

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

<b>DRC Date:</b> October 9, 2025	<b>CASE #:</b> LDLVAR-2025-60 (Fuquay Solivita Phase 7G Variance)
<b>LUHO Date:</b> November 20, 2025	<b>LDC Section:</b> Section 209.F & PUD 98-12

**Request:** The applicant is requesting a primary structure rear setback reduction from ten (10) feet to six (6) feet for the installation of a new 28' by 15' solid aluminum roof.

**Applicant:** Shirley Fuquay

**Property Owner:** Elizabeth Flynn and Shirley Fuquay

**Location:** The subject property is located at 622 San Joaquin Drive, north of Barcelona Drive, south of Cypress Parkway, east of San Clemente Avenue, west of Marigold Avenue, East of Haines City in Section 15, Township 27, Range 28.

**Parcel ID#:** 282715-933573-001720

**Size:** ±0.17 acres

**Land Use Designation:** Poinciana Pre-Development of Regional Impact (DRI) #1  
Planned Unit Development (PUD) 98-12, Solivita Phase 7G Unit-2

**Development Area:** Utility Enclave Area (UEA)

**Case Planner:** Kyle Rogus, Planner II

**Summary:**

The applicant is seeking a variance to reduce the primary structure rear setback from ten (10) feet to six (6) feet for the construction of a solid aluminum roof to extend over the existing screened enclosure. The subject site is designated as Lot 172 of the Solivita Phase 7G – Unit 2 Subdivision, part of 98-12 which was approved for primary structure rear setbacks of 10 feet and accessory structure rear setback of 5 feet. Because the solid aluminum roof addition will be attached or connected to the principal structure, the newly proposed 28' by 15' solid aluminum roof under BR-2025-6635 requires a variance to reduce the primary structure rear setback from ten (10) feet to six (6) feet.

Staff finds this request will cause no direct or indirect harm to the community and recommends approval. Staff recommends approval of LDLVAR-2025-60 as it meets the following criteria listed in Section 931:

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;*

This is not the only property within the immediate surrounding requesting for a solid aluminum roof to extend full coverage over an existing screened enclosure. The southwest most portion of the subject site, the site abuts Lot 23 of Solivita Phase 7G – Unit 1 where an existing 27’ by 10’ covered screen patio room was built under building permit BLD-H-223865. This expansion is minimal relative to the structure. It will not limit the neighbor’s peripheral view of the open space. The screen enclosure is already existing under BLD-H-247101, therefore the request to provide full roof coverage of the existing screened area will have little to no effect on the two immediate neighbors to the east and west.

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 existing home on the subject site was constructed in 2014 and met the primary structure setbacks of 10 feet front, 5 feet side, and 10 feet rear under building permit BLD-H-223850. In June 2022, the owner purchased the subject site through a warranty deed according to the Property Appraiser (O.R. BK 12280 PGs 0926-0927). The applicant later filed for a building permit BLD-H-247101, for the construction of a new 28’ by 10’ screened enclosure with concrete slab to expand the porch off the lanai. Now, under building permit BR-2025-6635, the applicant is looking to add a new solid aluminum roof to extend of the existing screen enclosure.

### **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-2025-60**

### **CONDITIONS OF APPROVAL:**

1. The property is granted a reduction in the primary rear structure setback from ten (10) feet to six (6) feet for the installation of a new 28’ by 15’ solid aluminum roof.
2. The applicant shall secure permission from the Solivita Community Association prior to seeking building permits for the proposed extension.
3. All necessary permits must be applied for within one (1) 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 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;*

In June 2022, the owner purchased the subject site through a warranty deed according to the Property Appraiser (O.R. BK 12280 PGs 0926-0927). The subject site is designated as Lot 172 in the Solivita Phase 7G – Unit 2 Subdivision recorded as PUD 98-12 under Plat Book 155, Page 4 in 2014. It is located on the exterior of the development with road frontage off San Joaquin Road, a private roadway. To the east and west of the subject site are similar sized lots and single-family housing. Neither of the abutting lots to the east and west have an extended lanai to the rear. To the southwest, the subject site abuts Lot 23 of Solivita Phase 7G – Unit 1 where an existing 27' by 10' covered screen patio room was built under building permit BLD-H-223865. This will not be the first covered lanai in close proximity to the neighboring properties. To the south and south east the property backs up to open space Tract LD-13 (landscape & signage) and Tract P-22 (wet detention pond). Seeking rear yard setback relief when abutting common areas has become commonplace throughout this development. This aluminum roof expansion will not and is not permitted to extend into any drainage easements.

