



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 4

Public Hearing Date: August 7, 2024

Case No. and Project Name: PZ2024-065 Chorpening Property

Applicants/Owners: Luke Plummer / Mark C. Chorpening and Patricia A. Chorpening

Requested Action: Variance to Land Development Regulations (LDR) Table 3.02.05 to allow a proposed single family dwelling unit (SFDU) to be constructed 53-feet from the centerline of the road, in lieu of the required 62-feet and LDR Section 6.01.04 (A)(1) to allow the proposed SFDU to be constructed 31 feet from the Jurisdictional Wetland Line, in lieu of the required 50-feet.

Case Manager: Eddie Montanez, Planner I

Subject Property Information

Size: 0.54 +/- acres

Location: South of Redtree Drive and southwest of Frog Log Lane, Leesburg

Alternate Key No.: 3372344

Future Land Use: Rural (Attachment "A")

Current Zoning District: Estate Residential District (R-2) (Attachment "B")

Flood Zone: "X" and "AE"

Joint Planning Area (JPA) / ISBA: City of Leesburg ISBA

Overlay Districts: Sunnyside Community Overlay District (Attachment "C")

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Rural	Estate Residential (R-2)	Right-of-Way and Residential	Single-Family Residences north of Redtree Drive
South	Rural	Estate Residential (R-2)	Subdivision Tract A	Cypress Swamp Environmental Easement
East	Rural	Estate Residential (R-2)	Right-of-Way and Residential	Redtree Drive Right-of-Way and Vacated Lot 13 (ORB 1192 PG 895)
West	Rural	Estate Residential (R-2)	Residential	Single-Family Residence

- Summary of Request -

The subject property, identified as Alternate Key Number 3372344, contains 0.54 +/- acres, is zoned Estate Residential District (R-2), and is designated with a Rural Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. Generally, the subject property is located South of Redtree Drive Terrace in the unincorporated Leesburg area of Lake County. GIS maps and the Plot Plan (Attachment "D") indicate that the subject parcel is vacant, 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 a proposed single family dwelling unit (SFDU) to be constructed 53-feet from the centerline of Redtree Drive, in lieu of the required 62-feet and LDR Section 6.01.04 (A)(1) to allow a SFDU to be constructed 31 feet from the Jurisdictional Wetland Line, in lieu of the required 50-feet.

The subject parcel is located within Sunnyside Community Overlay District (Attachment "C"). The intent of Comprehensive Plan Objective I-2.2 is to preserve and reinforce the positive qualities of the rural lifestyle and charm presently enjoyed in the Sunnyside Community to ensure that these qualities are available for future residents. The proposed variance request is consistent with the 2030 Comprehensive Plan Objective I-2.2 and the subsequent Sunnyside Policies.

On May 27, 2024, 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 Public Works Department provided the following informational comment, "An interceptor/environmental swale that is sized to capture the first 1-inch of stormwater runoff from the impervious area of the parcels shall be provided on site. An engineered design that includes a plan and calculations must be submitted with the permit application for the improvement/addition for the site." The Chief Fire Plans Examiner had no comments.

The subject property is located within the Leesburg Interlocal Service Boundary Agreement (ISBA). The variance request was provided to the City of Leesburg for review for a determination of consistency with their regulations. The City of Leesburg had no comments.

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 intent of the Code, LDR Section 6.01.04, is to protect valuable natural resources requiring protection from erosion, sedimentation, water pollution and other negative impacts, which may be associated with land use activities. It is the intent of this section to minimize such negative impacts through protection standards for development of adjacent lands.

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, *“Platted lot has no room once setbacks are taken into count”*.

- 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, *“Setback requirements won’t allow sq. footage requirements of HOA and front setbacks continue down (the) side of setback and continue to rear of property”*. *The HOA restrictions can be found in Attachment "E"*.

