



VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 11

Public Hearing Date: December 9, 2021

Case No. and Project Name: VAR-21-77-4 LS-VEH Red Tail LLC

Owners: LS-VEH Red Tail, LLC

Applicants: Tim Durkin

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 9.02.10.F.2, to allow for the removal of two (2) heritage trees with a cumulative total of ninety-eight (98) caliper inches; and to LDR Section 9.02.06(B) to allow for the Owner to not replace one hundred (100) percent of the total caliper inches of a heritage tree.

Case Manager: Ryan Winkler, Planner

Subject Property Information

Size: 0.44 +/- acres

Location: 25448 Hawks Run Lane, in the Sorrento area

Alternate Key No.: 3887541

Future Land Use: Wekiva River Protection Area A-1-20 Receiving Area

Current Zoning District: Planned Unit Development (PUD) Ordinance #2014-78

Flood Zones: "X"

Joint Planning Area/ ISBA: N/A

Overlay Districts: Mt. Plymouth-Sorrento
Wekiva River Protection Area
Wekiva Study Area

Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	WPRA A-1-20 Receiving Area	PUD	Golf Course	Red Tail Golf Course
South	WPRA A-1-20 Receiving Area	PUD	Right-of-Way	Hawks Run Lane, Single-Family Residence
East	WPRA A-1-20 Receiving Area	PUD	Residential	Single-Family Residence
West	WPRA A-1-20 Receiving Area	PUD	Vacant	Vacant Residential

Summary of Request

The 0.44+/- acre subject property, identified as Alternate Key Number 3887541, is zoned Planned Unit Development (PUD) in accordance with Ordinance #2014-78, and is designated with a Wekiva River Protection Area A-1-20 Receiving Area Future Land Use Category (FLUC) by the 2030 Comprehensive Plan. Generally, the subject property is located east of Hawks Run Lane in the Heathrow Country Estate subdivision, in the Sorrento area of Lake County. The subject property is Lot 297 of the Heathrow County Estate Homes Phase 3 subdivision (Plat Book 65, Pages 14-16) and is currently vacant.

The Owner would like to build a single-family dwelling unit on the subject property. The concept plan (Attachment "A") shows the footprint of the proposed single-family dwelling unit. Within the proposed footprint of the dwelling unit are a 44-caliper inch heritage oak tree and a 54-caliper inch heritage oak tree. Pursuant to DLR 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 the removal of a 44-caliper inch heritage oak tree and a 54-caliper inch heritage oak tree. The Applicant also requested a variance to LDR Section 9.02.06(B) to allow for the Owner to not replace one-hundred (100) percent of the total caliper inches of the heritages trees to be removed.

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.

