

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

DRC Date	February 13, 2025	CASE #:	LDLVAR-2025-2 (Trebiatowski - Via Galuppi St)
LUHO Date	March 27, 2025	LDC Section:	209.F & PUD 98-12

Project Number: LDLVAR-2025-2

Request: The applicant is requesting a rear primary setback reduction from ten (10) feet to five (5) feet for the construction of a new screen room with a solid roof.

Applicant: Tess Stansell

Property Owner: Linda Ann Trebiatowski

Location: 1145 Via Galuppi St, north of Village Center Road, south of Cypress Parkway, east of the City of Haines City in Section 14, Township 27, Range 28

Parcel ID#: 282714-933557-001790

Size: ±0.09 acres

Land Use Designation: Poinciana Pre-Development of Regional Impact (DRI) #1
Planned Unit Development (PUD) 98-12, Solivita Phase 5D

Development Area: Utility Enclave Area (UEA)

Case Planner: Aleya Inglima, Planner II

Summary:

The applicant is requesting a rear primary setback reduction from ten (10) feet to five (5) feet for the construction of a new screen room with a solid roof. By constructing a screen room with a solid roof, the screen room becomes part of the principal structure and must meet the principal structure rear yard setback of ten (10) feet. The subject property is located in Solivita Phase 5D (PUD 98-12). PUD 98-12 was approved with relatively small lots. Staff finds the request to be compatible and similar to others granted approval in Solivita. However, this proposed expansion of the dwelling also requires permission from the Solivita Community Association. Staff has reviewed the request for the 5-foot rear yard setback and recommends approval since this poses no harm to surrounding properties and no encroachment into easements.

Applicants for variances within Solivita typically seek County approval for relief from setbacks. Therefore, staff finds that the request meets the following criteria listed in Section 931 of the Land Development Code:

- The request **will not be injurious to the area involved or otherwise detrimental to the public welfare** because the expansion is minimal, and the lot backs up to a common area (open space). This expansion will have minimal potential adverse effects on the immediate neighbors or the community as a whole.

Development Review Committee

The Development Review Committee, based on the criteria for granting Variances, finds that the applicant's request as written **IS CONSISTENT** with **Section 931** of the Polk County Land Development Code.

Development Review Committee Recommendation: Based upon the application, and a recent site visit, the Development Review Committee recommends **APPROVAL of LDLVAR-2025-2**, with the following conditions:

CONDITIONS OF APPROVAL:

1. The property is granted a reduction in the rear yard setback from 10 feet to five (5) feet in Phase 5 of PD 98-12 for a screen room with a solid roof attached to a single-family residence.
2. The applicant shall secure permission from the Solivita Community Association prior to seeking building permits for the proposed expansion.
3. All necessary permits must be applied for within one year of the date for which the Land Use Hearing Officer's Final Order is rendered.
4. This variance does not authorize any encroachments into easements and the applicant shall be responsible for making 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.

GENERAL NOTES

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

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.

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 submission 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.

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 purchased the home from the builder in August of 2024. But the current 130 square foot lanai is a small area. This lot is bordered by an open space tract. There is a five-foot drainage easement to the rear of the parcel. The lanai will not encroach into that. This expansion is minimal relative to the structure. It will have a slight effect on the two immediate neighbors to the north and south. Many of the neighboring homes received approval to expand. It may limit the neighbor's peripheral view of the open space when sitting on their lanai. If the screen room was surrounded by a pool and did not have a hard roof, it would be permitted at five feet and not need a variance.

Staff recommend the applicant receive permission from the Solivita Community Association prior to seeking building permits for this expansion. Staff have been told by applicants and community representatives that the Solivita Community Association will not grant approval without first seeking a variance to setbacks through the County process. Therefore, this is the applicant's first step in the overall permitting process with further permissions to be obtained prior to any construction.

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;*

The shape of the lot is a perfect rectangle. The home is placed in line with the boundaries. The special circumstance that is peculiar with this land and structure is that the expansion of the screen porch and roof will have little potential adverse impact on any neighboring property owner because it is only a five-foot extension off the rear of the structure. The abutting neighbors to each side of the dwelling are the only ones that could have their view of the pond limited by the expansion. The hard roof is the only significant change.