Attachment "A" – Future Land Use Map

CURRENT FUTURE LAND USE



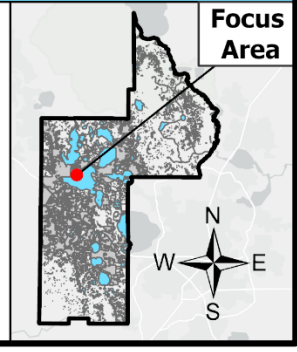
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FLU

■ Rural ■ Conservation

NAME: CHORPENING PROPERTY
CASE NUMBER: VAR-PZ2024-065
LOCATION (S-T-R): 32-19-25
REQUEST: VARIANCE TO JWL SETBACK AND FRONT SETBACK

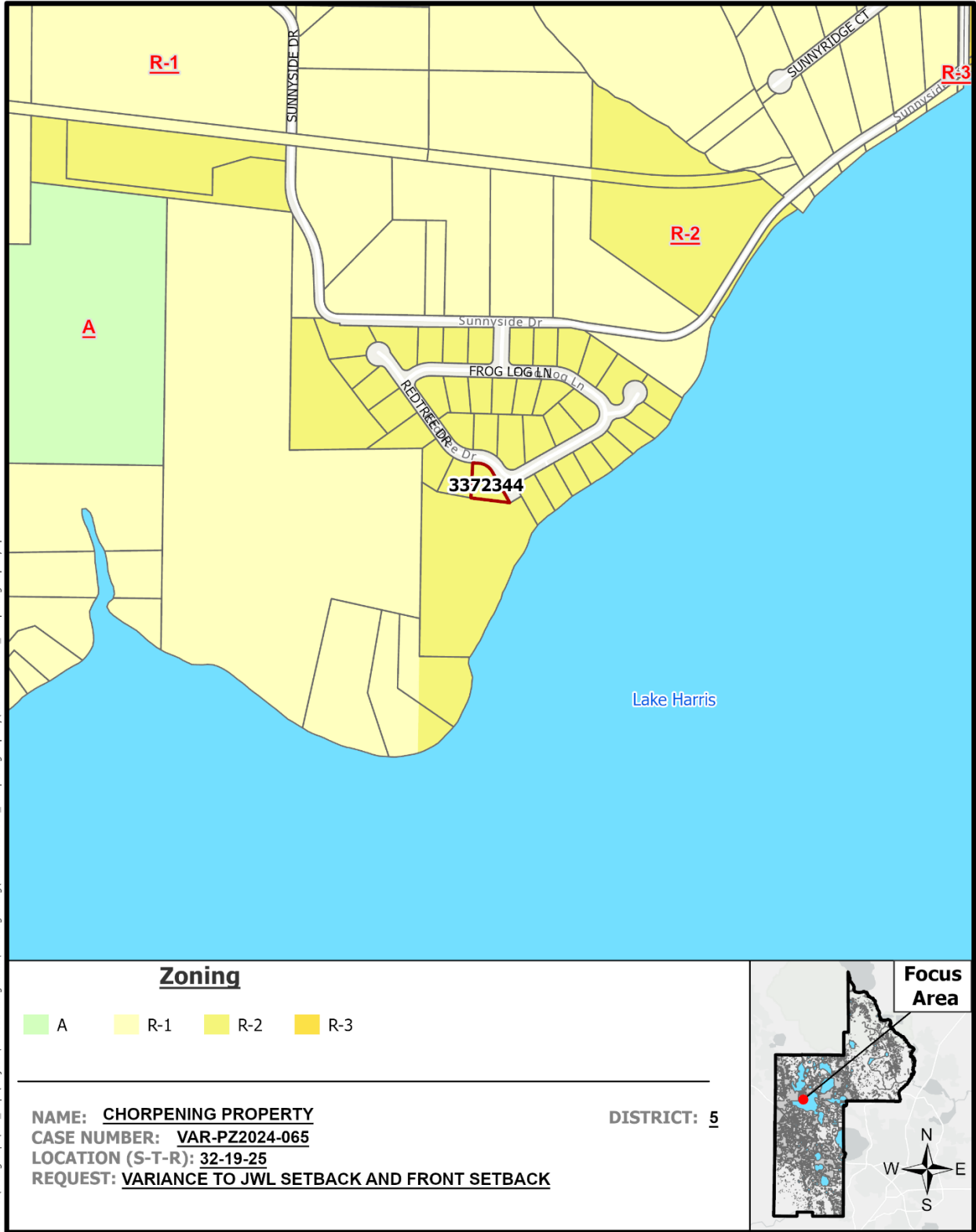
DISTRICT: 5



5/30/2024

Attachment "B" – Zoning Map

CURRENT ZONING



Attachment "C" – Overlay District Map



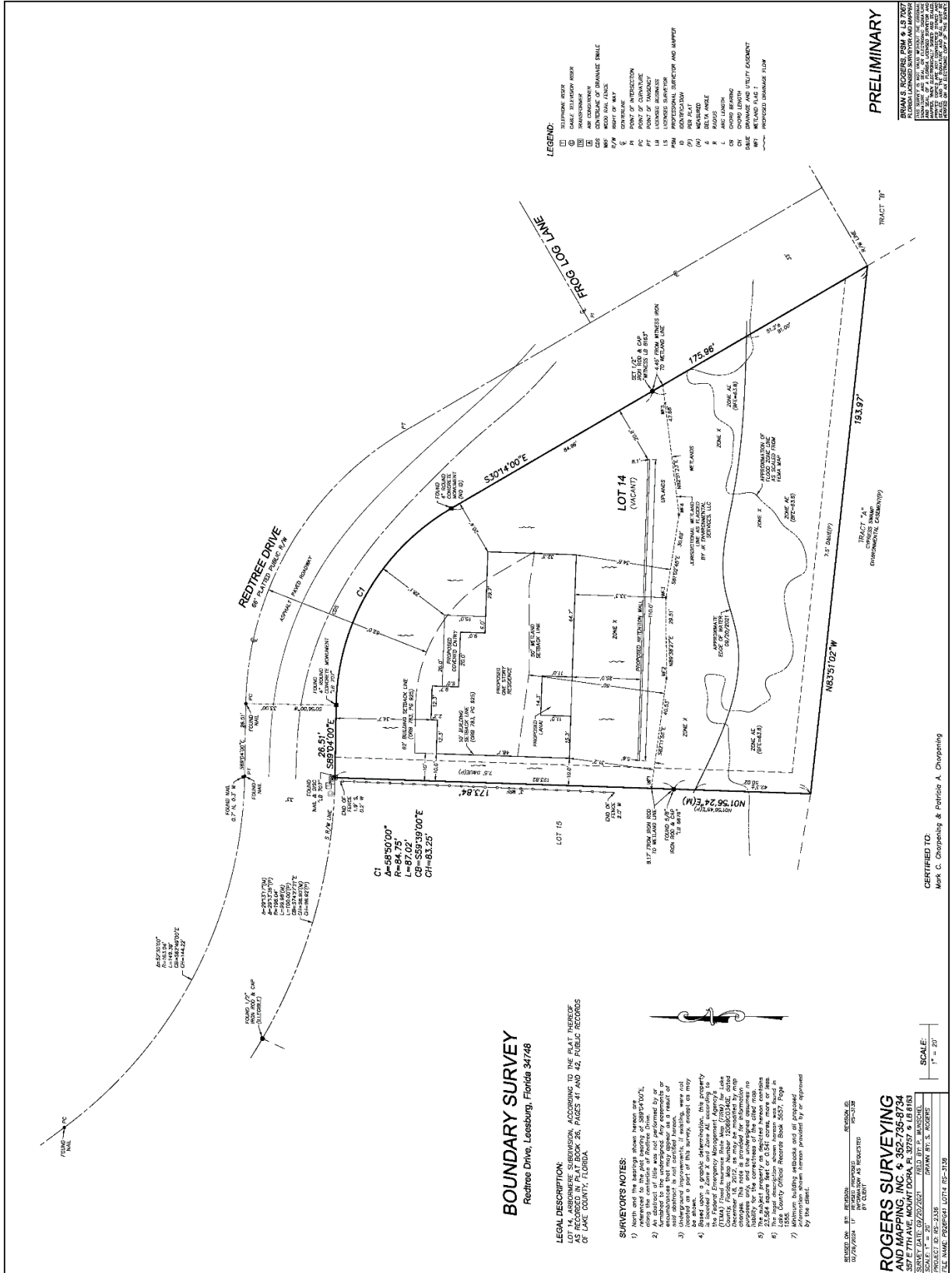
Var-PZ2024-065
Chorpening Property



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5/30/2024

Attachment "D" – Plot Plan



BOUNDARY SURVEY

Rectree Drive, Leesburg, Florida 34748

LEGAL DESCRIPTION:
 ACCORDING TO THE PLAT INCORPORATED
 AS RECORDED IN PLAT BOOK 26, PAGES 41 AND 42, PUBLIC RECORDS
 OF LAKE COUNTY, FLORIDA.

SURVEYOR'S NOTES:

- 1) This survey was conducted in accordance with the provisions of the Florida Statutes, Chapter 461, and the rules of the Board of Professional Surveyors and Mappers of the State of Florida.
- 2) The corner of the property shown herein was found to be the corner of the property shown on the plat incorporated by reference to the public records of Lake County, Florida.
- 3) The monument shown herein is not a part of this survey, except as may be noted on a part of this survey, except as may be noted on a part of this survey.
- 4) Based upon a graphic determination, the property shown herein is the property of the State of Florida, as shown on the plat incorporated by reference to the public records of Lake County, Florida, and is not a part of this survey.
- 5) The plat incorporated by reference to the public records of Lake County, Florida, shows the property shown herein to be a part of the property shown on the plat incorporated by reference to the public records of Lake County, Florida.
- 6) The plat incorporated by reference to the public records of Lake County, Florida, shows the property shown herein to be a part of the property shown on the plat incorporated by reference to the public records of Lake County, Florida.
- 7) The plat incorporated by reference to the public records of Lake County, Florida, shows the property shown herein to be a part of the property shown on the plat incorporated by reference to the public records of Lake County, Florida.

ROGERS SURVEYING
 AND MAPPING, INC. & LS 7007
 3575 THANE MOUNTAIN, N. 32757 & LB 6153
 SCALE: 1" = 20'
 DATE: 05-23-24
 DRAWN BY: S. ROGERS
 CHECKED BY: S. ROGERS
 ALL INFORMATION SHOWN HEREON IS UNLESS OTHERWISE INDICATED BY OTHER NOTATION.