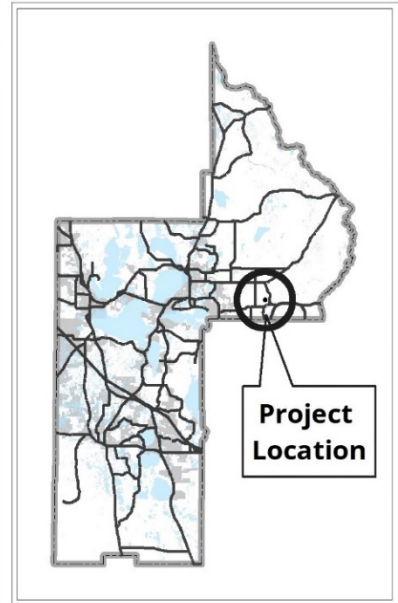
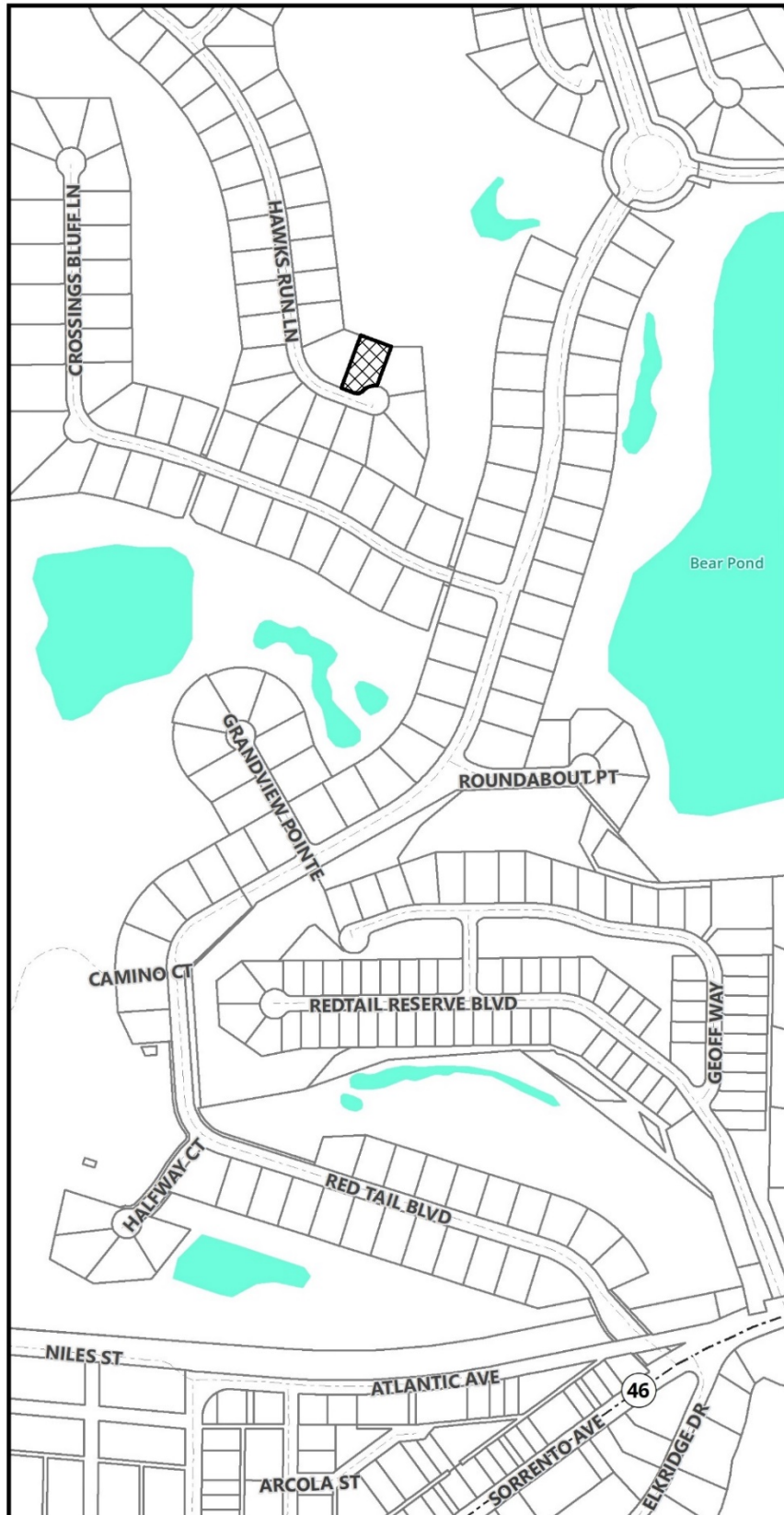
The Owners provided the following statement as proof that the intent of the Land Development Regulation will be or has been achieved by other means, "*Applicant request approval to remove historic oak trees, applicant requested modification to the replacement code due to the lot size is not adequate to allow for total replacement. The proposed house, swimming pool and drainage swales prevent the total replacement. Applicant plans to retain 32" of existing oak trees, add an additional 24" with our proposal landscaping at completion of the construction. Based on the existing lot size and proposed new built we will not have adequate space to install the balance of the replacement requirement*" This statement indicates that the variance request follows the intent of LDR Section 9.02.00.

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 Owners provided the following statement, *“The lot is unbuildable without the removal of these trees.”* This statement indicates that a substantial hardship does exist for this variance request.

The two heritage trees proposed to be removed are generally located 30-feet from the east boundary line, both of which lie within the proposed footprint of the residential structure. Setbacks are established in PUD Ordinance #2014-78 (Attachment “B” – Insert from Ordinance #2014-78) which requires residential structures to adhere to the below measurements.