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

The residence was constructed a little over a year ago. The applicant purchased it in August of 2024. This lot, like most others, abuts a large expanse of open space on the rear lot line. This affords a little encroachment into the rear yard setback with very little adverse impact on any other property owner.

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;*

The homes in this phase of the development are situated on the lots so that the buildable area is almost completely covered by the structure leaving very little area in the rear yard. Many buyers within the development see little value in the private open space that remains. The owner will derive more utility from that space if it is enclosed with screens and covered by a solid roof. While it does confer a special privilege on the applicant, seeking rear yard setback relief when abutting common areas has become commonplace throughout this development. This phase was modified to require only minimal setbacks/spacing between homes but there continue to be requests to build over the private open spaces. Since this property backs up to an open space pond tract, there is no significant harm that it may cause another property owner.

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

Adding a roofed in expansion provides more space in the patio for the applicant's enjoyment of the backyard protected from insects and the elements.

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. The home will remain a residential use in a residential district of the Planned Development.

7. *Whether that in no case shall the Land Use Hearing Officer or the Planning Commission grant a variance which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this request will not result in the creation of a lot or parcel that does not meet the requirements of the Code. This variance request will not change the size, shape or use of the property.

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.*

Granting this request will not circumvent any conditions of approval. It was anticipated that some lots may not be able to comply with all the standards set forth in the Planned Unit Development (PUD) approval. As long as the drainage easements are not encroached upon, this request will not circumvent the Board approvals.

Surrounding Future Land Use Designations and Existing Land Use Activity:

The table to follow provides details of abutting uses and their regulatory parameters.

<p>Northwest: PRE-DRI#1, PUD 98-12 Solivita Phase 5D Single-family home</p>	<p>North: PRE-DRI#1, PUD 98-12 Solivita Phase 5D Single-family home</p>	<p>Northeast: PRE-DRI#1, PUD 98-12 Solivita Phase 5D Open Space</p>
<p>West: PRE-DRI#1, PUD 98-12 Solivita Phase 5D Single-family home</p>	<p>Subject Property: PRE-DRI#1, PUD 98-12 Solivita Phase 5D Single-family home</p>	<p>East: PRE-DRI#1, PUD 98-12 Solivita Phase 5D Open Space</p>
<p>Southwest: PRE-DRI#1, PUD 98-12 Solivita Phase 5D Single-family home</p>	<p>South: PRE-DRI#1, PUD 98-12 Solivita Phase 5D Single-family home</p>	<p>Southeast: PRE-DRI#1, PUD 98-12 Solivita Phase 5D Open Space</p>

