

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

DRC Date	March 13, 2025	CASE #:	LDLVAR-2025-9 (Cinnamon Drive Variance)
LUHO Date	April 24, 2025	LDC Section:	209.F & PUD 71-10

Project Number: LDLVAR-205-9 (Cinnamon Drive Variance)

Request: The applicant is requesting a reduction in the rear yard setback from 20 feet to 14 feet for the construction of a new screen room with an aluminum roof on new and existing concrete slabs.

Applicant: Indarjit Jailal

Property Owner: Indarjit Jailal & Radica Jailal

Location: 450 Cinnamon Drive, Lot 8 of Poinciana Subdivision, north and south of Cinnamon Drive, east of Pacific Road, north of Coriander Drive, south of Caraway Drive, west of Marigold Avenue, southeast of Haines City in Section 15, Township 28 and Range 28.

Parcel ID#: 282809-935230-013080

Size: ±0.21 acres (9,100 square feet)

Land Use Designation: Poinciana Pre-DRI #1 (PUD 71-10)

Development Area: Utility Enclave Area (UEA)

Case Planner: Andrew Grohowski, Planner II

Summary:

The applicant is requesting a rear primary setback reduction from twenty (20) feet to fourteen (14) feet in order to construct a screen room addition with an aluminum roof onto the rear of the existing home. The screen room is attached to the primary structure and has a solid roof which, therefore, must meet the 20-foot principal structure rear setbacks. According to the submitted site plan (*Exhibit 5*), the proposed structure will be approximately 260 square feet. The subject property is located in Neighborhood 3 South, Village 7 of the Poinciana subdivision (PUD 71-10). There is a 10-foot utility easement along the rear property line that will not be encroached upon as part of this request. The request for a reduction in the rear yard setback requirements has become commonplace for this PUD over the years, with rear screen rooms/additions being the leading request. Based upon the character of the surrounding neighborhood, Staff finds the proposed variance is not anticipated to change the existing land use, create an incompatibility with the existing surrounding development, or circumvent the intent of conditions within PUD 71-10.

Staff finds that the request meets the following criteria listed in Section 931:

- **The special conditions and circumstances present in the request do not result from the action of the applicant.** The applicant purchased the property in May 2024 with the residence in its current location. The lot is a part of an approved Planned Unit Development (PUD 71-10) which the size, shape and established setbacks were created by the initial developer and exceed what would typically be expected for a community of this density and lot size.
- The request **will not be injurious to the area involved or otherwise detrimental to the public welfare** because the requested reduction of the rear setback does not encroach onto the platted ten-foot drainage and utility easement. The expansion is not anticipated to impact the drainage of the subject property or the abutting lots. Variances for similar structures have also been approved within this neighborhood and others throughout PUD 71-10.

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-2025-9**, with the following conditions:

CONDITIONS OF APPROVAL:

1. Approval of this variance is to reduce the rear setback from twenty (20) feet to fourteen (14) feet for the proposed structure as described in the staff report and site plan. All further additions or structures placed on the property shall be required to meet the requirements PUD-71-10 or be granted approval via another variance from the Land Use Hearing Officer.
2. The applicant shall have one (1) year 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 addition.
3. 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.

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: 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 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.

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;*

On March 28, 1995, the Board granted approval for a Minor Modification to standardize rear and side yard setbacks (single family units), for all phases of Poinciana. The new setbacks were 20.0' rear and 7.5' side yard setbacks. This applied only to lots that had not yet been developed.

The subdivision's site plan along Cinnamon Drive and Caraway Drive was resubmitted in 2006, under "Tuscany Preserve at Lake Marion Phase II" in which easements, setbacks, and lot dimensions remained consistent with both the prior site plan and setback requirements in Poinciana. This expansion is minimal relative to the primary residence. It accounts for less than 3% of the total lot area and about 18% expansion of the primary structure. It is not likely that granting this variance be injurious to the area involved or otherwise detrimental to the public welfare. In 2014, a variance was granted for a rear setback reduction from 20 feet to 10 feet for construction of a screen room at a residence approximately 735 feet north of the subject property (case # VAR-14-38). The subject property has a ten-foot public utility and storm drainage easement along the rear of the property. To the east is dedicated open space.