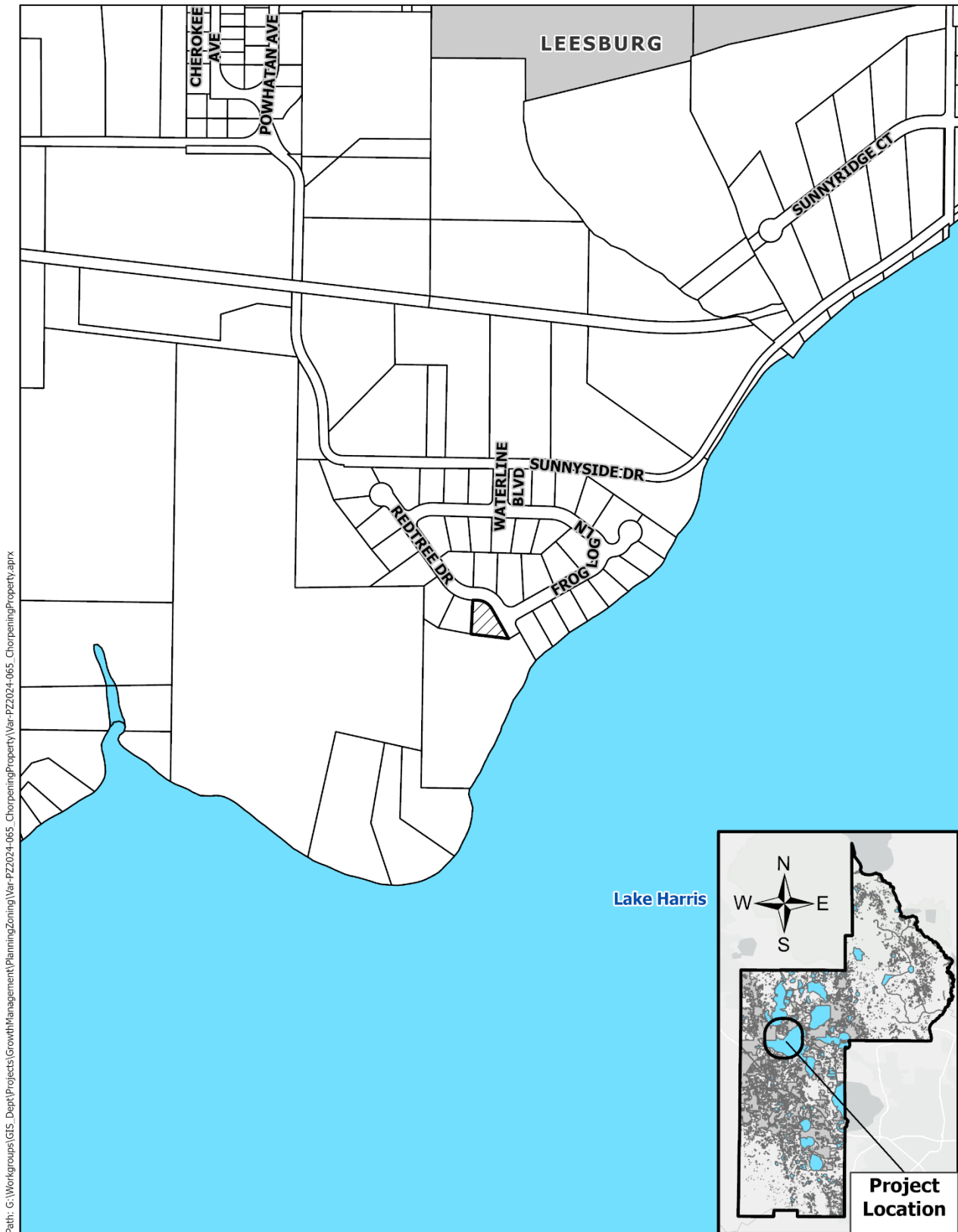
CERTIFIED TO:
 Mark C. Chorpene & Patricia A. Chorpene

SCALE:
 1" = 20'

PRELIMINARY

ROGERS SURVEYING
 AND MAPPING, INC. & LS 7007
 3575 THANE MOUNTAIN, N. 32757 & LB 6153
 SCALE: 1" = 20'
 DATE: 05-23-24
 DRAWN BY: S. ROGERS
 CHECKED BY: S. ROGERS
 ALL INFORMATION SHOWN HEREON IS UNLESS OTHERWISE INDICATED BY OTHER NOTATION.

Map of Subject Property



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5/30/2024

Attachment "E" – HOA Restrictions (ORB 796 PG1837)

84 377

C.R. BOOK 796 PAGE 1837

Rec 21.00

DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, SUN BANK, NATIONAL ASSOCIATION, as Trustee, being the owner of Arbormere Subdivision located in Lake County, Florida, and more particularly described as follows:

SEE ATTACHED EXHIBIT A

makes the following Declaration of Restrictions covering the above-described real property, specifying that this declaration shall constitute a covenant running with the land and that this declaration shall be binding upon the undersigned and upon all persons deraining title through the undersigned. These restrictions, during their lifetime, shall be for the benefit of and limitation upon all present and future owners of the real property.

1. No lot shall be used except for residential purposes.

No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height and a private garage for not more than three cars. No log-cabin type structure shall be permitted to be built on any lot in this subdivision.

JAN 5 1 34 PM '04

2. No dwelling shall be permitted on any lakefront lot at a cost of less than \$75,000.00, exclusive of lot cost, nor on any non-lakefront lot at a cost of less than \$50,000.00, exclusive of lot cost, based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 2,100 square feet for both lakefront and non-lakefront residences, of which 300 square feet of screened room, carport or storage area may be included.