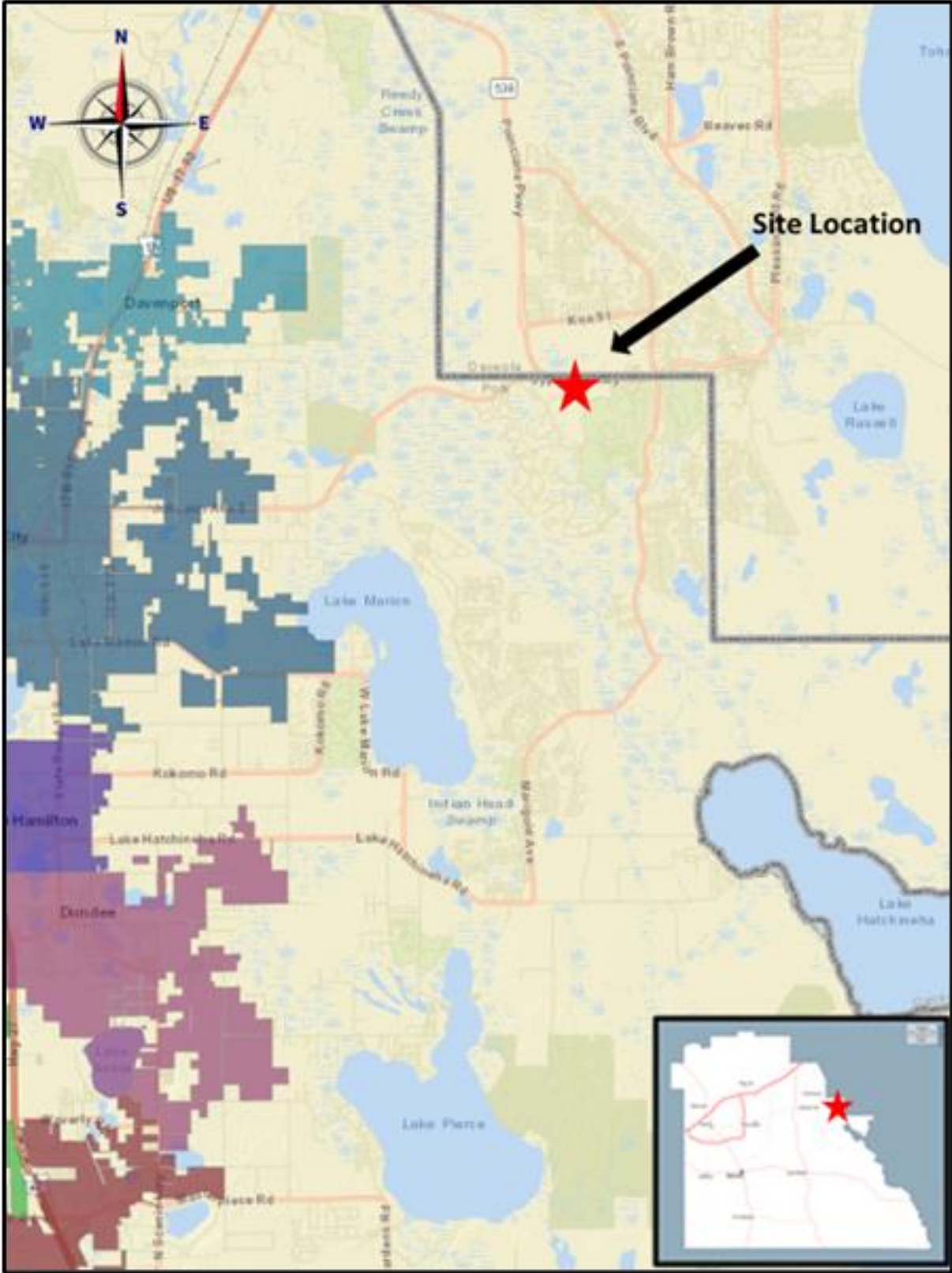
Phase 5D of the Solivita development is single-family detached units. This proposed screen enclosure will extend five feet (5’) off the lanai and back wall with a solid roof. The rear yard of these units also abuts an open space tract in Phase 5D of the Solivita plat. This screen room expansion will not and is not permitted to extend into any drainage easements according to the plat notes and Section 223 of the Land Development Code.

Comments from other Governmental Agencies:

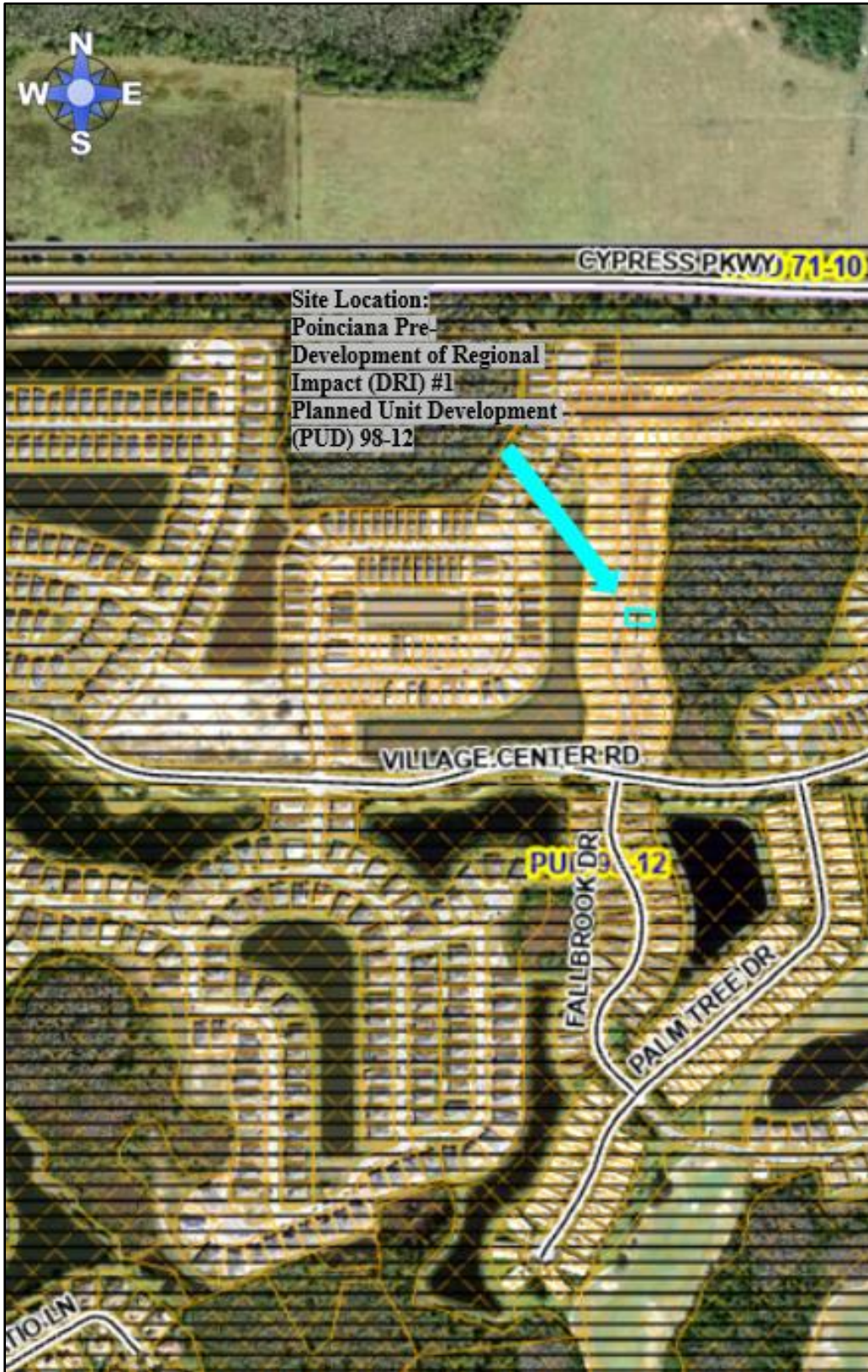
None.

Exhibits:

- Exhibit 1 –Location Map
- Exhibit 2 – Future Land Use
- Exhibit 3 – 2023 Aerial Context
- Exhibit 4 – 2023 Aerial Close-up
- Exhibit 5 – Applicant Site Plan
- Exhibit 6 – Applicant’s Justification



