



**LAND USE HEARING OFFICER VARIANCE REPORT**

<b>APPLICATION NUMBER:</b> VAR 21-1032	
<b>LUHO HEARING DATE:</b> 08-23-2021	<b>CASE REVIEWER:</b> Ryan L. Joyce

**REQUEST:** The applicant is requesting a variance from the 30-foot Wetland Conservation Area setback requirement, Section 4.01.07B of the Land Development Code (LDC). The applicant’s specific request, as shown on the site plan submitted on July 01, 2021 is to allow for lot development within the 30-foot Wetland Conservation Area setback.

**SUMMARY OF VARIANCE(S):**

**Wetland Setback**

- 1) Per LDC Sec. 4.01.07.B.4, no filling, excavating or placement of permanent structures or other impervious surfaces shall be allowed within a required 30-foot wetland conservation area setback. The applicant requests construction of new home lots within the 30-foot wetland conservation area setback. The applicant requests an approximate 10-foot reduction of the setback to allow for an average setback of 20 feet.

**Findings**

1. Proposed encroachment is approximately 33,940 sq. ft.
2. A compensation planting plan has been submitted. The plantings are proposed to total 40,058 sq. ft. The compensation planting plan will be finalized at the subdivision construction plan review.
3. Previous variance request for a 10’ wetland setback (21-0471) was denied.

**DISCLAIMER:**

The variance listed above is based on the information provided in the application by the applicant. Additional variances may be needed after the site has applied for development permits. The granting of these variances does not obviate the applicant or property owner from attaining all additional required approvals including but not limited to: subdivision or site development approvals and building permit approvals.

Approval of this variance petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission of Hillsborough County (EPC) approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impact to wetlands, and does not grant any implied or vested environmental approvals.

The Development Services Natural Resources Section has no objections with the result contingent upon the Land Use Hearing Officer’s acceptance and referral to the submitted site plan.

21-1032  
Staff Report  
Page Two:

**Attachments: Site Plan**

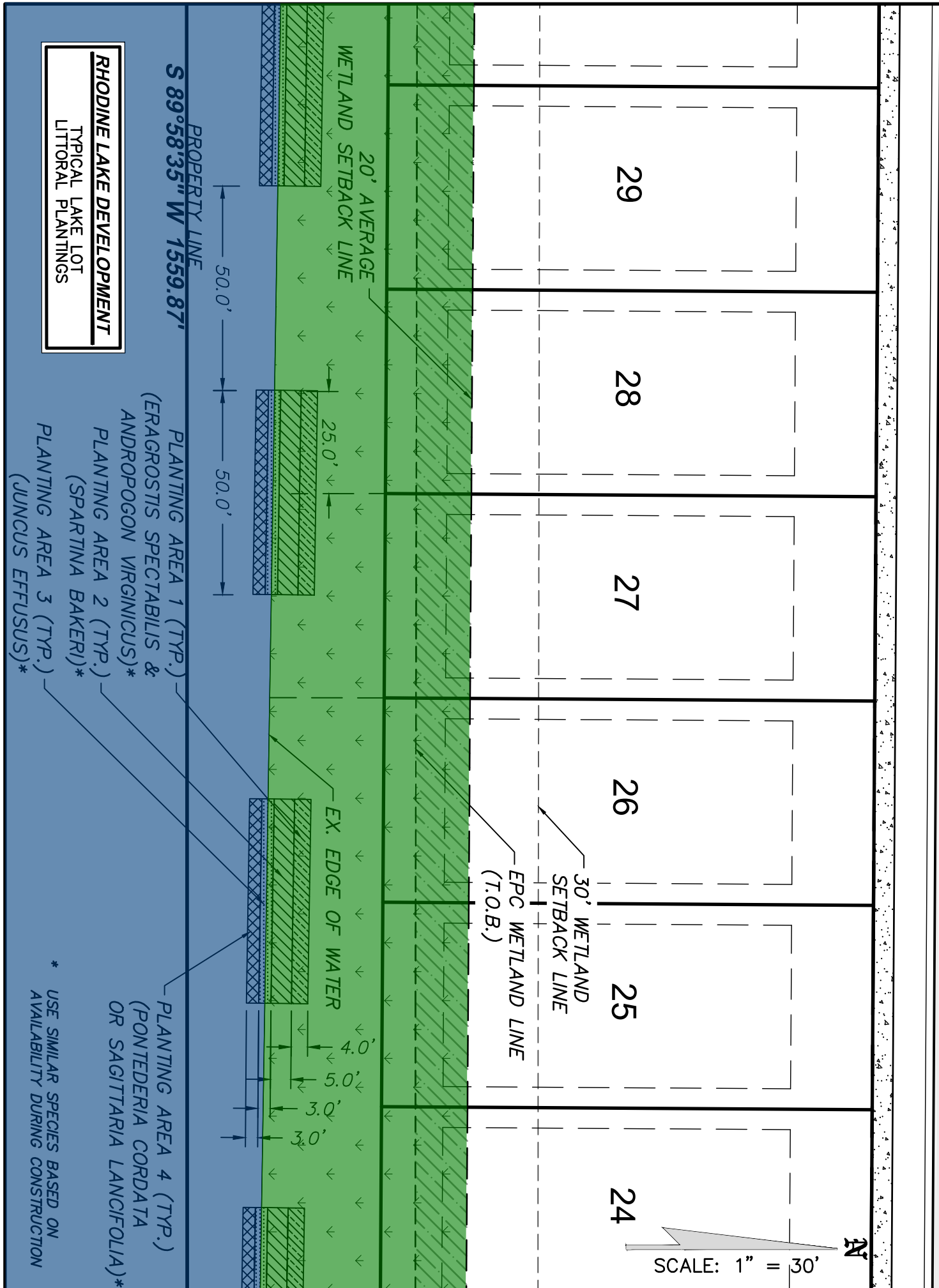
**ADMINISTRATOR'S SIGN-OFF**

A handwritten signature in cursive script, appearing to read "Chris Slater", is written in the sign-off box.





**ROAD B (PRIVATE)**







**To:** Hillsborough County Development Services Department  
601 E. Kennedy Blvd.  
Tampa, FL 33602

**From:** T. Truett Gardner  
Alex Schaler, P.E.

**Date:** June 29, 2021

**Re:** 11306 Rhodine Road, Riverview, FL  
Narrative and Variation Criteria Responses

**NARRATIVE**

On behalf of the property owner and the applicant, Rhodine Lake, LLC, Gardner Brewer Martinez-Monfort (GBMM) presents the following request for a variance to Section 4.01.07B of the Hillsborough County Land Development Code for a reduced wetland setback from 30 feet to an average of approximately 20 feet at the property location referenced above. The applicant originally applied for a variance of a similar nature earlier this year in March (VAR 21-0471). However, after receiving a recommendation of denial, the team has significantly adjusted the proposal and scope of work, and has modified the original request in a diligent attempt to gain approval.

The original request included a reduction in setback from 30 feet to 10 feet, thus requesting a reduction in setback of 20 feet. The revised proposal, described herein, has requested a reduction of only (+/-) 10 feet on average. In addition to the reduced setback relief, the applicant has proposed a vast number of compensation planting areas along the edge of the water line. These littoral planting areas contain three layers of landscaping: *Spartina Bakeri*, *Juncus Effusus*, and *Pontederia Cordata* or *Sagittaria Lancifolia*. In addition to the mitigation measures listed, it is crucial to highlight that, if this were a natural wetland, the wetland line would be delineated at or near the water's edge. Because this is a man-made borrow pit, the wetland line is defined by the top of bank per State requirement. However, in reality, the slope from the water's edge to the top of bank serves as additional buffer (approximately 30 feet) to the proposed lots.

