



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 3

Public Hearing Date: June 11, 2020

Case No. and Project Name: VAR-20-21-1, Gulfstream, LLC

Applicant: Gulfstream Towers, LLC

Owner: Florida Spa & Pool, Inc.

Requested Action: Variance to Lake County Land Development Regulation (LDR) Section 3.13.09.B, to allow a communications tower not to be centered within the boundaries of the parent parcel.

Case Manager: Michele Janiszewski, Chief Planner

Subject Property Information

Size: 4.02 +/- acres

Location: South Street, Leesburg

Alternate Key No.: 3277767

Future Land Use: Regional Commercial

Current Zoning District: Planned Industrial (MP) by Ordinance 1979-6

Flood Zone: "AE" and "X Shaded"

Joint Planning Area/ISBA: Leesburg ISBA

Overlay Districts: None

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Medium Density	Urban Residential (R-6)	Undeveloped	Improved Pasture
South	N/A	N/A	Right-of-Way	South Street
East	Regional Commercial	Planned Industrial (MP)	Developed	Senior Center
West	Regional Commercial	Planned Commercial (CP)	Developed	Service Shop and Light Manufacturing

Summary of Request.

The Applicant is seeking to construct a 180' monopole tower on the subject property. Pursuant to LDR Section 3.13.09.B.1, towers must be centered within the boundaries of the property recognized as the parent parcel on the official zoning map. The Applicant is seeking to construct the tower off center due to an existing drainage ditch running through the front portion of the lot (Attachment A). As such, the Applicant has requested a variance to Lake County Land Development Regulation (LDR) Section 3.13.09.B, to allow a communications tower not to be centered within the boundaries of the parent parcel.

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 3.13.00, Wireless Antennas, Towers, and Equipment Facilities, is to adapt to the growing need for wireless communication antennas and towers by being able to act upon requests to place, construct and modify any Wireless Communications Antenna and/or Tower within a reasonable amount of time; to reasonably accommodate amateur Communications, and to represent the minimum practicable Regulation thereof; to Protect existing Land Uses from potential adverse visual impacts through sound planning, careful review of applications, proper permitting and adherence to appropriate Regulations; to allow for Wireless Communications competition following the adoption of the Federal Telecommunications Act of 1996; and to preserve and enhance radio communications throughout Lake County in times of emergencies that threaten the life, safety and welfare of Lake County residents, businesses and properties to include the establishment of easements, covenants and agreements necessary to address issues, such as fiber-optic cabling, associated with the provisions of emergency communication(s).

The Applicant submitted the following statement as proof that the purpose and intent of the Land Development Regulations will be or has been achieved by other means:

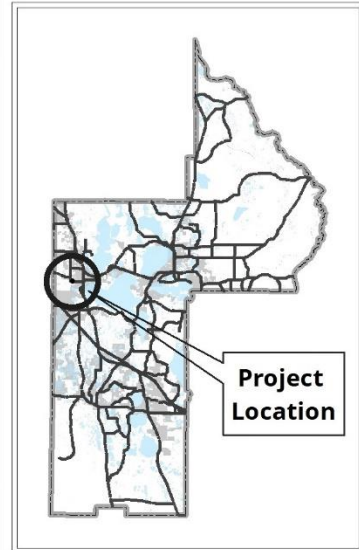
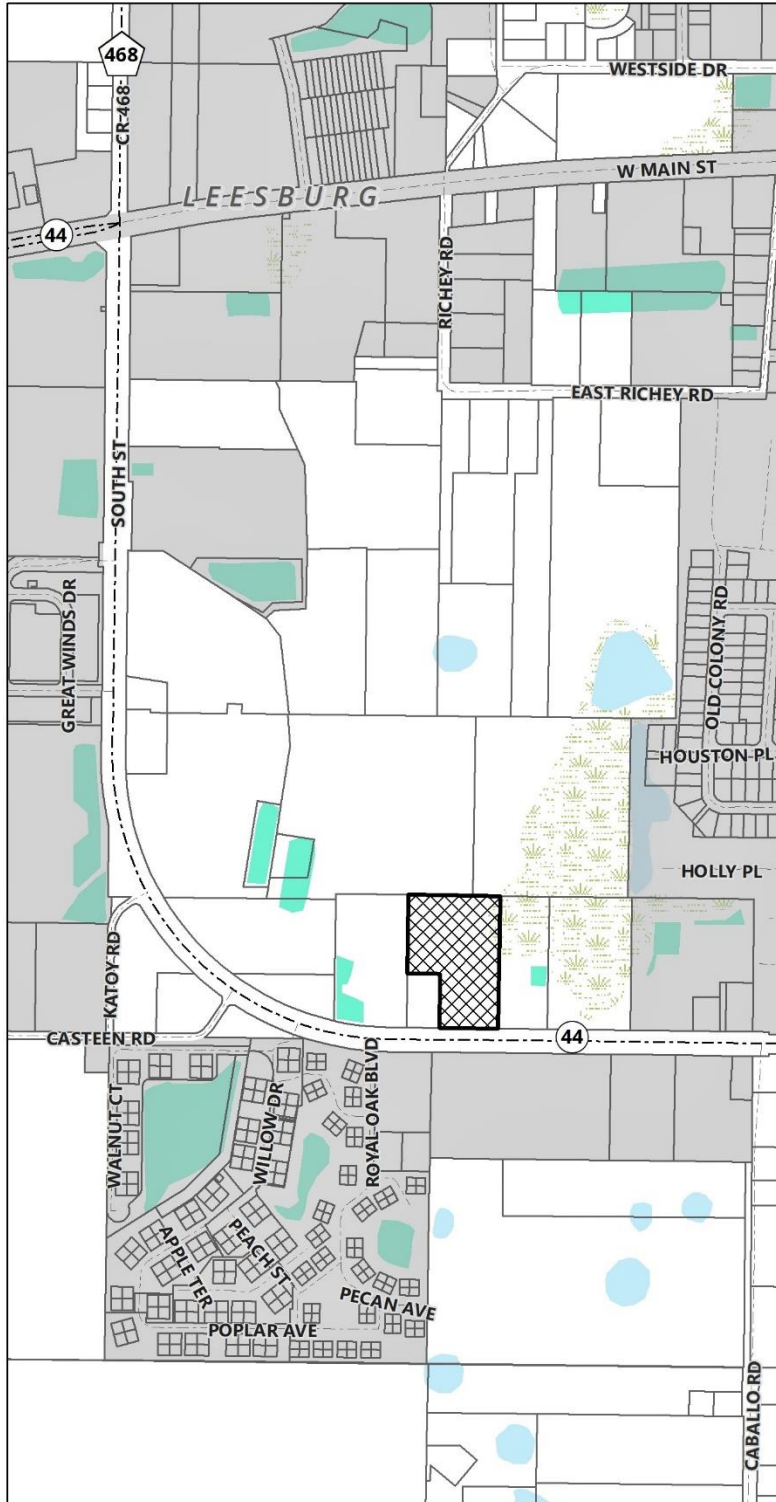
We are proposing to place the proposed tower towards the West end of the property, behind existing commercial bldg. on adjacent lot, Alt Key 2931825. This location moves the proposed tower farther away from residential zoned property to the North, Alt Key 3799272 and Alt Key 3771803 (Alt Key 3771803 is also owner by Florida Spa & Pool, Inc). The proposed tower is less visible and the setback from future residential is increased.

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 submitted the following statement as proof of a substantial hardship:

Subject property is an odd shaped lot and has existing drainage ditch running thru front portion of lot.

Subject Property



Attachment A. Concept Plan.



Final Development Order
VAR-20-21-1
Gulfstream, LLC / Florida Spa & Pool, Inc. Property

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

WHEREAS, Gulfstream Towers, LLC (the “Applicant”), on behalf of Florida Spa & Pool (the “Owners”), submitted variance application seeking to obtain a variance to Lake County Land Development Regulation (LDR) Section 3.13.09.B, to allow a communications tower not to be centered within the boundaries of the parent parcel; and,

WHEREAS, the subject property consists of 4.02 +/- acres and is located at along South Street, in the Leesburg area of unincorporated Lake County, in Section 28, Township 19 South, Range 24 East, Alternate Key Number 3277767 and is more particularly described below as:

From the intersection of the North right-of-way of Highway 44 and the West line of the Southeast 1/4 of Section 28, Township 19 South, Range 24 East, Lake County, Florida, run East along said right-of-way 30 feet for the POINT OF BEGINNING, thence run East along said right-of-way 241.37 feet, thence North 0°25'10" E 544 feet to a point referenced as Point A, thence begin again at the Point of Beginning and run North 220 feet, thence run West 135 feet, thence run North to a point West of Point A, thence run East to Point A. THIS PROPERTY IS NOT THE HOMESTEAD OF THE GRANTORS.

WHEREAS, after giving notice of a hearing on a petition for a variance to the Lake County Land Development Regulations, including notice that the variance would be presented to the Board of Adjustment of Lake County, Florida, on June 11, 2020; 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 June 11, 2020, 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-20-21-1 to Lake County Land Development Regulation (LDR) Section 3.13.09.B, to allow a communications tower not to be centered within the boundaries of the parent parcel

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 11th day of June, 2020.

EFFECTIVE June 11, 2020.

**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 _____ day of _____, 2020, by _____
_____.

Personally Known OR Produced Identification

Type of Identification Produced _____

Notary Signature
(SEAL)