

**POLK COUNTY  
LAND USE HEARING OFFICER  
STAFF REPORT**

<b>DRC Date</b>	<b>June 13, 2024</b>	<b>CASE #:</b>	<b>LDLVAR-2023-54 (Tiny Terrace Variance)</b>
<b>LUHO Date</b>	<b>July 25, 2024</b>	<b>LDC Section:</b>	<b>Table 2.2</b>

**Request:** The applicant is requesting a variance to reduce the right-of-way setback from a Local Road from 20 feet to one (1) foot for an attached screen room and patio cover.

**Applicant:** Russell Dunn

**Property Owner:** Russell Dunn

**Location:** 2416 Tiny Terrace, east of Thompson Street, south of Plum Avenue, north of Cherry Avenue, west of Garden Street, east of Auburndale in Section 21, Township 28, Range 25.

**Parcel ID#:** 252821-000000-031152

**Size:** 0.29 +/- acres

**Land Use Designation:** Residential Suburban (RS)

**Development Area:** Suburban Development Area (SDA)

**Case Planners:** Ian Nance

**Summary:**

The applicant is requesting a variance to reduce the right-of-way setback from a Local Road from 20 feet to one (1) foot for a proposed, attached 18 x 10' screen room and patio cover. The subject site is developed with a mobile home that is set well to the east of the parcel to accommodate a large, mounded septic drain field which causes a hardship when attaching accessory structures.

Staff recommends approval of this request, finding that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. Though the patio will be up to one foot from the property line, the home is located on a local residential roadway that does not have significant traffic. There is ample room between the property line and edge of pavement to not create any visual impairment for drivers or for vehicles to be a threat to the patio.

## **Development Review Committee**

The Development Review Committee, based on the criteria for granting variances, the submitted application, and a recent site visit, finds that the applicant's request as written **IS CONSISTENT** with Section 931 of the Polk County Land Development Code (LDC) and recommends **APPROVAL of LDLVAR-2023-54**.

### **CONDITIONS OF APPROVAL:**

1. Approval of this variance is to reduce the right-of-way setback from a Local Road from 20 feet to one (1) foot for an attached screen room and patio cover. Further additions or structures placed on the property shall be required to meet the requirements of the Polk County Land Development Code or re-apply for another variance approval from the Land Use Hearing Officer.
2. This variance does not authorize any encroachments into easements, and the applicant shall be responsible to make certain there are no encroachments unless approval is granted by the easement holder and/or any applicable permitting agencies. The property owner(s) is also responsible for compliance with any restrictions of record pertaining to lots and/or land and this approval shall not be used to supersede authority over those restrictions.
3. There shall be no overhang from the structures into the public rights-of-way.
4. The applicant shall have three (3) years from the date the Land Use Hearing Officer's Final Order is rendered to apply for all necessary building permits and pay all associated fees for the proposed structure.

### **GENERAL NOTES**

*NOTE: This staff report was prepared without the benefit of testimony and evidence submitted by the public and other interested parties at a public hearing.*

*NOTE: All conditions of approval, unless otherwise specified, shall be met prior to the effectiveness and validity of the variance approval.*

*NOTE: All written commitments made in the application and subsequent submissions of information made during the application review process, which are on file with the Land Development Division, shall be considered to be binding upon the applicant, provided such commitments are not at variance with the Comprehensive Plan, LDC or other development regulations in effect at the time of development.*

*NOTE: Issuance of a development permit by the county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.*

*NOTE: Approval of this variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the LDC.*

**DEMONSTRATIONS OF THE CRITERIA FOR GRANTING VARIANCES  
SUMMARIZED BELOW:**

1. *Whether granting the variance will be in accordance with the general intent and purpose of this Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;*

The applicant is requesting a variance to reduce the right-of-way setback from a Local Road from 20 feet to one (1) foot for a proposed, attached 18 x 10' screen room and patio cover. The proposed structure will be at the front of the home where the applicant has an existing concrete slab. The purpose is to provide cover for the entrance to the home in the event of foul weather and for a shaded gathering place outside of the home.