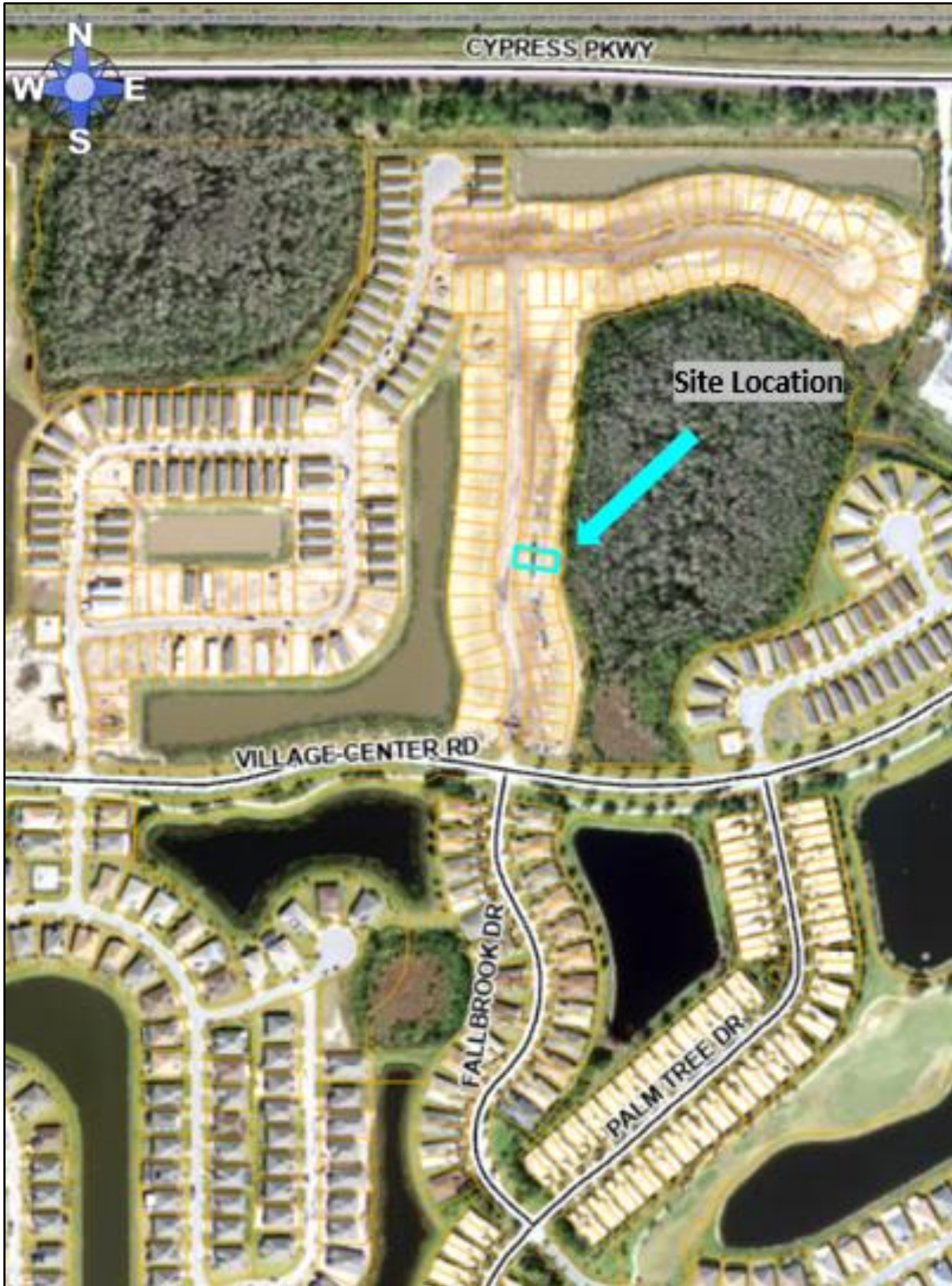
Location Map



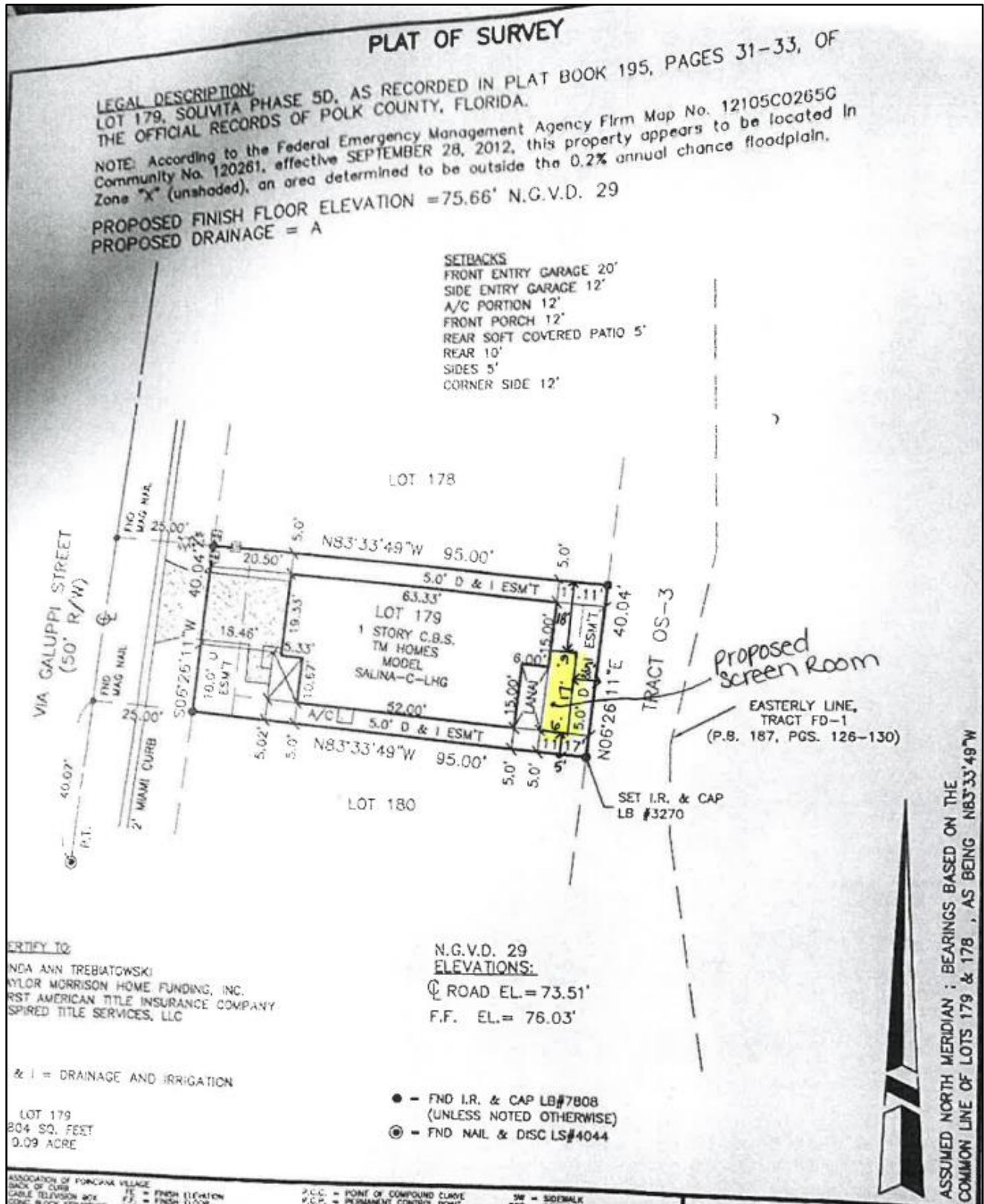
Future Land Use



2023 Aerial Context



2023 Aerial Close-Up



Site Plan

**CRITERIA FOR GRANTING
VARIANCE**

Will the variance be injurious to the area involved or detrimental to the public welfare?

No, the variance will not be injurious to the area involved or detrimental to the public welfare.

What special conditions exist that are peculiar to the land, structure, or building involved?

The setbacks in the community of Solivita are large. Without reduction of the rear setback the homeowner would not be able to have the screen room built so they can enjoy the Florida weather protected from the elements.

When did you buy the property and when was the structure built? Permit Number?

8/2024. Permit has not been applied for yet. We are waiting on the approval of the variance.

What is the hardship if the variance is not approved?

The homeowner would like to use the property that is available to them within reasonable limits. They would like to be able to enjoy their backyard and be protected from the elements. The addition of the screen room will allow them to be able to do so

Is this the minimum variance required for the reasonable use of the land?

Yes, this is the minimum variance required for the reasonable use of the land

Do you have Homeowners Association approval for this request?

No, pending County approval.

Applicant's Justification