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 applicant is requesting a 6-foot reduction to rear setbacks from 20 feet to 14 feet so that they may construct a screen room with an aluminum roof attached the principal structure. Due to the large rear setback of twenty feet, it is common for property owners to request a variance in order to build any additions on lots throughout Poinciana.

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

The site plan for the subdivision was resubmitted in 2006 and construction of the 1,415 square-foot home began in 2007. The applicant purchased the property in May 2024. Screen rooms with solid roofs attached to residences adhere to the principal structure setback requirements. The configuration, size, and established setbacks of the lots in this development were created by the developer rather than the individual property owners.

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 the neighborhood are placed on the lots so that the planned buildable area is almost completely covered by the structure leaving very little area in the rear yard. 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. Just three blocks to the north, a similar variance for a reduction in the rear yard setback from 20 feet to 10 feet was approved in 2014 (case #: VAR 14-38).

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

The requested variance is believed to be the minimal variance necessary to optimize the use of the owner's land. Expanding by including a roof makes a much more functional and protected backyard space. The applicant is requesting a screen enclosure addition with a solid roof to extend to the rear limits of the lot without encroaching into the ten-foot drainage easement. The new screen room would add onto an existing 12 x 8' concrete slab. This roofed expansion provides 18% more space for enjoyment of the backyard while being 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 proposed structure is considered a part of the primary residence. Therefore, the request will remain residential.

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.*

There was no evidence found that suggests the proposed request will circumvent the intent of a condition placed on a development by the Planning Commission or the BoCC. 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.