Though the applicant is requesting what appears to be a drastic reduction from 20 feet to one foot to accomplish this, staff finds no reason why this would be harmful to the surrounding area. The home is located off Tiny Terrace, a Local Residential roadway in the northwest corner of the subdivision that does not garner much traffic. Eight properties rely on Tiny Terrace for their sole access. As described further below, there is ample room between the property line and edge of pavement (+/- 16 feet) to not create any visual impairment for drivers or for vehicles to be a threat to the patio. This poses no fire danger to other homes. There are no easements, drainage swales, or utilities along the property which would be compromised by this structure.

Finally, carports and patios are found throughout the neighborhood, as is normal with mobile and manufactured homes that do not have built-in garages or gathering areas.

2. *Whether special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the applicable land use district;*

Though the home (2,128 sq. ft.) appears to have a large rear yard, the placement of the mobile home is set well to the east to accommodate the large, mounded drain field of a septic system. Aerial measurements show this drain field is approximately 3,000 sq. ft., or nearly 25% of the parcel. Trees to the rear of the home also forced the placement to the home to the east. Furthermore, the home was placed at an angle on the property for reasons that are unclear. The previous mobile home was "squared-up" with the rights-of-way lines. This mobile home is one of the largest on this block between Thompson Street, Plum Avenue, and Tiny Terrace (564 – 1,080 sq. ft.).

This parcel was also created prior to the adoption of the Comprehensive Plan and Land Development Code as part of an unrecorded subdivision known as Mobile Home Village. The parcel is comprised of five 25 x 100' lots (lots 352-356) which were never vested. Ultimately, the parcel size was determined by the former R-3 zoning which permitted minimum lot sizes of 6,000 sq. ft.

Finally, the right-of-way of Tiny Terrace is 50 feet, substandard for a local road with no curbs, according to LDC Table 8.2 (60 ft.). The paved surface width is 15 feet, again below current standards (20 ft.). There is approximately 16 feet of County right-of-way between the property line and paved road, creating an exaggeration that the privately-owned front yard is bigger than what it is. This may explain issues with the permitting below, especially if a survey was not used. It is highly unlikely that this road will be improved to County

standards in the near future, given the relative lack of use.

3. *Whether provided the special conditions and circumstances present in the request do not result from the actions of the applicant;*

On April 13, 2004, a Certificate of Occupancy was issued by the County to the applicant for Mobile Home Setup Permit #8805 that allowed the placement of the current 28 x 76' 2004 Fleetwood doublewide mobile home. Within the application, the stated setbacks were 15 feet from the front and 7.5 from side and rear property lines, which reflected the old R-3 zoning but was incorrect for the RS land use district effective at the time. A recent Sketch of Encroachment (Exhibit 6) shows the mobile home was set at 10 feet at its closest point to the right-of-way, on the northern side of the home, and 14 feet towards the southern side. So, it was placed improperly for either setback standard.

The site plan submitted to the State of Florida Department of Health measured the setbacks from the home to the edge of pavement, rather than the property lines, which further confused the placement of this mobile home. So, in effect, the driveway was permitted incorrectly as it does not reach the property boundary, and the Sketch of Encroachment shows a 4.7' x 0.3' x 4.7' intrusion into the right-of-way by the concrete patio. The width of the depth of the concrete patio is 12 feet.

4. *Whether granting the requested variance will not confer on the applicant any special privilege that is denied by the provisions of this Code and will constitute unnecessary and undue hardship on the applicant;*

Moving this mobile home to comply with the setbacks would be impractical at this point. Attached covered patios are permitted accessory structures for residential uses if they meet setbacks or are granted a variance.

5. *Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;*

As noted above, the area in which to add structures to this property is hindered by the placement of the mobile home relative to the mounded septic drain field. This variance is the minimum that would allow a functional patio area. With the one-foot setback at the closest point to the property line, this will allow 10-foot-wide structure.

6. *Whether that in no case shall a variance be granted which will result in a change of land use that would not be permitted in the applicable land use designation;*

Granting this variance will not result in a change of land use.

7. *Whether that in no case shall a variance be granted which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this request is not anticipated to result in the creation of a lot or parcel that does not meet the requirements of the Code.

8. *Whether that the granting of the variance does not circumvent a condition or the intent of a condition placed on a development by the Planning Commission or the BoCC.*

This unrecorded subdivision was created through prior zoning ordinances and did not require Planning Commission or BoCC approval.