Lot Size	Front Setback	Side Setback	Rear Setback
100' x 150'	20' PL	7.5' PL	7.5' PL



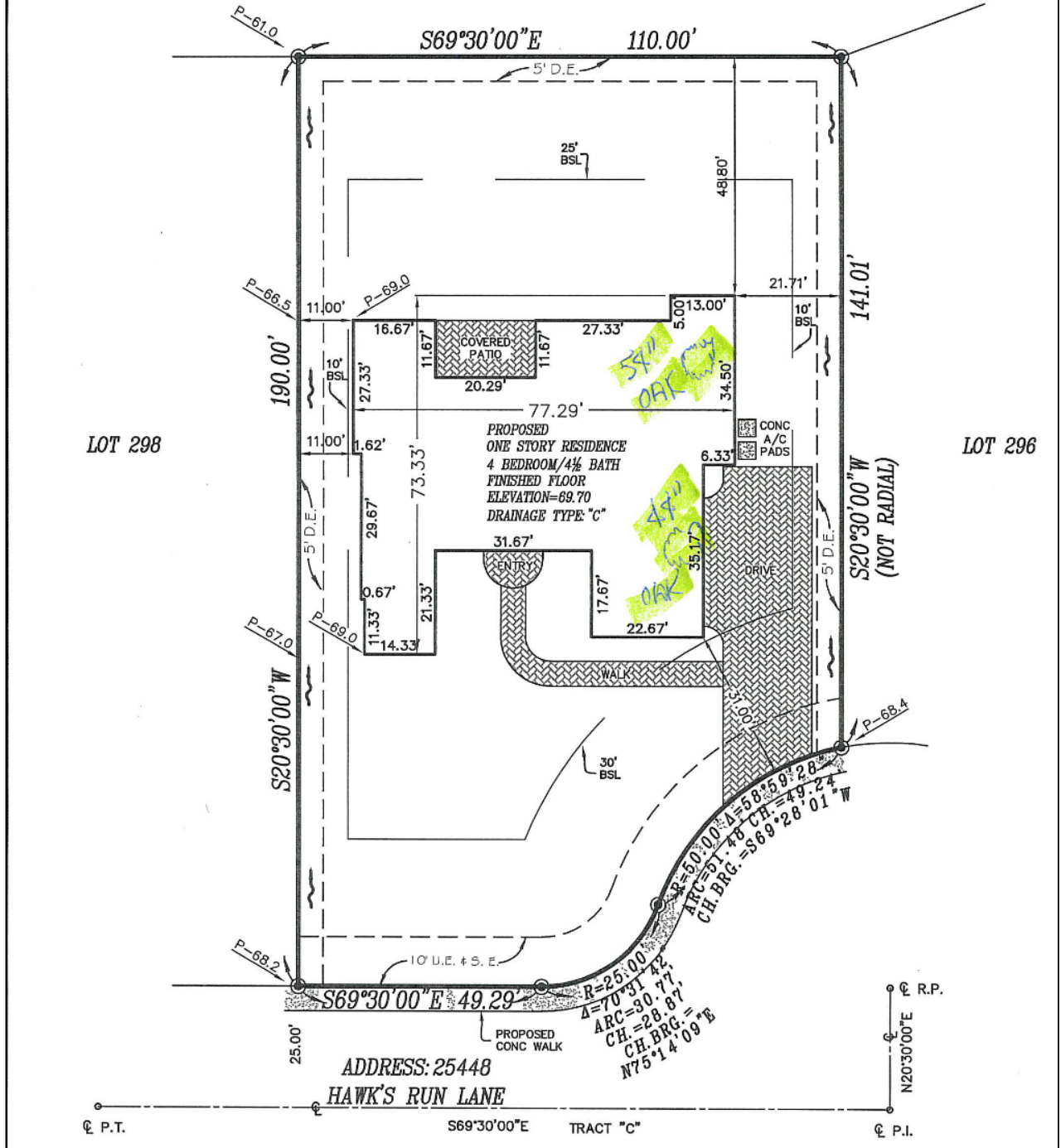
Attachment "A" — Concept Plan

PLOT PLAN FOR: VINTAGE ESTATE HOMES, LLC

Description: Lot 297, HEATHROW COUNTRY ESTATE HOMES PHASE 3, according to the plat there as recorded in Plat Book 65, Pages 14, 15, & 16 of the Public Records of Lake County, Florida