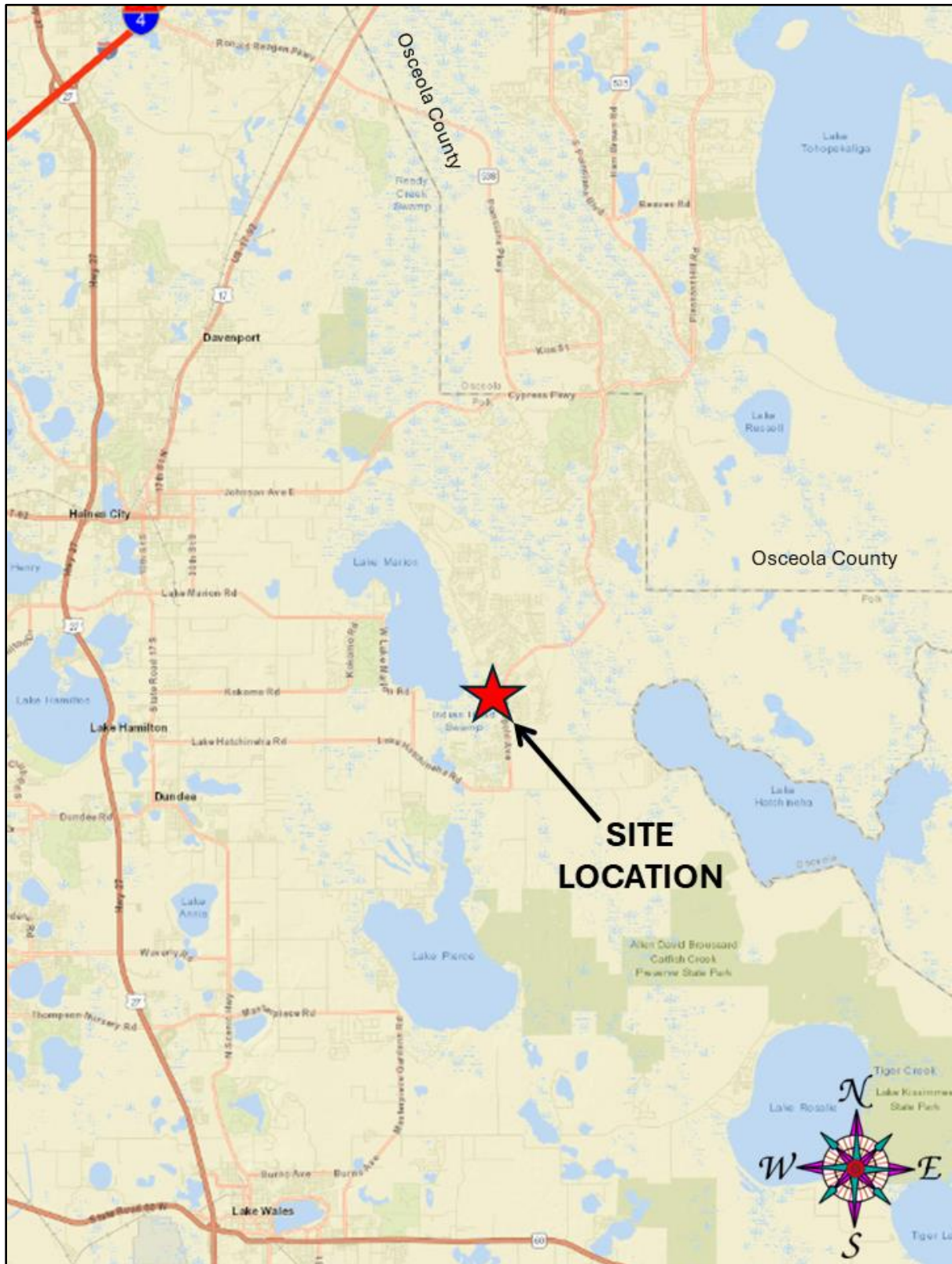
Northwest: PRE-DRI#1, PUD 71-10 Tuscany Preserve, Phase II 1,321 sq.ft. single-family home on 7,000 sq.ft. lot	North: PRE-DRI#1, PUD 71-10 Tuscany Preserve, Phase II 1,322 sq.ft. single-family home 9,100 sq.ft. lot	Northeast: PRE-DRI#1, PUD 71-10 Tuscany Preserve, Phase II Greenway 3, Open Space
West: PRE-DRI#1, PUD 71-10 Tuscany Preserve, Phase II 1,794 sq.ft. single-family home on 7,000 sq.ft. lot	Subject Property: PRE-DRI#1, PUD 71-10 Tuscany Preserve, Phase II 1,415 sq.ft. single-family home on 9,100 sq.ft. lot	East: PRE-DRI#1, PUD 71-10 Tuscany Preserve, Phase II Greenway 3, Open Space
Southwest: PRE-DRI#1, PUD 71-10 Tuscany Preserve, Phase III 248 Quad Units & 176 Townhomes	South: PRE-DRI#1, PUD 71-10 Tuscany Preserve, Phase III 248 Quad Units & 176 Townhomes	Southeast: PRE-DRI#1, PUD 71-10 Tuscany Preserve, Phase II Greenway 4, Open Space

The subject property is located within Neighborhood 3 South, Village 7 of Poinciana Planned Unit Development 71-10 (PUD 71-10). In 2006, a resubmitted site plan for the properties along Cinnamon Drive and Carraway Drive was filed under the name “Tuscany Preserve at Lake Marion Phase II”. Easements and setbacks remained consistent with the prior development approval (PUD 71-10). This proposed screen enclosure will be extended over an existing 12’ x 8’ concrete slab, with the new concrete foundation being eleven feet (11’) off the existing home. There is a ten-foot drainage and utility easement on every property boundary in this subdivision. The rear yard of these units abuts additional residences off Cinnamon Drive to the rear and sides.