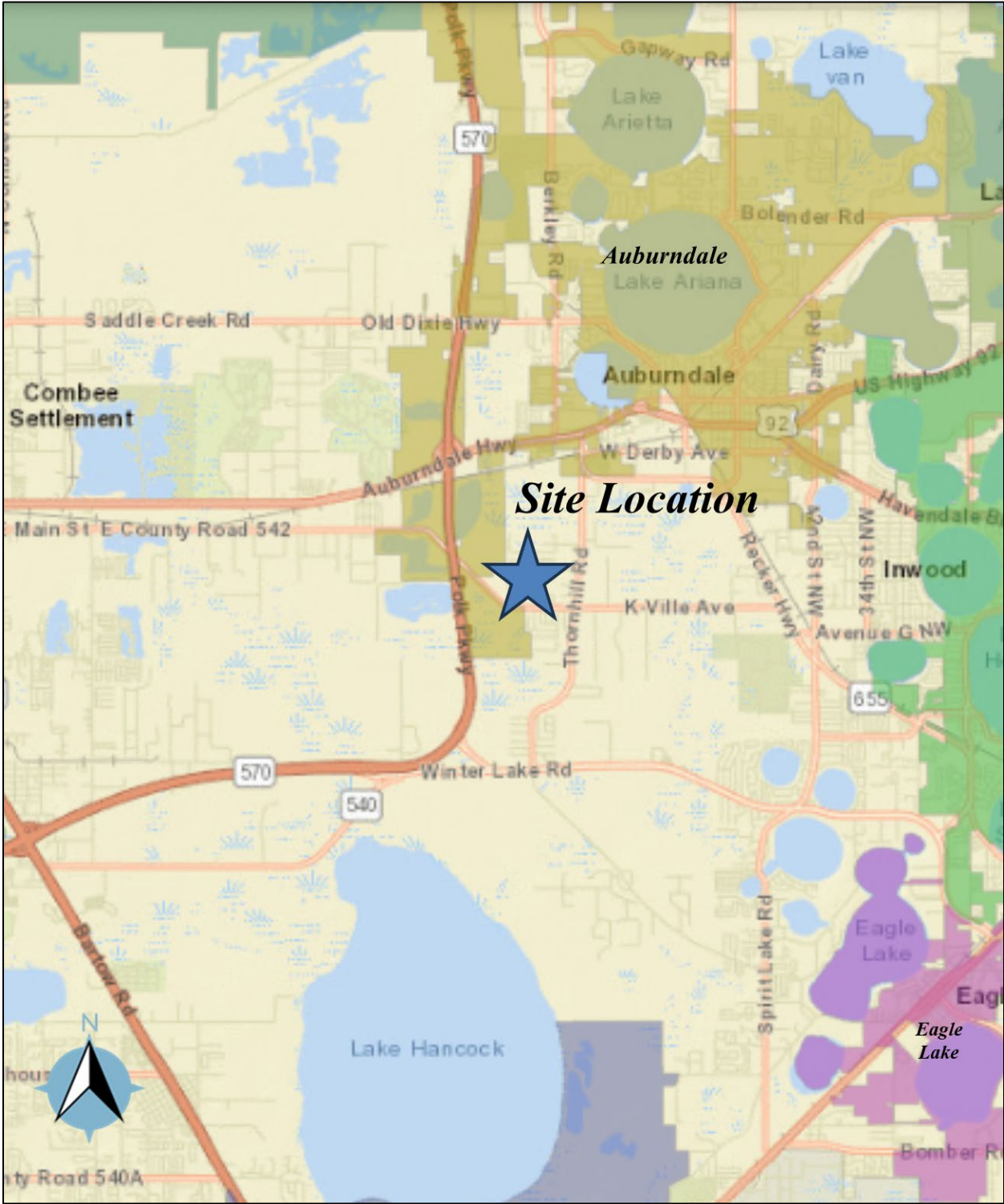
**Surrounding Future Land Use Designations and Existing Land Use Activity:**

