



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 6

Public Hearing Date: March 11, 2021

Case No. and Project Name: VAR-20-80-1, Hannah Grace Gardens Heritage Tree

Owners: Living Message Church

Applicant: Rick Hartenstein, Wicks Engineering Services, Inc.

Requested Action: Variance to Land Development Regulations (LDR) Section 9.02.10.F(2), to allow for the removal of a 44-caliper inch heritage oak tree.

Case Manager: Emily W. Johnson, Senior Planner

Subject Property Information

Size: 1.97 +/- acres

Location: West of Pruitt Street, in the unincorporated Leesburg area of Lake County.

Alternate Key No.: 2516470

Future Land Use: Urban Medium Density

Current Zoning District: Residential Professional (RP)

Flood Zones: "X"

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

Overlay Districts: N/A

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Medium Density	R-7, RP	Residential	Single-Family Residences, Vacant Residential
South	Urban Medium Density	RP	Residential	Single-Family Residence
East	Urban Medium Density	RP, RMRP	Residential	Single-Family Residences, Vacant Residential
West	Urban Medium Density	A	Residential	Single-Family Residence

Summary of Request.

The subject property, identified as Alternate Key Number 2516470, contains 1.97 +/- acres, is zoned Residential Professional (RP), and is designated with an Urban Medium Density Future Land Use Category by the 2030 Comprehensive Plan. Generally, the subject property is located west of Pruitt Street, in the unincorporated Leesburg area of Lake County. The subject property is currently vacant and undeveloped.

A development application for a 14 unit duplex facility is currently under major site plan review by the Office of Planning and Zoning (Project No. 2019080007, Application Request No. 4251); the tree removal plan (Attachment "A") indicates removal of a 44-caliper inch oak tree within a proposed building footprint. Pursuant to LDR Section 9.02.10.B(1), trees with a 40-inch or greater trunk are considered heritage trees; removal of a heritage tree is prohibited under LDR Section 9.02.10.F(2), unless a variance to this section is granted by the Board of Adjustments.

The Applicant has requested a variance to LDR Section 9.02.10.F(2), to allow for the removal of a 44-caliper inch heritage oak tree. Pursuant to LDR Section 9.02.06.B, one-hundred (100) percent of the total caliper inches of a removed heritage tree must be replaced or mitigated.

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 9.02.00, is to recognize the importance of trees and palms; and their meaningful contribution to a healthy, beautiful, and safer community attributable to their carbon dioxide absorption, oxygen production, dust filtration, wind and noise reduction, soil erosion prevention, lakeshore erosion protection, wildlife habitat, surface drainage improvement, beautification and aesthetic enhancement of improved and vacant lands, and the general promotion of health, safety, welfare, and well-being of the community.