Attachment "E" – Continued

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BOOK 796 PAGE 1838

3. Property adjacent to State, Federal and County Secondary highways shall maintain a fifty (50) foot setback on the highway right-of-way for any structure. Property adjacent to roads other than State, Federal and County Secondary highways shall maintain, for any structure, a setback of sixty-two (62) feet from the centerline of the roadways, or twenty-five (25) feet from the road right-of-way, whichever is greater. No dwelling shall be erected nearer than ten (10) feet to any interior lot line.

4. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

5. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done on it that may be or may become an annoyance or nuisance to the neighborhood.

6. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that a reasonable number of dogs, cats, or other normal household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

7. No boats or vehicles other than passenger automobiles may be stored in open view from a street vantage point. No commercial vehicles may be parked overnight except for moving vans or vehicles which are performing maintenance work on residences or common grounds of the subdivision Arbormere.

8. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent or signs used by a builder to advertise the property during the construction and sales period.

9. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Attachment "E" – Continued

U.S. BOOK 796 PAGE 1839

10. No fence or wall which exceeds eight (8) feet in height shall be constructed within seventy-five (75) feet of the roadfront of said property, but no other fence or wall restrictions shall be applicable to said property.

11. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain that may damage or interfere with the installation and maintenance of utilities, change of flow of drainage channels in the easements or obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

Each lot of said Subdivision has a storm water management system of swales for percolation of storm water runoff. Said storm water swales shall be maintained continuously by the owner of the lot. Should the lot owner fail to so maintain the swales, any lot owner or the St. Johns River Water Management District may perform said maintenance and charge the cost of said maintenance against the lot owner.

12. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time they shall be extended automatically for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of the lots has been recorded agreeing to change the covenants in whole or in part.

Enforcement shall be by action against any person or persons violating or attempting to violate any covenants, either to restrain violation or to recover damages. The party bringing the action shall be entitled to recover, in addition to costs and disbursements allowed by law, such sums including appellate fees, as the Court may adjudge to be reasonable for the services of his attorney.

Attachment "E" - Continued

D.R. 796 PAGE 1840
E.O.R.

Invalidation of any one of these covenants by judgment or Court order in no wise shall affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, we have set our hands and seals this 26th day of December, 1983.

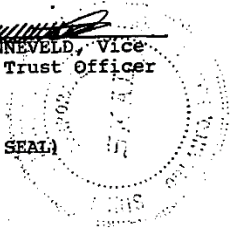
SUN BANK, N.A. as Trustee

BY William J. Binneveld
WILLIAM J. BINNEVELD, Vice
President and Trust Officer

Witnesses:

Norothy B. Kaiser
Richard M. ...

(CORPORATE SEAL)

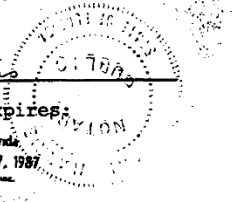


STATE OF FLORIDA
COUNTY OF LAKE

I HEREBY CERTIFY that on this 26th day of December, 1983, before me personally appeared WILLIAM J. BINNEVELD, as Vice President and Trust Officer of SUN BANK, NATIONAL ASSOCIATION, as Trustee, a national banking association, known to me to be the individual and officer described in and who executed the foregoing instrument, and acknowledged its execution to be his free act and deed as such duly authorized officer, and that the official seal of the national banking association is duly affixed and the instrument is the act and deed of the national banking association.

WITNESS my signature and official seal at Leesburg, in the County of Lake, State of Florida, the day and year last aforesaid.

Jail Harris
Notary Public
My Commission Expires:
Notary Public, State of Florida
My Commission Expires May 17, 1987
Bonded 1984 1985 1986 - ...



ROY UHLMANN AND RUTH UHLMANN, his wife, hereby join in and agree to be bound by these Declaration of Restrictions.