LOT 297 IS ON PAGE 15

NOT PLATTED PER
HEATHROW COUNTRY ESTATE HOMES PHASE 3



Attachment "A" — Insert of Ordinance #2014-78 (1 of 2)



**PLANNING AND COMMUNITY DESIGN
315 WEST MAIN STREET
TAVARES FL 32778**

ORDINANCE #2014-78

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Lake Co. Planning & Community Design Division/ SLV Redtail LLC/ Redtail Community Association, Inc
Heathrow Country Estates PUD Amendment
PH #34-14-4

AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Lake County Planning & Community Design Division (the "Applicant") on behalf of SLV Redtail LLC and Redtail Community Association, Inc. (the "Owners") has requested to amend Planned Unit Development (PUD) Ordinance #2014-15 for 485 +/- acres located within the Wekiva River Protection Area (WRPA) to correct a scrivener's error, and rescind and replace Ordinance #2014-15 with a new Ordinance; and

WHEREAS, the subject property is located in the Heathrow Country Estates aka Redtail subdivision, east of Mount Plymouth area, along SR 46 entrance situated in Section 20/29 - Township 19S - Range 28E, and having multiple Alternate Key Numbers within the WRPA A-1-20 Sending Area, WRPA A-1-20 Receiving Area, and Mount Plymouth/Sorrento Receiving Area FLUCs, and more particularly described as:

LEGAL DESCRIPTION: [EXHIBIT "A" – ATTACHED]

WHEREAS, the Board of County Commissioners of Lake County, Florida, on the 19th day of December, 1989, approved the Gatwick II PUD (later re-named Heathrow Country Estates) which constituted a maximum 323 lot residential PUD under Ordinance #101-89; and

WHEREAS, the Board of County Commissioners of Lake County, Florida, on the 19th day of November, 1991, approved an amendment to the Gatwick II PUD (later re-named Heathrow Country Estates) for a maximum 323 lot residential PUD under Ordinance #60-91; and

WHEREAS, the Board of County Commissioners of Lake County, Florida, on the 28th day of August, 2001, approved an amendment to the Gatwick II - Heathrow Country Estates PUD for a maximum 323 lot residential PUD and included an 18-hole golf course, a clubhouse, conservation land, and a water and wastewater treatment plant under Ordinance #2001-122; and

WHEREAS, the Board of County Commissioners of Lake County, Florida, on the 22nd day of August, 2006, approved an amendment to the Gatwick II - Heathrow Country Estates PUD for a maximum 323 lot residential PUD which included an 18-hole golf course, a clubhouse, conservation land, and a water and wastewater treatment plant and superseded all previous Ordinances related to Gatwick II and/or Heathrow Country Estates PUD under Ordinance #2006-85; and

WHEREAS, the Board of County Commissioners of Lake County, Florida, on the 25th day of March, 2014, approved an amendment to the Gatwick II - Heathrow Country Estates PUD to change lot sizes and remove all non-applicable development conditions contained in the Ordinance, and rescinded and replaced Ordinance #2006-85 with Ordinance #2014-15; and

WHEREAS, the adoption of this new ordinance shall supersede and replace all previous Ordinances including Ordinance #2014-15; and

WHEREAS, the Lake County Planning and Zoning Board did, on the 26th day of November, 2014, review Petition PH #34-14-4; after giving Notice of Hearing on petition for a change in the use of land, including notice that said Ordinance would be presented to the Board of County Commissioners of Lake County, Florida, on the 16th day of December, 2014; and

INSTRUMENT #2015004552
OR BK 4573 PG 2211 - 2218 (8 PGS)
DATE: 1/14/2015 2:55:57 PM
NEIL KELLY, CLERK OF THE CIRCUIT COURT
LAKE COUNTY
RECORDING FEES \$69.50

Attachment "A" — Insert of Ordinance #2014-78 (2 of 2)

ORDINANCE NO. #2014-78
PH #34-14-4 (Heathrow Country Estates PUD Amendment Rezoning)

1 **WHEREAS**, the Board of County Commissioners reviewed said petition, the recommendations of the Lake
2 County Planning and Zoning Board, staff report and any comments, favorable or unfavorable, from the Public and
3 surrounding property owners at a Public Hearing duly advertised, and