This expansion is minimal relative to the structure. It will not limit the neighbor's peripheral view of the open space. The screen enclosure is already existing under BLD-H-247101, therefore the request to provide full roof coverage of the lanai will have little to no effect on the two immediate neighbors to the east and west.

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 subject site was once part of the larger Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10. A replat of Solivita Phase 7G – Unit 2

Subdivision was recorded as PUD 98-12 under Plat Book 155, Page 4 in 2014. The subject site is designated as Lot 172. PUD 98-12 was approved for primary structure rear setbacks of 10 feet and accessory structure rear setback of 5 feet. The placement of primary structures on lots within the development are on the setbacks, which creates the existing circumstance. There is no relief for additions to the primary structure with a solid roof without requiring a variance for setback reductions.

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

The existing home on the subject site was constructed in 2014 and met the primary structure setbacks of 10 feet front, 5 feet side, and 10 feet rear under building permit BLD-H-223850. BLD-H-223850 was approved with a 27'6" by 10' lanai encompassing the southwest portion of the house (see Exhibit #7). In June 2022, the owner purchased the subject site through a warranty deed according to the Property Appraiser (O.R. BK 12280 PGs 0926-0927). The applicant later filed for a building permit BLD-H-247101, for the construction of a new 28' by 15' screened enclosure with concrete slab (see Exhibit #8) to expand off the lanai. Because the screen enclosure did not have a solid roof at the time of construction, no variance was needed for the extension. Now, under building permit BR-2025-6635, the applicant is looking to add a new solid aluminum roof to extend of the existing screen enclosure. Pursuant to Section 209.F of the Land Development Code (LDC) "roofed accessory structures physically attached or connected to the principal structure shall be considered a part of the principal structure and shall be subject to the same standards as the principal structure." Because the solid aluminum roof will be attached or connected to the principal structure, the newly proposed 28' by 15' solid aluminum roof under BR-2025-6635 will require a variance to reduce the primary structure rear setback from ten (10) feet to six (6) 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;*

Every variance approval is a special privilege to some degree. The homes in this phase of the development are situated on the lots slightly larger than other phases like Solivita Phase 5C where the typical lot size is 0.10 acres. Lots within Solivita Phase 7G – Unit 1 & 2 are typically 0.17 acres. Although the lots are slightly larger, offering more relief from setback requirements, the individual floor plans dictate how much developable area is left available by the structure. Many buyers within the development see little value in the private open space that remains. Within the Solivita Phase 7G Subdivision, there have been numerous building permits for extended screened enclosures to the rear of the property. Many utilize the screen roof, not requiring a variance request for rear setback reductions.

However, the southwest corner of the subject site shares its property boundary with Lot 23 of Solivita Phase 7G – Unit 1, where the residence has a solid aluminum roof providing full coverage for their screen enclosure. Due to the larger lot size and floor plan, the roofed screen enclosure did not encroach upon the 10-foot rear setback, therefore no variance request is on file. This can be seen throughout Phase 7G, which can be misleading when looking for similar variance requests in the surrounding area.

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 has larger lots and more setbacks/spacing between homes but there continue to be requests to build over the private open spaces. Since this property backs up to open space Tract LD-13 (landscape & signage), Tract P-22 (wet detention pond), and Lot 23 of Solivita Phase 7G – Unit 1, 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;*

The requested variance is believed to be the minimal variance necessary to optimize the use of the owner's land. The applicant intends to extend roof coverage from the existing lanai extension under BLD-H-247101 for handicap and elderly assistance as stated in their justification. The subject site is located within a 55+ community where the fully covered screened lanai will significantly reduce the risk of slipping as the current screen roof allows for heavy rainfall.