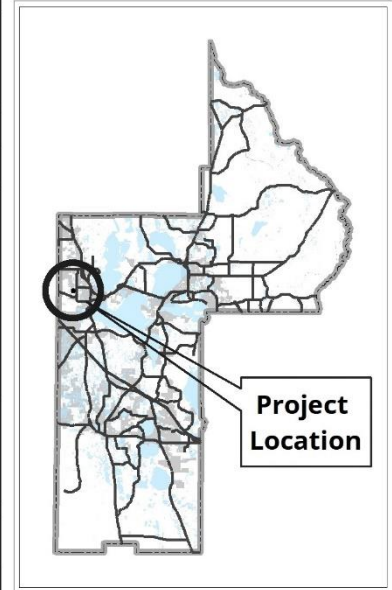
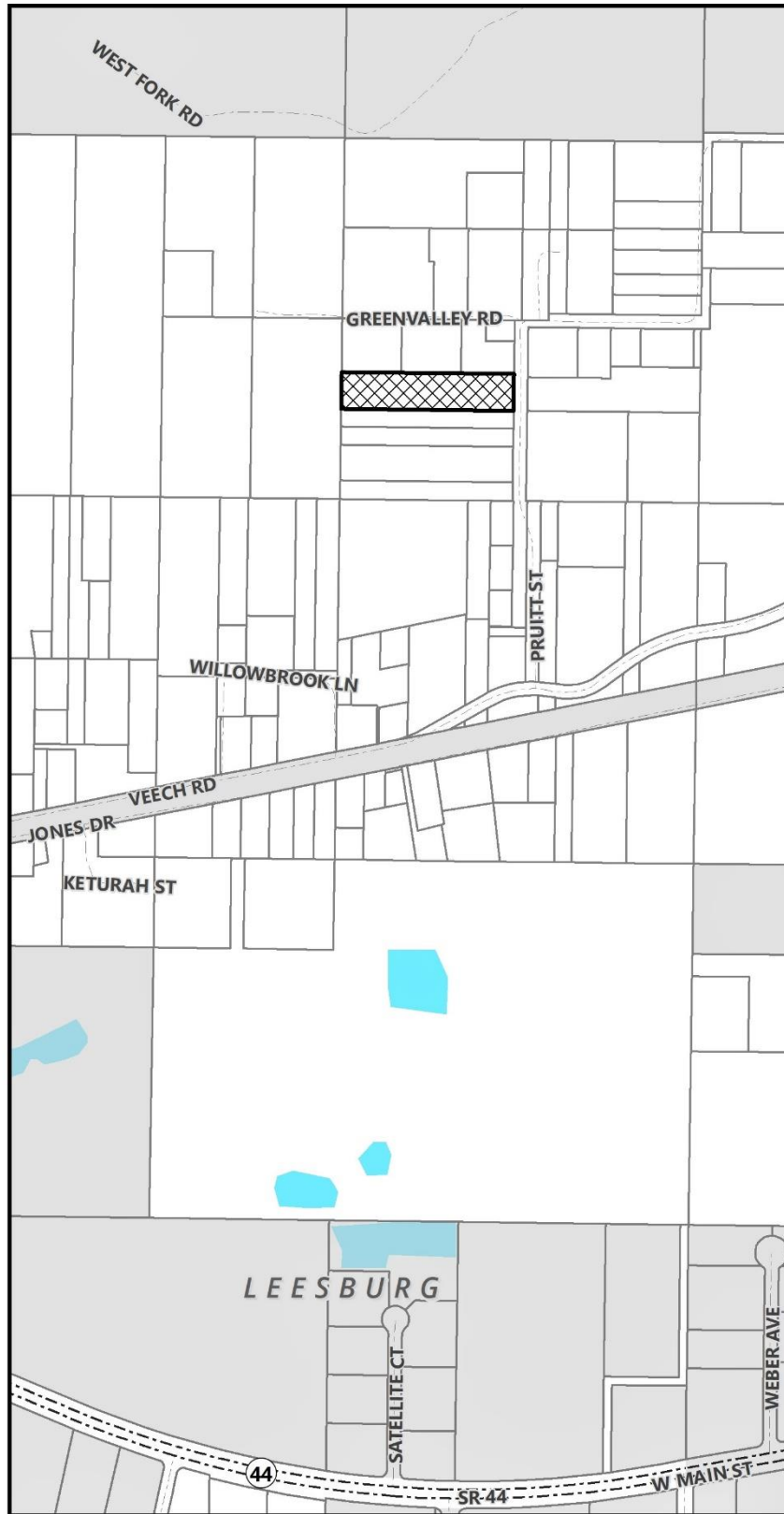
The Applicant provided the following statement as proof that the intent of the code will be or has been achieved by other means: *"We have tried to save every possible tree on site that could be saved, but this one is in the building footprint and cannot be saved. We have submitted a tree removal permit and have mitigated for the removal of this tree."*

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.