4 **WHEREAS**, upon review, certain terms pertaining to the development of the above described property have
5 been duly approved, and

6 **NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Lake County, Florida, that
7 the Land Development Regulations (LDRs) of Lake County, Florida, be altered and amended as they pertain to the
8 above tract of land, as described in Exhibit "A", subject to the following terms:

9 **Section 1.** Terms: The County Manager or designee shall amend the Zoning Map in accordance with this Ordinance.
10 The uses of the property shall be limited to the uses specified in this Ordinance and generally consistent with the
11 Conceptual Plan attached hereto as Exhibit "B". To the extent where there are conflicts between Exhibit "B" and this
12 Ordinance, this Ordinance shall take precedence. This Ordinance shall supersede and replace all previous
13 Ordinances including Ordinance #2014-15.

14 A. Land Uses:

- 15 1. Uses shall be limited to 323 single-family residential lots, an 18-hole golf course and related clubhouse,
16 conservation easements, a sub-regional/regional water treatment plant, and a sub-regional/regional
17 wastewater plant; No lighting shall be permitted on the driving range.
- 18 2. Open space acreage shall equal at least 29% of the gross development parcel, and no parcel of open
19 space shall be less than 1 contiguous acre.
- 20 3. The impervious surface ratio shall be no greater than 20% of the gross development parcel.
- 21 4. The water treatment plant shall be comprised of a ground storage tank and hydro-pneumatic tank and
22 shall be no higher than 30 feet in height. The water and wastewater treatment plants shall be screened
23 from adjacent rights of way and properties by means of a landscaped berm or masonry wall.
- 24 5. The development shall have four (4) lot types which represent the minimum sizes for lots:

Lot Size	Front Setback	Side Setback	Rear Setback
132' X 250'	25' Property Line (P/L)	10' P/L	10' P/L
100' X 175'	20' P/L	7.5' P/L	20' P/L
100' X 150'	20' P/L	7.5' P/L	20' P/L
70' X 140'	20' P/L	5' P/L	20' P/L

25
26 Rear setback for pools, spas, pool enclosures, and pool ancillary structures shall be a minimum of five
27 (5) feet from property line.

28 Notwithstanding the above setbacks, lots adjacent to the project boundary shall have a 50-foot setback
29 and shall be at least 33,000 square feet in size with the exception of Tract N and Lots 256 and 257 of
30 Heathrow Estates Phase 3. This land area (Tract N and Lots 256 and 257 of Heathrow Estates Phase
31 3) may be re-platted into three (3) lots containing a minimum of 30,000 square feet.

- 32 6. The maximum building height shall be 40 feet.
- 33 7. Development of the site shall be substantially consistent with the development plan submitted and
34 approved.

**Final Development Order
VAR-21-77-4
LS-VEH Red Tail**

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

WHEREAS, Tim Durkin (the “Applicant”), requested a variance on behalf of LS-VEH Red Tail, (the “Owner”), to Lake County Code, Land Development Regulations (LDR) Section 9.02.10.F.2 to allow for the removal of two (2) heritage trees with a cumulative total of ninety-eight (98) caliper inches; and LDR Section 9.02.06(B) to allow for the applicant to not replace one-hundred (100) percent of the total caliper inches of a heritage tree; and

WHEREAS, the subject property consists of 0.44 +/- acres, located at 25448 Hawks Run Lane, in the Sorrento area of unincorporated Lake County, in Section 20, Township 19, Range 28, having Alternate Key Number 3887541, and more particularly described below; and

Lot 297 of Heathrow Country Estate Homes Phase 3, as recorded in Plat Book 65, Pages 14-16, Public Records, 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 December 9, 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 December 9, 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-21-77-4 to allow for the removal of two (2) heritage trees with a cumulative total of ninety-eight (98) caliper inches; and LDR Section 9.02.06(B) to allow for the applicant to not replace one-hundred (100) percent of the total caliper inches of a heritage tree.

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

ENACTED this 9th day of December 2021.

EFFECTIVE December 9, 2021.

**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 9th day of December 2021, by James Argento, as Chairman of the Lake County Board of Adjustment.

Personally Known OR Produced Identification

Type of Identification Produced _____

Notary Signature

(SEAL)