It is also important to note that, while the proposal was modified in order to reduce the impact of the request, research was conducted regarding neighboring sites that faced the same hardship and requested relief (see attached **Exhibit A**). Based on this due diligence, it appears that many developments surrounding the subject site were approved for a wetland setback variance, all obtaining approval for a 20-foot setback reduction. In requesting only an average 10-foot reduction, the applicant views this revised proposal as both progressive and accommodating, and respectfully asks for the highest consideration of the improvement efforts made.

The below responses have been provided to the variance criteria in order to both further explain as well as to legally justify the various components associated with this site that support and buttress the subject request.

Hillsborough County Variance Criteria	Response
1. <i>Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other property similarly located?</i>	The subject parcel is unique in nature from a geographic standpoint as it is considered a peninsula. The property can be seen from an aerial view as an elaborated extrusion into the middle of the surrounding borrow pit. Similarly located property, such as those located just south of Rhodine Road, have lake frontage as well, but are mostly landlocked on a minimum of (2) sides. Given

**VARIANCE CRITERIA RESPONSE** (See attached)

*You must provide a response to each of the following questions. If additional space is needed, please attach extra pages to this application.*

- 1. Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other property similarly located?

See Narrative

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- 2. Describe how the literal requirements of the Land Development Code (LDC) would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC.

See Narrative

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- 3. Explain how the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.

See Narrative

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- 4. Explain how the variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan (refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose).

See Narrative

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- 5. Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.

See Narrative

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- 6. Explain how allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance.

See Narrative

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The original request included a reduction in setback from 30 feet to 10 feet, thus requesting a reduction in setback of 20 feet. The revised proposal, described herein, has requested a reduction of only (+/-) 10 feet on average. In addition to the reduced setback relief, the applicant has proposed a vast number of compensation planting areas along the edge of the water line. These littoral planting areas contain three layers of landscaping: *Spartina Bakeri*, *Juncus Effusus*, and *Pontederia Cordata* or *Sagittaria Lancifolia*. In addition to the mitigation measures listed, it is crucial to highlight that, if this were a natural wetland, the wetland line would be delineated at or near the water's edge. Because this is a man-made borrow pit, the wetland line is defined by the top of bank per State requirement. However, in reality, the slope from the water's edge to the top of bank serves as additional buffer (approximately 30 feet) to the proposed lots.

It is also important to note that, while the proposal was modified in order to reduce the impact of the request, research was conducted regarding neighboring sites that faced the same hardship and requested relief (see attached **Exhibit A**). Based on this due diligence, it appears that many developments surrounding the subject site were approved for a wetland setback variance, all obtaining approval for a 20-foot setback reduction. In requesting only an average 10-foot reduction, the applicant views this revised proposal as both progressive and accommodating, and respectfully asks for the highest consideration of the improvement efforts made.

The below responses have been provided to the variance criteria in order to both further explain as well as to legally justify the various components associated with this site that support and buttress the subject request.

Hillsborough County Variance Criteria	Response
1. <i>Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other property similarly located?</i>	The subject parcel is unique in nature from a geographic standpoint as it is considered a peninsula. The property can be seen from an aerial view as an elaborated extrusion into the middle of the surrounding borrow pit. Similarly located property, such as those located just south of Rhodine Road, have lake frontage as well, but are mostly landlocked on a minimum of (2) sides. Given

