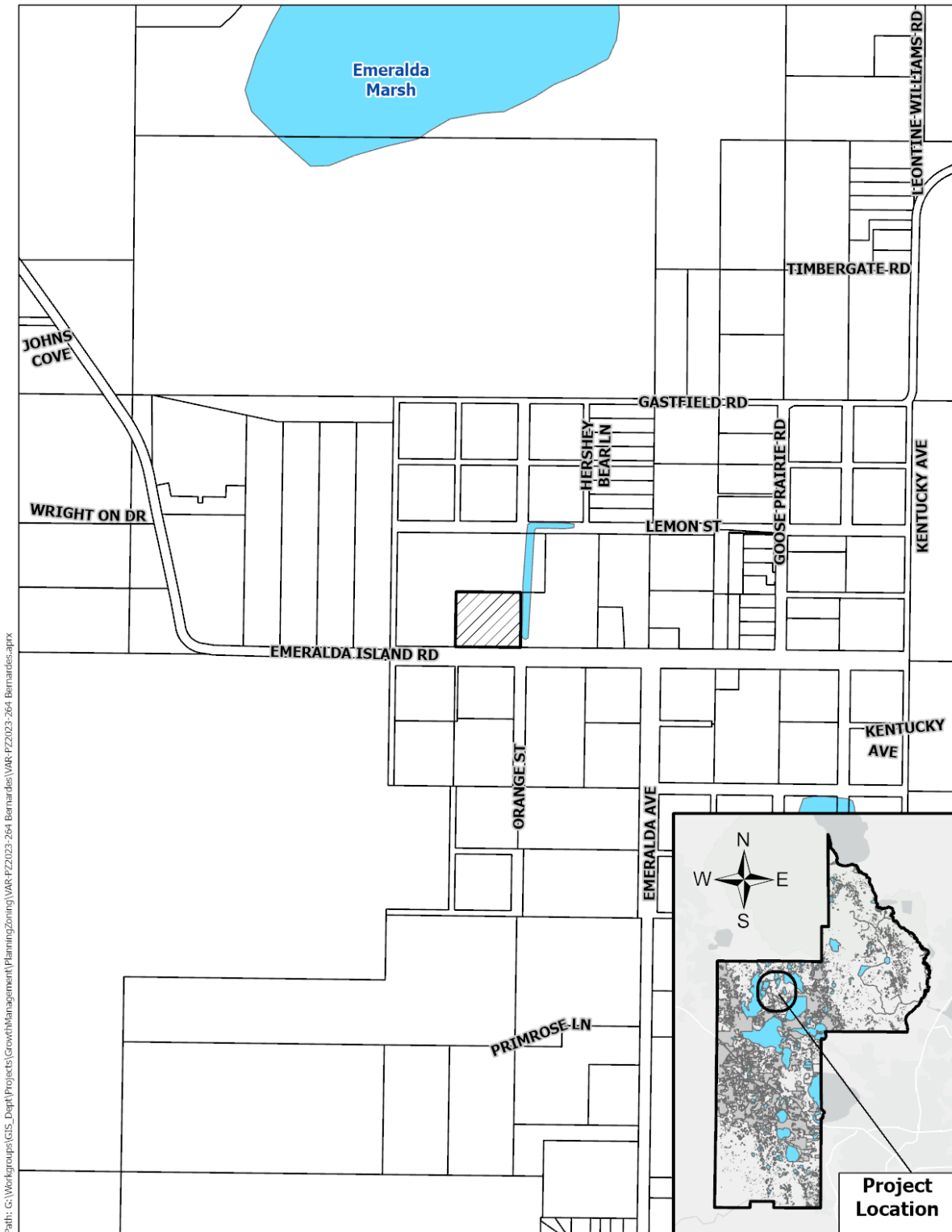
TIM HORTON 
LICENSING INVESTIGATOR

**2023080177
CASE NUMBER**

If you wish to discuss your case, please feel free to contact me at (352)636-4948, or email me at tim.horton@lakecountyfl.gov.

**All Lake County Codes can be viewed online at www.municode.com
If a permit is required, please provide copy of this letter to the building department.**

Map of Subject Property



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4/10/2024

Aerial Map of Subject Property



VAR-PZ2023-264
Bernardes Property



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Allow existing sheds to remain 8-feet from the western property line in lieu of the required 25-foot setback

4/10/2024

Final Development Order

WHEREAS, Patricia Goncalves Da Silva Bernardes (the “Applicant”) on behalf of Patricia Goncalves Da Silva, Bernardes Raphael Alberto Xavier Metne, Isabella Goncalves Silva Bernardes, and Robson Alexandre Silva Bernardes (the “Owners”) requested a variance to Land Development Regulations (LDR) Table 3.02.05 to allow two (2) unpermitted accessory structures (sheds) to be constructed 8-feet from the western property line, in lieu of the required 25-feet; and

WHEREAS, the subject property consists of 2.15 +/- acres, located north of Emeraldal Island Road and east of Emeraldal Avenue, in the unincorporated Leesburg area of Lake County, in Section 35, Township 18, Range 25, having Alternate Key Number 3334671 and more particularly described in Exhibit A, attached hereto and incorporated by reference; and

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 June 5, 2024; 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.

DONE AND ORDERED by the Board of Adjustment of Lake County, Florida, that:

Variance Granted: A variance to Land Development Regulations (LDR) Table 3.02.05 to allow two (2) unpermitted accessory structures (sheds) to be constructed 8-feet from the western property line is hereby granted.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Addie Owens, Chairman

**State of Florida
County of Lake**

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 5th day of June 2024, by Addie Owens, Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

Notary Signature

(SEAL)

Pursuant to Section 286.0105, Florida Statutes, if any person desires to appeal any decision with respect to a matter considered at a public meeting or hearing of the Board of Adjustment, such person will need a record of the proceedings, and such person may need to ensure that a verbatim record for such purpose is made, which record includes the testimony and evidence upon which the appeal is based.

A final administrative order of the Board of Adjustment may be appealed to the Circuit Court in Lake County, Florida. Such an appeal shall be filed within thirty (30) days of the execution of this Order. Those filing an appeal of an administrative order must comply with all applicable Florida Rules of Appellate Procedure.

Exhibit "A" – Legal Description

That part of Lisbon, Lake County, Florida, recorded in Plat Book 4, Page 7, of the Public Records of Lake County, Florida, described as follows:

Begin at the intersection of the centerline of closed unnamed Street lying West of Lot 14, Block 2, with the North line of Kentucky Avenue as shown on the Plat of Lisbon, run thence East along the North line of Kentucky Avenue and the South line of said Lot 14, and extension thereof to the centerline of closed Orange Street, run thence North along centerline of closed Orange Street to the centerline of closed unnamed Street lying North of Lot 14, Block 2, run thence West along the centerline of said same closed unnamed Street which lies North of Lot 14, Block 2 to intersect with the centerline of closed unnamed Street lying West of Lot 14, Block 2, run thence South along the centerline of closed unnamed street which lies West of said Lot 14, Block 2 to the North line of Kentucky Avenue and the Point of Beginning of this description.

Parcel Identification Number: 3518250100-000-01400