<p><b>Northwest:</b> RS Mobile Home</p>	<p><b>North:</b> RS Mobile Home</p>	<p><b>Northeast:</b> RS Tiny Terrace/Mobile Home</p>
<p><b>West:</b> RS Mobile Home</p>	<p><b>Subject Property:</b> RS Mobile Home</p>	<p><b>East:</b> RS Tiny Terrace/Mobile Home</p>
<p><b>Southwest:</b> RS Tiny Terrace/Mobile Home</p>	<p><b>South:</b> RS Tiny Terrace/Mobile Home</p>	<p><b>Southeast:</b> RS Tiny Terrace/Mobile Home</p>

The surrounding residential units are all mobile homes, as originally intended when the subdivision was created. Many parcels within this development have accessory carports and patios. No right-of-way variances have been located within this neighborhood.

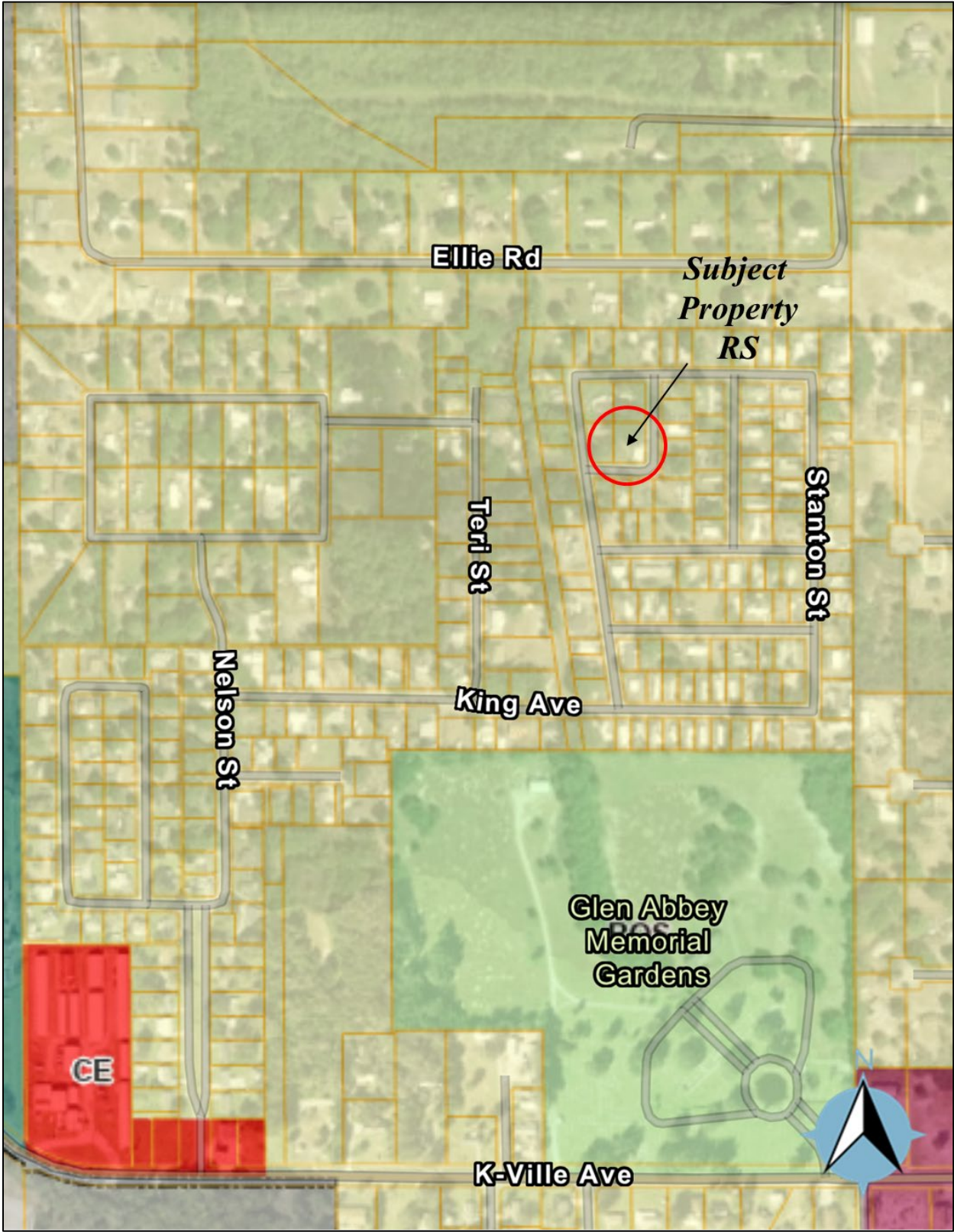
**Exhibits:**

- Exhibit 1      Location Map
- Exhibit 2      Future Land Use Map
- Exhibit 3      Aerial Image – Context
- Exhibit 4      Aerial Image – Close-up
- Exhibit 5      Site Plan
- Exhibit 6      Sketch of Encroachment