	<p>the subject property includes only one land frontage, the majority of homes proposed will be built along the waterfront, thus prompting the need for a minor reduction in setback in order to fulfill the development intent that is mirrored on surrounding parcels of land.</p>
<p><i>2. Describe how the literal requirements of the Land Development Code (LDC) would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC</i></p>	<p>As mentioned, many of the surrounding properties have less lakefront exposure in relation to the subject property. Although typically viewed as a benefit, the increased frontage along the lake deprives the applicant of the ability to shift the proposed lots further from the water's edge. Recognizing that many of the other parcels that line the borrow pits in this vicinity have the ability to pull the site's overall grid in tighter, with a similar amount of land and same nature of development, the subject property, being bordered by water on three sides, is not afforded the ability to do the same.</p>
<p><i>3. Explain how the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.</i></p>	<p>Given that the subject property is rather isolated in terms of neighboring land, the variance, if allowed, will not interfere with the rights of others whose property would be affected, as the request affects no other neighboring properties. In fact, the request does quite the contrary in that it seeks to move lots closer to the waterfront, and thus further from the surrounding parcels. The proximity of the lots to the water's edge has no impact on other lands in the vicinity.</p>
<p><i>4. Explain how the variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan (refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose).</i></p>	<p>The general intent and purpose of the LDC is to foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of land within the County. The requested reduction in wetland setback does not prevent the fostering and preservation of these elements. Similarly, the goal of the Comprehensive Plan is to ensure that the character and location of land uses optimizes the combined potentials for economic benefit and the enjoyment and the protection of natural resources while minimizing the threat to health, safety and welfare posed by hazards, nuisances, incompatible land uses, and environmental degradation. The requested reduction in setback optimizes the potential for economic benefit while also protecting natural resources with the implementation of robust littoral planting areas that serve as a buffer between the borrow pit and the proposed development.</p>
<p><i>5. Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.</i></p>	<p>The wetland conservation area is located within a man-made borrow pit that was designed, permitted, and constructed before the current property owner and applicant secured the land. Thus, the situation sought to be relieved by the variance is a result of the prior property owner, not the current owner and applicant.</p>
<p><i>6. Explain how allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and</i></p>	<p>The allowance of the variance will result in substantial justice being done by upholding a precedent that has been set for the vicinity in which the property is located. As mentioned previously, there are a large number of variances that have been granted in request of a setback</p>

*the individual hardships that will be suffered by a failure to grant a variance.*

reduction from a borrow pit. The application of a similar review on the subject property would aid in consistency.

**This instrument prepared by and  
should be returned to:**

Charles J. Abrams, Esquire  
GREENBERG TRAUERIG, P.A.  
777 S. Flagler Dr., Suite 300E  
West Palm Beach, Florida 33401

Folio Nos.:

**SPECIAL WARRANTY DEED**

This **SPECIAL WARRANTY DEED** is made on November 6, 2018  
between **LENNAR HOMES, LLC**, a Florida limited liability company ("**Grantor**"), whose  
address is 600 West Cypress Street, Suite 200, Tampa, Florida 33607, in favor of **RHODINE  
LAKE LLC**, a Florida limited liability company ("**Grantee**"), whose address is 4143 Moores  
Lake Road, Dove, Florida 33527.

**WITNESSETH THAT:**

Grantor, for and in consideration of the sum of Ten U.S. Dollars (\$10.00), and other good  
and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, does  
hereby grant, bargain and sell to Grantee and its successors and assigns forever, the parcels of  
land in Hillsborough County, Florida described on Exhibit "A" attached (the "**Property**").

TOGETHER with (i) all and singular, the benefits, rights, privileges, easements,  
tenements, hereditaments, and other appurtenances pertaining to the Property, if any, and (ii) all  
improvements of whatever kind, character, or description to or on the Property, if any.

TO HAVE AND TO HOLD the same in fee simple forever.

AND, Grantor hereby specially covenants with the Grantee that the Grantor is lawfully  
seized of the Property in fee simple and hereby specially warrants the title to the Property and  
will defend the same against the lawful claims of all persons claiming by, through or under  
Grantor, but against none other; and the Property is free and clear of all encumbrances, except  
the Property is being conveyed to Grantee subject to all zoning and governmental regulations, all  
matters which a physical inspection of the Property would disclose and all restrictions,  
reservations and easements of record, provided that this reference shall not serve to reimpose  
same, and taxes and assessments for 2018 and subsequent years, which are not yet due and  
payable.

This Special Warranty Deed is made in accordance with the Certified Parcel Approval  
letter for Folio #7729.0000, Project ID# 4429, a copy of which is attached as Exhibit "B".