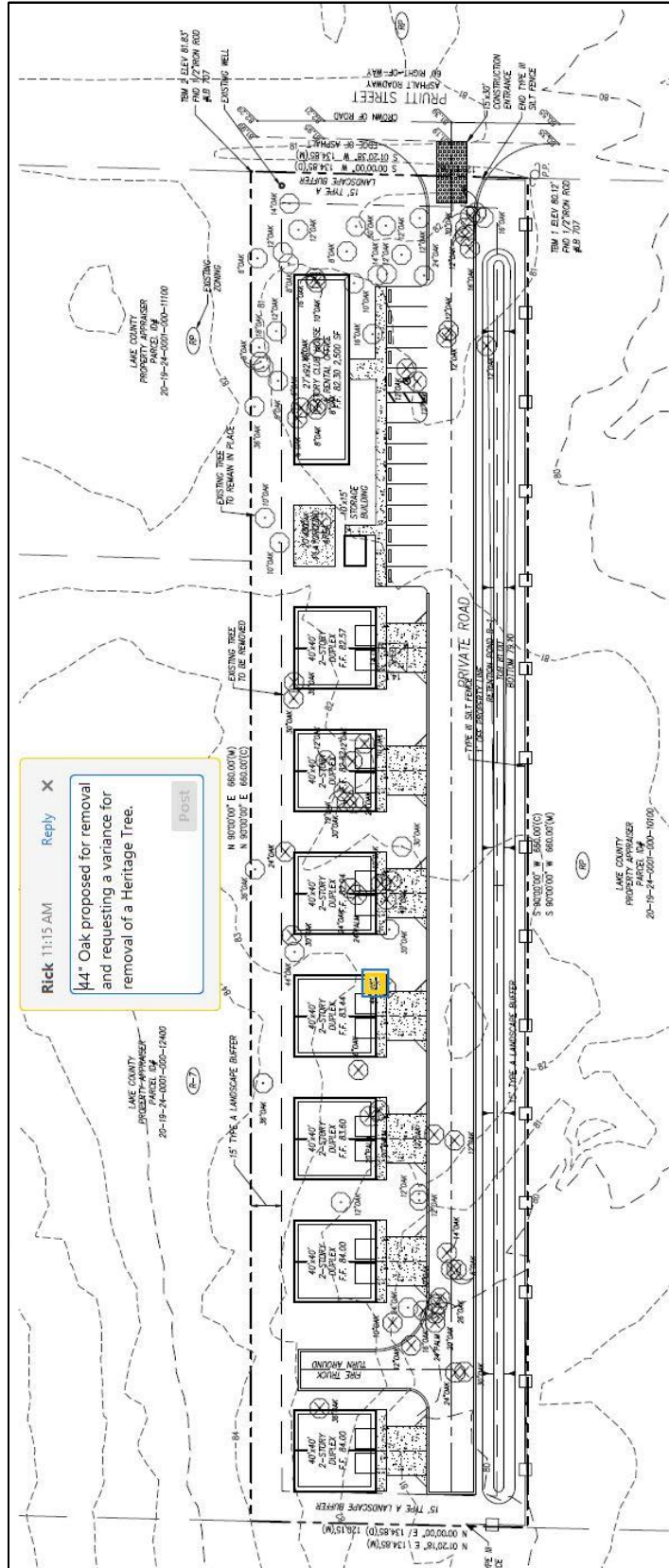
LDR Section 14.15.04, states that for the purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requested the variance.

The Applicant provided the following statement, *"A 44" Oak is within the building area of project and can't be saved. Without the variance we would not be able to build the project."*

Map of Subject Property



Attachment "A" – Tree Removal Plan



**Final Development Order
VAR-20-80-1
Hannah Grace Gardens Heritage Tree**

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

WHEREAS, Rick Hartenstein, Wicks Engineering Services, Inc (the “Applicant”), on behalf of Living Message Church (the “Owner”), requested a variance to Land Development Regulations (LDR) Section 9.02.10.F(2), to allow for the removal of a 44-caliper inch heritage oak tree; and

WHEREAS, the subject property consists of 1.97 +/- acres and is located west of Pruitt Street, in the Leesburg area of unincorporated Lake County, in Section 20, Township 19, Range 24, having Alternate Key Number 2516470, and more particularly described below; and

The South 134.85 feet of the North 332.53 feet of the Southwest 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 20, Township 19 South, Range 24 East, Lake County, Florida. LESS and EXCEPT a strip of land of equal width 25 feet wide off of the entire East side thereof.

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 March 11, 2021; 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 March 11, 2021, 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-20-80-1, to allow for the removal of a 44-caliper inch heritage oak tree.
- 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.

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Section 3. Effective Date. This Ordinance will become effective as provided by law.

ENACTED this 11th day of March, 2021.

EFFECTIVE March 11, 2021.

**BOARD OF ADJUSTMENT
LAKE COUNTY, FLORIDA**

Bea L. Meeks, Vice 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 _____, 2021, by Bea L. Meeks, as Vice Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

**Notary Signature
(SEAL)**