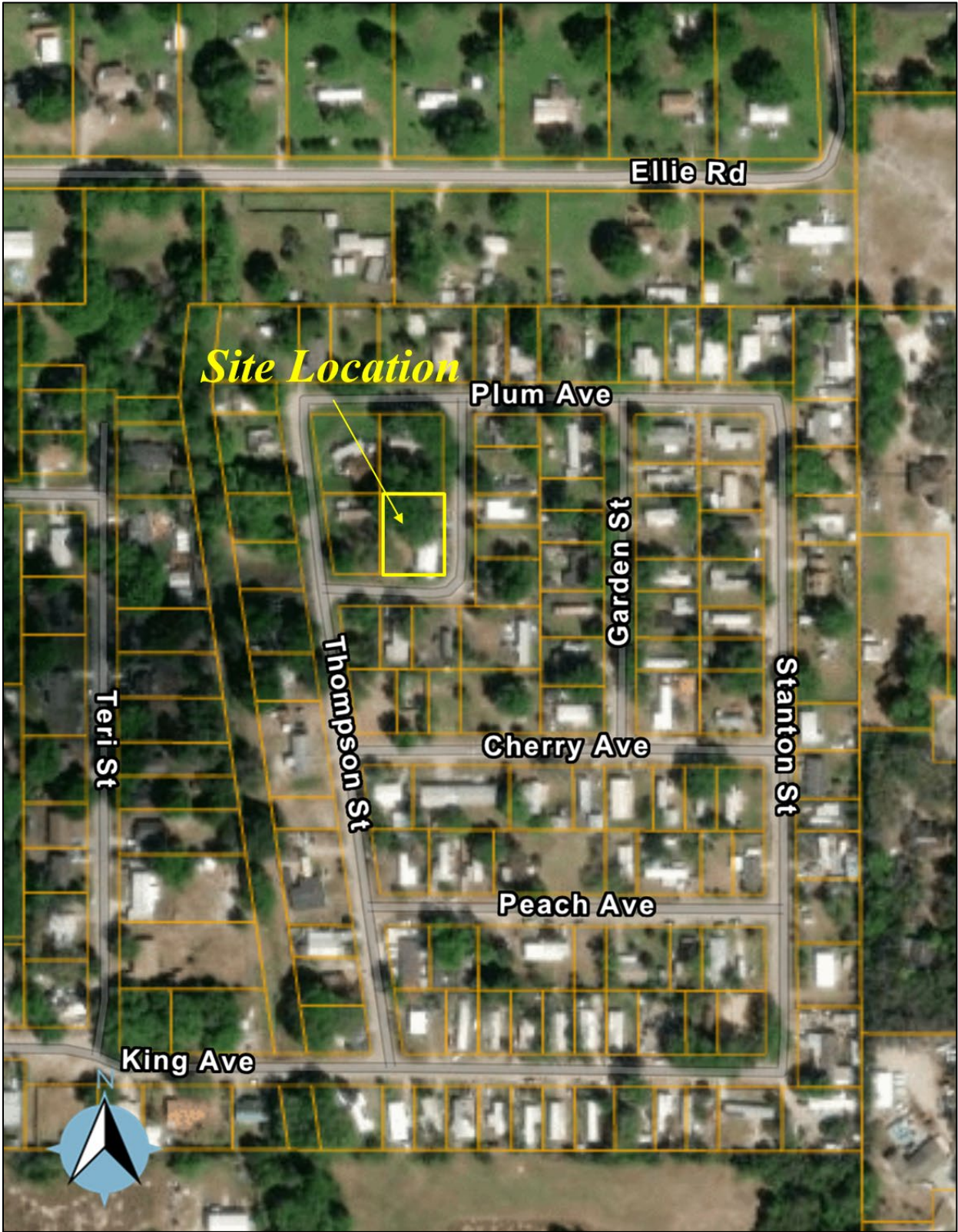
Location Map





Future Land Use Map