WITNESSES:

Roy H. Uhlmann
ROY UHLMANN
Ruth Uhlmann
RUTH UHLMANN

STATE OF FLORIDA
COUNTY OF LAKE

Sworn to and subscribed before me by Roy Uhlmann and Ruth Uhlmann, his wife, this 4th day of January, 1983.

Deborah L. Margus
Notary Public
My Commission Expires:
My Commission Expires February 9, 1985

THIS INSTRUMENT PREPARED BY: Jerry T. Lockett
P. O. Drawer 1930
Leesburg, FL 32749-1930

Attachment "E" - Continued

U.S. 796 PAGE 1841
HOCK

EXHIBIT A

Begin 2995 feet S. of the N. $\frac{1}{4}$ corner of Section 32, Twp. 19 S., Range 25 E., Lake County, Florida; run thence N. $89^{\circ}30'$ E. 727.61 feet; run thence S. $56^{\circ}11'53''$ E. 672.00 feet, more or less, to the waters of Lake Harris, thence Southwesterly and Southerly along the waters of said Lake Harris to a point on the W. line of Governmental Lot 5, said Section 32, being also the E. line of Mary K. and T.S. Johnson's Subdivision, as recorded in Plat Book 1, page 7, of the Public Records of Lake County, Florida; run thence N. $0^{\circ}02'27''$ E. along said W. line of Government Lot 5, a distance of 1510 feet, more or less, to a point on the S. line of Lot 22, said Mary K. and T.S. Johnson's Subdivision; run thence S. $88^{\circ}26'20''$ W. along said S. line of Lot 22, a distance of 660 feet to a point on the W. line of said Lot 22; run thence N. $0^{\circ}02'27''$ E. along said W. line of Lot 22, a distance of 656.81 feet to a point on a line bearing N. $89^{\circ}40'03''$ W. from the Point of Beginning; run thence S. $89^{\circ}40'03''$ E. 659.75 feet to the Point of Beginning.

Aerial Map of Subject Property

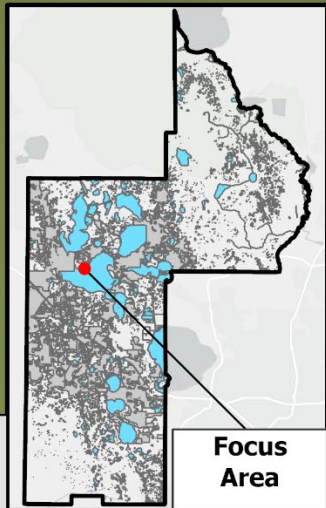


Var-PZ2024-065
Chorpeneing Property



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Variance to JWL setback and front setback



5/30/2024

Final Development Order

WHEREAS, Mark C. Chorpening and Patricia A Chorpening, (the “Owners”) requested a variance to Land Development Regulations (LDR) Table 3.02.05 to allow a proposed single-family dwelling unit (SFDU) to be constructed 53-feet from the centerline of the road, in lieu of the required 62-feet and LDR Section 6.01.04 (A)(1) to allow a SFDU to be constructed 31 feet from the Jurisdictional Wetland Line, in lieu of the required 50-feet; and

WHEREAS, the subject property is vacant and consists of 0.54 +/- acres, located South of Redtree Drive and southwest of Frog Log Lane, in the unincorporated Leesburg area of Lake County, in Section 32, Township 19 South, Range 25 East, having Alternate Key Number 3372344, and more particularly described as:

Lot 14, Arbormere Subdivision, according to the Plat thereof as Recorded in Plat Book 26, Pages 41 and 42 Public Records of Lake County, Florida

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 August 7, 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 LDR Table 3.02.05 to allow a proposed single family dwelling unit (SFDU) to be constructed 53-feet from the centerline of road, in lieu of the required 62-feet and LDR Section 6.01.04 (A)(1) to allow a proposed SFDU to be constructed 31 feet from the Jurisdictional Wetland Line, in lieu of the required 50-feet.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Bea L. Meeks, Chairman

State of Florida

County of Lake

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 7th day of August 2024, by Bea L. Meeks, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

(SEAL)

Notary Signature

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.