[Signature page follows]



**EXHIBIT "A"****Legal Description of the Property****PARCEL 1:**

That part of Government Lots 3 and 4, lying in Section 33, Township 30 South, Range 20 East, Hillsborough County, Florida, being more particularly described as follows:

**BEGIN** at the Northwest corner of the Southwest 1/4 of said Section 33, also being the Northwest corner of said Government Lot 4, run thence, N.89°58'35"E., along the North boundary of said Southwest 1/4 of Section 33, also being the North boundary of Government Lots 3 and 4, a distance of 1983.43 feet to the Northeast corner of the West 1/2 of Government Lot 3, also being the Southwest corner of ESTUARY – PHASE 3, according to the plat thereof as recorded in Plat Book 121, Pages 85 through 88, inclusive, of the public records of Hillsborough County, Florida; thence S.00°12'12"W., along the East boundary of said West 1/2 of Government Lot 3, a distance of 300.00 feet; thence leaving said East boundary, N.71°31'15"W., a distance of 315.10 feet; thence S.89°58'35"W., a distance of 1684.88 feet to the West boundary of said Southwest 1/4 of Section 33; thence along said West boundary, N.00°23'24"E., a distance of 200.01 feet to the **POINT OF BEGINNING**.

**PARCEL 2:**

That part of Government Lot 4, lying in Section 33, Township 30 South, Range 20 East, Hillsborough County, Florida, being more particularly described as follows:

**COMMENCE** at the Southwest corner of said Section 33, also being the Southwest corner of Government Lot 4, run thence along the West boundary of the Southwest 1/4 of said Section 33, also being the West boundary of said Government Lot 4, N.00°23'24"E., a distance of 300.09 feet to the **POINT OF BEGINNING**; thence continue along said West boundary, N.00°23'24"E., a distance of 1811.91 feet; thence leaving said West boundary, N.89°58'35"E., a distance of 125.00 feet; thence S.00°23'24"W., a distance of 1487.72 feet; thence S.45°23'24"W., a distance of 106.07 feet; thence S.00°23'24"W., a distance of 275.00 feet; thence N.89°48'58"W., a distance of 24.91 feet; thence Northwesterly, 39.36 feet along the arc of a tangent curve to the right having a radius of 25.00 feet and a central angle of 90°12'22" (chord bearing N.44°42'47"W., 35.42 feet) to the **POINT OF BEGINNING**.

**PARCEL 3:**

That part of Government Lot 4, lying in Section 33, Township 30 South, Range 20 East, Hillsborough County, Florida, being more particularly described as follows:

**COMMENCE** at the Southwest corner of said Section 33, also being the Southwest corner of Government Lot 4, run thence along the West boundary of the Southwest 1/4 of said Section 33, also being the West boundary of said Government Lot 4, N.00°23'24"E., a distance of 50.00 feet

to a point of intersection with the North right-of-way line of Rhodine Road and the **POINT OF BEGINNING**; thence continue along said West boundary, N.00°23'24"E., a distance of 150.09 feet; thence leaving said West boundary Northeasterly, 39.18 feet along the arc of a tangent curve to the right having a radius of 25.00 feet and a central angle of 89°47'38" (chord bearing N.45°17'13"E., 35.29 feet); thence S.89°48'58"E., a distance of 25.09 feet; thence S.00°23'24"W., a distance of 175.00 feet to aforesaid North right-of-way line of Rhodine Road; thence along said North right-of-way line, N.89°48'58"W., a distance of 50.00 feet to the **POINT OF BEGINNING**.

**EXHIBIT "B"**

**Copy of Certified Parcel Approval Letter**

[See attached]

[Special Warranty Deed]  
Exhibit "B"





Received  
06/29/2021  
Development Services

# VARIANCE APPLICATION

## IMPORTANT INSTRUCTIONS TO ALL APPLICANTS:

You must schedule an appointment to submit this application by calling 813-272-5600.  
All requirements listed on the submittal checklist must be met. **Incomplete applications will not be accepted.**

### Property Information

Address: 11306 Rhodine Road City/State/Zip: Riverview, FL 33579 TWN-RN-SEC: 33-30-20  
Folio(s): 77345.9382 Zoning: PD (18-1491) Future Land Use: R-4 / R-6 Property Size: 31.5 acres