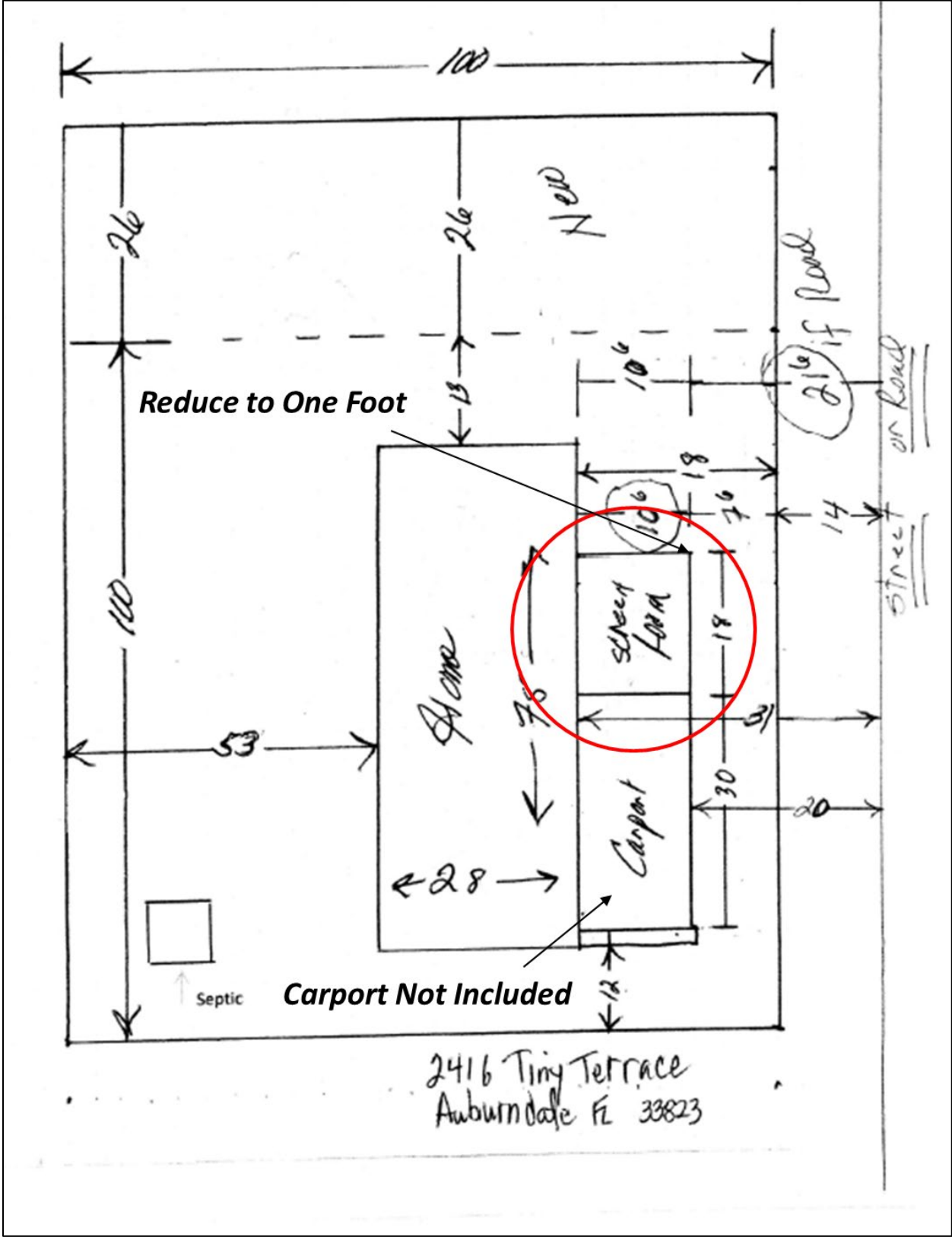


Aerial Image – Context

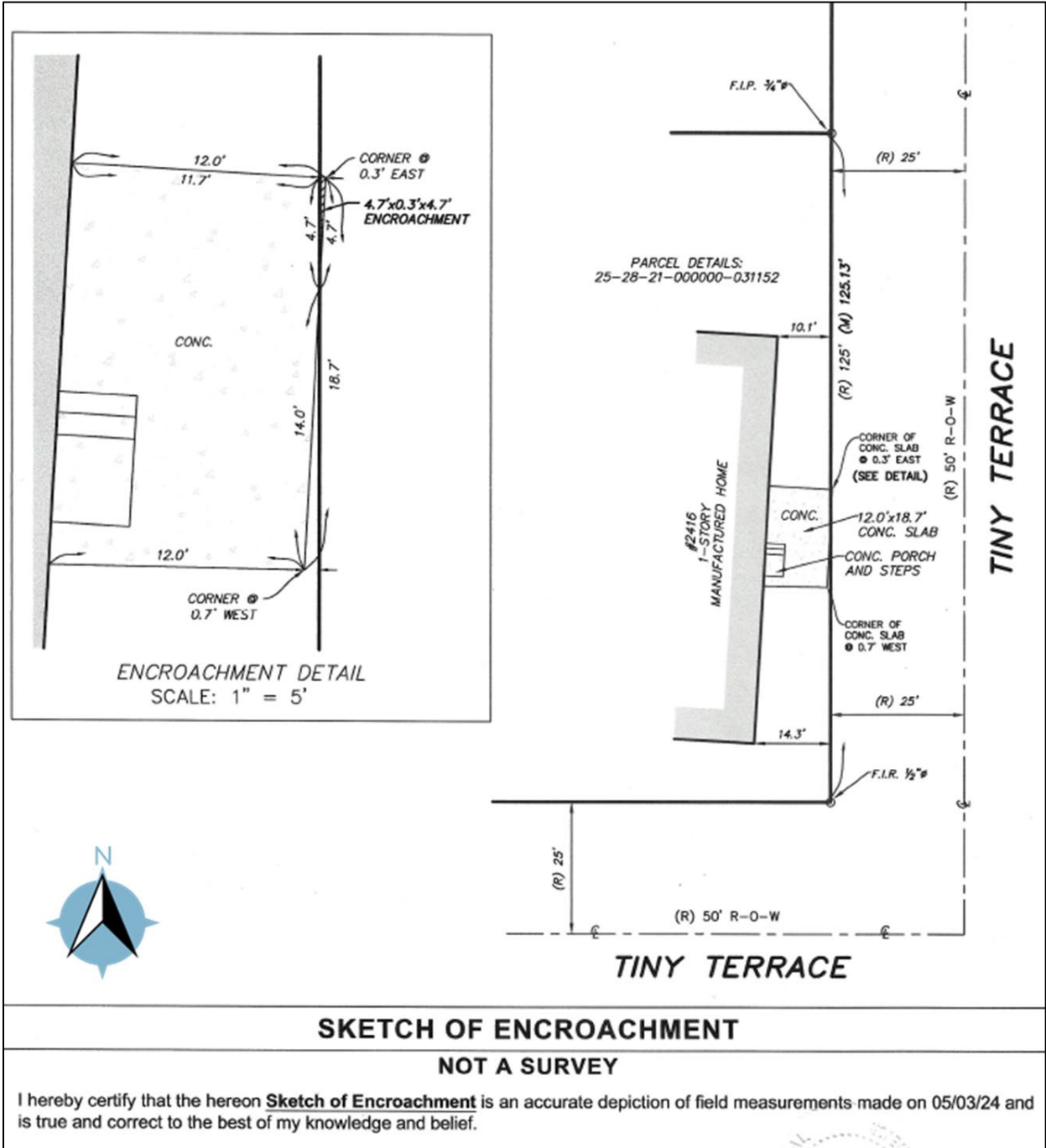




Aerial Image – Close



Site Plan



# Sketch of Encroachment