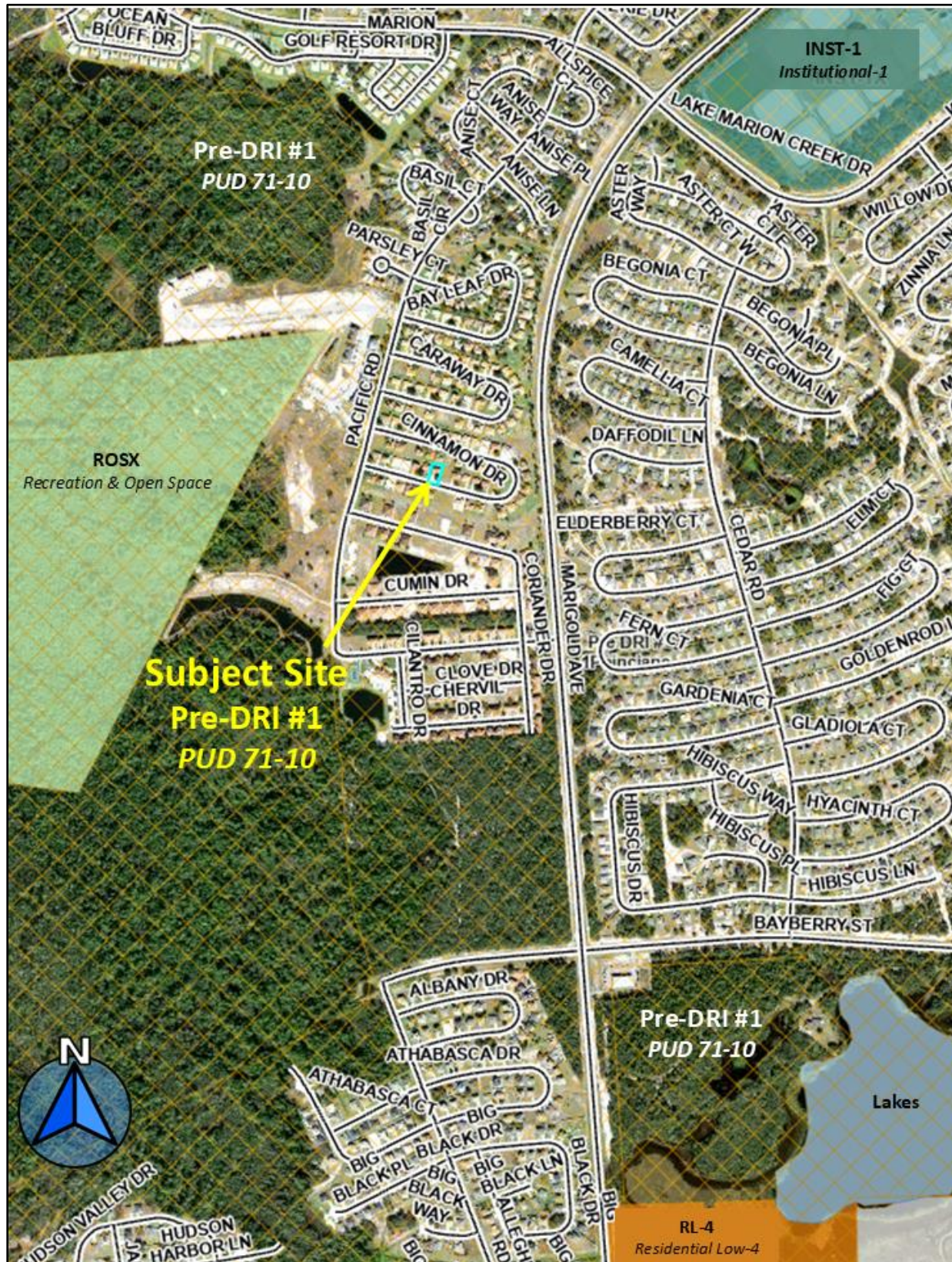
Comments from other Governmental Agencies: None.

Exhibits:

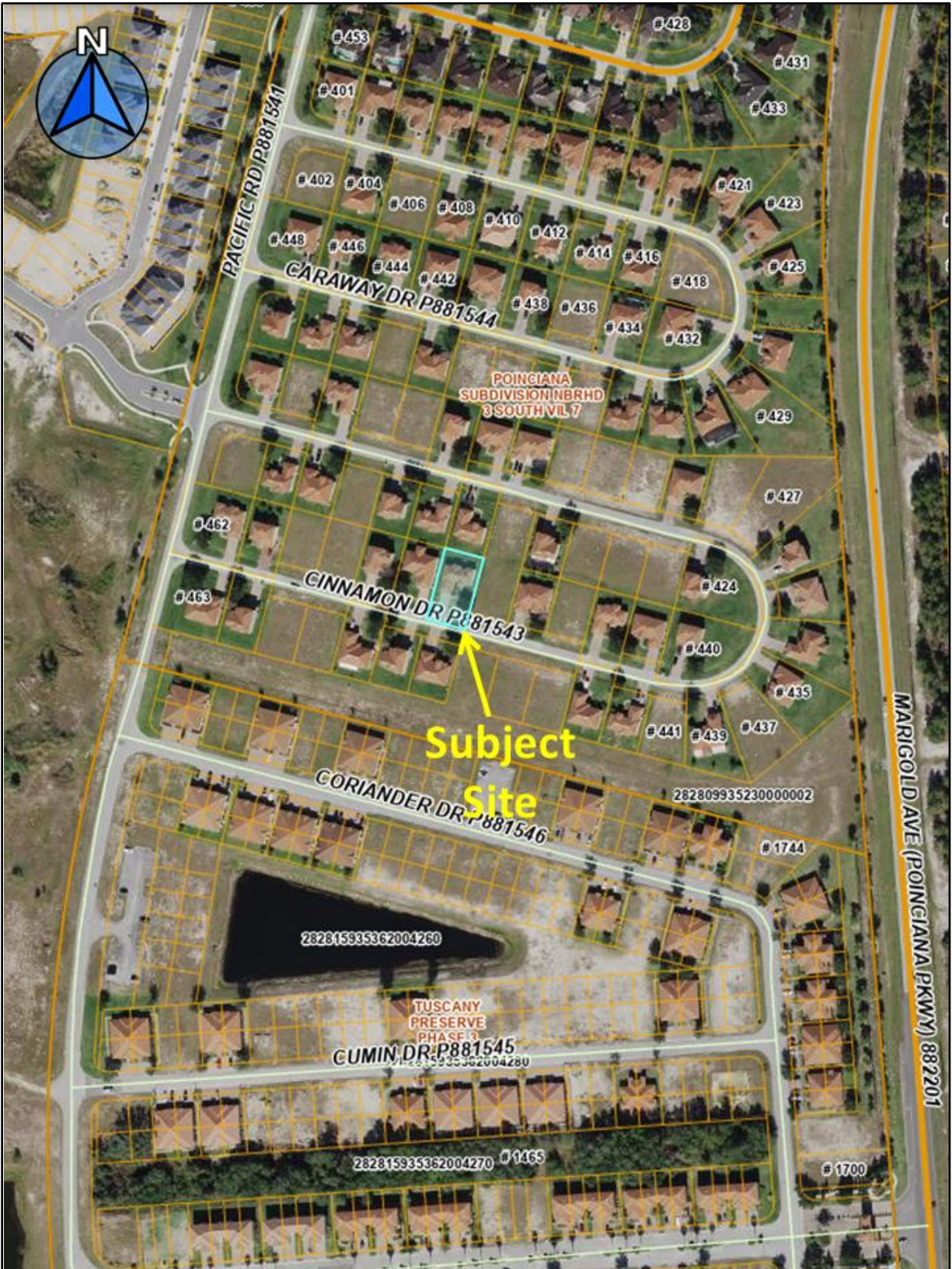
- Exhibit 1 – Location Map
- Exhibit 2 – Future Land Use Map
- Exhibit 3 – 2023 Aerial Photo (Context)
- Exhibit 4 – Aerial Photo (Close-up)
- Exhibit 5 – Applicant’s Site Plan
- Exhibit 6 – Applicant’s Justification



Location Map




Future Land Use



2023 Aerial Photo (Context)



2023 Aerial Photo (Close-Up)

	<h2 style="margin: 0;">RIDGE SURVEYING & MAPPING, INC.</h2> <p style="margin: 0;">210 WOODWARD STREET, SUITE 201 E-MAIL: ridgesurveying@aol.com LAKELAND, FLORIDA, 33803 P.O. BOX 25002 33802-5002</p>	(863)686-5405 TOLL-FREE FAX 1-(866)293-8004
LEGAL DESCRIPTION SKETCH: <u>TUSCANY PRESERVE DEVELOPMENT, INC.</u> REQUESTED BY: <u>Scott Roberts</u>		JOB NO. 05-408 DATE: 11/02/05

SPECIFIC PURPOSE SURVEY

THIS IS NOT A BOUNDARY SURVEY!