### Property Owner Information

Name: Rhodine Lake, LLC Daytime Phone: 813-355-7204  
Address: 4143 Moores Lake Road City/State/Zip: Dover, FL 33527  
Email: jtalley@leepallardyinc.com FAX Number: \_\_\_\_\_

### Applicant Information

Name: Rhodine Lake, LLC Daytime Phone: 813-355-7204  
Address: 4143 Moores Lake Road City/State/Zip: Dover, FL 33527  
Email: jtalley@leepallardyinc.com FAX Number: \_\_\_\_\_

### Applicant's Representative (if different than above)

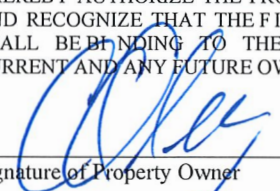
Name: T. Truett Gardner and Gardner Brewer Martinez-Monfort, P.A. Daytime Phone: 813-221-8600  
Address: 400 N Ashley Drive Suite 1100 City / State/Zip: Tampa, FL 33602  
Email: landuse@gbmmlaw.com FAX Number: \_\_\_\_\_

I HEREBY SWEAR OR AFFIRM THAT ALL THE INFORMATION PROVIDED IN THIS APPLICATION PACKET IS TRUE AND ACCURATE, TO THE BEST OF MY KNOWLEDGE, AND AUTHORIZE THE REPRESENTATIVE LISTED ABOVE TO ACT ON MY BEHALF FOR THIS APPLICATION.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Type or Print Name

I HEREBY AUTHORIZE THE PROCESSING OF THIS APPLICATION AND RECOGNIZE THAT THE FINAL ACTION ON THIS PETITION SHALL BE BINDING TO THE PROPERTY AS WELL AS TO CURRENT AND ANY FUTURE OWNERS.

  
\_\_\_\_\_  
Signature of Property Owner

C. Dennis Carlton  
Type or Print Name

*Office Use Only*

Intake Staff Signature: Ana Lizardo Intake Date: 06/29/21  
Case Number: 21-1032 Public Hearing Date: 08/23/21  
Receipt Number: HC-ADM-21-0001992



# HILLSBOROUGH COUNTY PROPERTY APPRAISER

([www.hcpaf1.org](http://www.hcpaf1.org))