NEW SCREEN ROOM (ALUM. ROOF) 26' x 10' WITH NEW CONCRETE SLAB

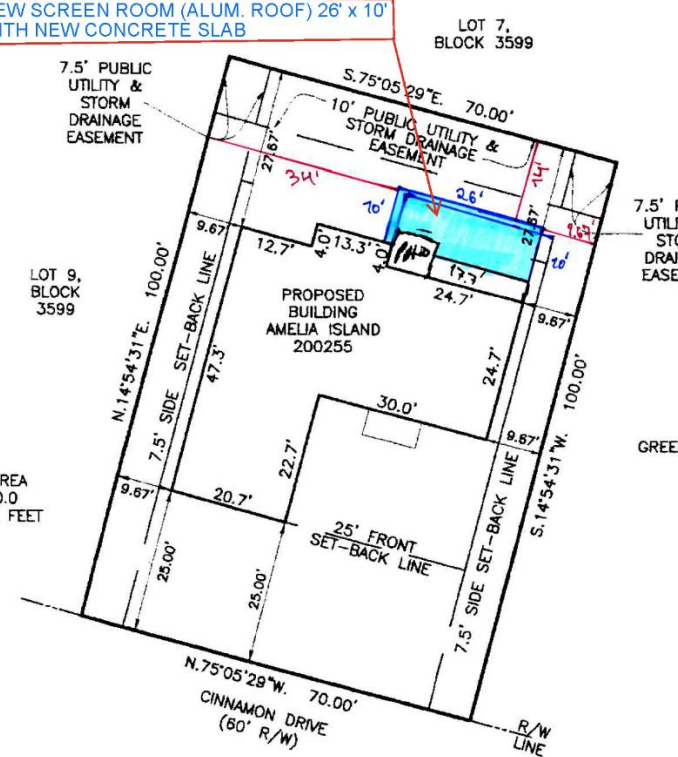
7.5' PUBLIC UTILITY & STORM DRAINAGE EASEMENT

10' PUBLIC UTILITY & STORM DRAINAGE EASEMENT

7.5' PUBLIC UTILITY & STORM DRAINAGE EASEMENT

LOT 9, BLOCK 3599

LOT AREA 7000.0 SQUARE FEET



SURVEYORS NOTES:

- The purpose of this survey was to show proposed improvements and the relationship to the platted Lot lines, a field survey was not conducted at this time, this Survey was meant for permitting purposes only.
- North and survey data as shown is referenced to the bearing of N.75°05'29"W., along the Northerly right-of-way line according to the plat.
- Property is located in Flood Zone "X", according to the Flood Insurance Rate Map for Polk County, Florida, Map number 12105C0395F effective date 12/20/2000.

LEGEND: R/W= Right-of-Way

DESCRIPTION <u>LOT 8, BLOCK 3599</u> <u>POINCIANA NEIGHBORHOOD 3 SOUTH, VILLAGE 7</u> <u>PLAT BOOK 62, PAGES 39-46</u> <u>POLK COUNTY, FLORIDA, SECTION 15, TOWNSHIP 28 S., RANGE 28 E.</u>	<p>NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER</p>
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Fred P. Ammermann, PLS

REGISTERED SURVEYOR NO. 4220 STATE OF FLORIDA

Not Valid Without the Signature and Original Raised Seal of a Florida Licensed Surveyor and Mapper

Signature: _____ Date: _____

Print Name: Fred P. Ammermann, PLS

Registration No. 4220

Site Plan

CRITERIA FOR GRANTING VARIANCE

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

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?

There are no special conditions that are peculiar to the land, structure, or building involved.

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

05/2024

What is the hardship if the variance is not approved?

The hardship will be preventing extra useable and safe space for any and all visiting family including elderly and children.

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?

Yes, there is homeowner association approval for this request.

Applicant's Justification