## Parcel Result

Folio: 077345-9382

### PROPERTY RECORD CARD

#### RHODINE LAKE LLC

##### Mailing Address

4143 MOORES LAKE RD  
DOVER, FL 33527-4007

##### Site Address

RIVERVIEW

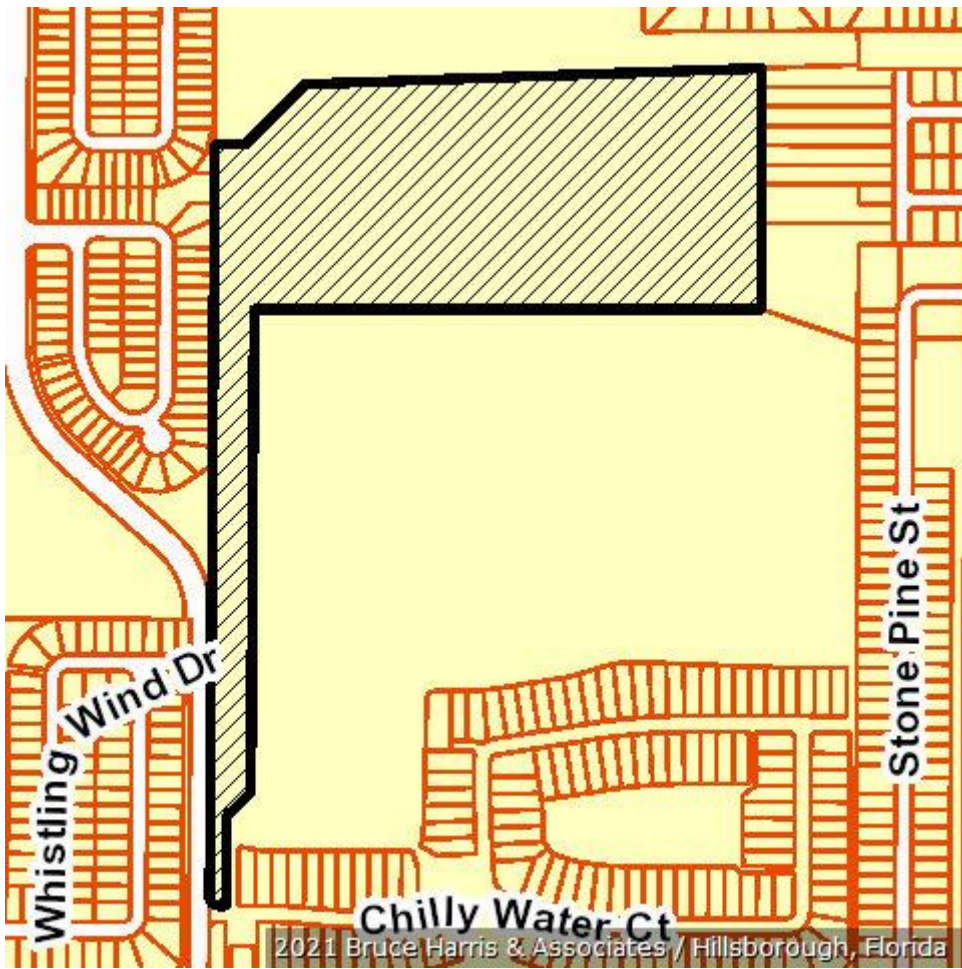
PIN:	U-33-30-20-C30-000000-0002B.0
Folio:	077345-9382
Prior PIN:	U-33-30-20-C20-000000-0002A.0
Prior Folio:	077345-9372
Tax District:	U UNINCORPORATED
Property Use:	9900 VACANT ACREAGE
Plat Book / Page:	139 / 130
Neighborhood:	226003.00   S Riverview Symmes Rd & Hwy 301 Area
Subdivision:	C30   RHODINE LAKE PHASE 2

### Value Summary & GIS Map

#### Value Summary

Taxing District	Market Value	Assessed Value	Exemptions	Taxable Value
County	\$219,995	\$219,995	\$0	\$219,995
Public Schools	\$219,995	\$219,995	\$0	\$219,995
Municipal	\$219,995	\$219,995	\$0	\$219,995
Other Districts	\$219,995	\$219,995	\$0	\$219,995

Note: This section shows Market Value, Assessed Value, Exemptions, and Taxable Value for taxing districts. Because of changes in Florida Law, it is possible to have different assessed and taxable values on the same property. For example, the additional \$25,000 Homestead Exemption and the non-homestead CAP do not apply to public schools, and the Low Income Senior Exemption only applies to countywide and certain municipal millages.



[View Map](#)

### Sales History

Official Record Instrument	Date	Type	Inst	Qualified or Unqualified	Vacant or Improved	Sale Price
Book / Page	Number	Month	Year			
26200 / 1407	2018457131	11	2018	WD	Unqualified	Improved \$100

### Extra Features

LN	OB/XF Code	Description	Bld Year	on Roll	Length	Width	Units	Value
1	0505	ACCESSORY BUILDING	0	1992	0	0	718.00	\$3,805

### Land Lines

LN	Use Code	Description	Zone	Front	Depth	Unit Type	Total Land Units	Land Value
1	994B	Acreage Class 4 PD	0	0	0	AC   ACREAGE	8.25	\$213,840.00
2	9400	RIGHT-OF-WAY PD	0	0	0	AC   ACREAGE	3.70	\$1,850.00
3	9500	SUBMERGED PD	0	0	0	LT   LOTS	1.00	\$500.00

### Legal Lines

LN	Legal Description
1	RHODINE LAKE PHASE 2 PARCEL 2B

Please note that property values on this site are continually being updated and are a work in progress throughout the year. The final values are certified in October of each year.

Last Updated: 6/29/2021  
version: v20210629A

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