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 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. This variance 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.

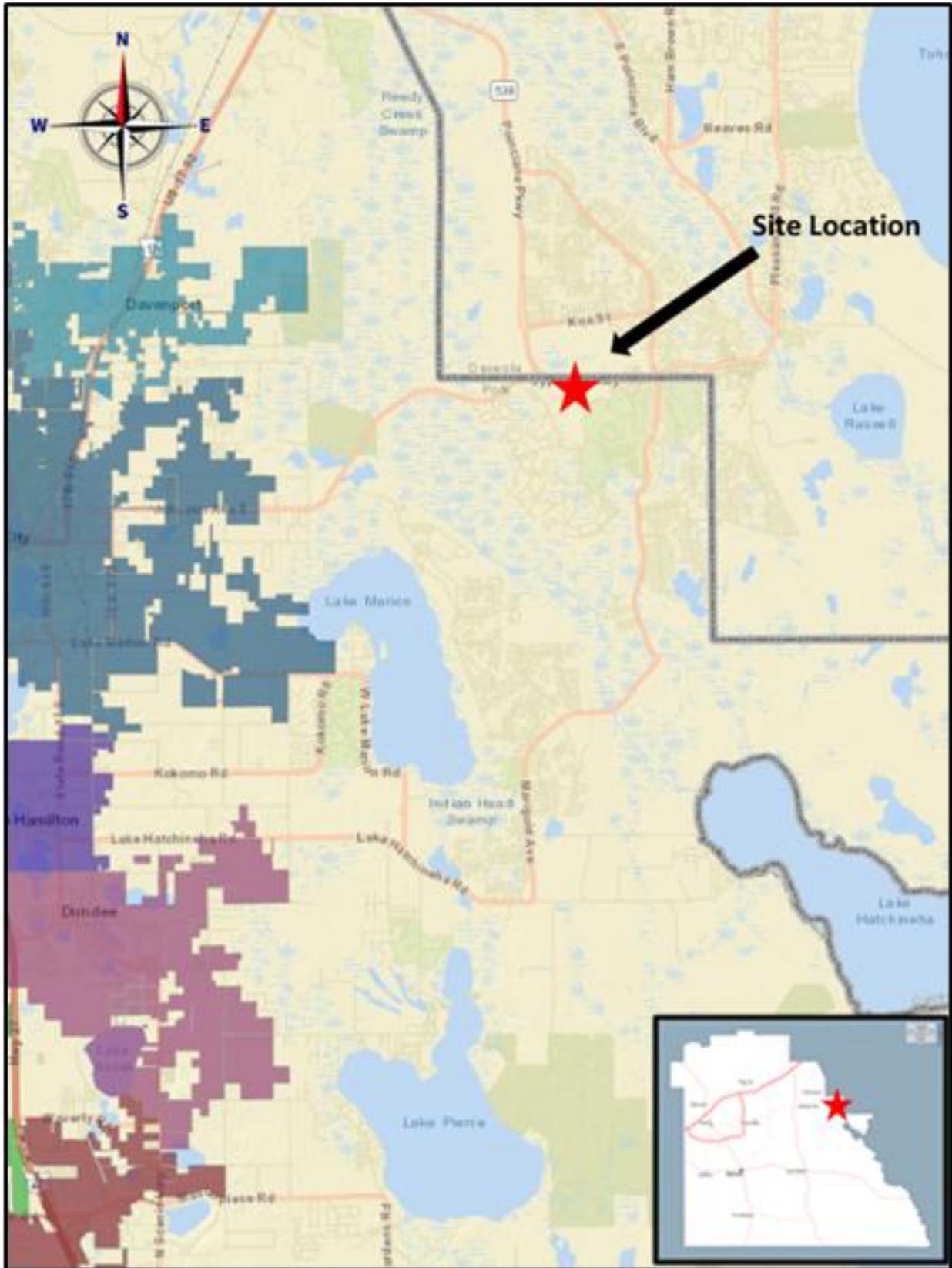
**Surrounding Future Land Use Designations and Existing Land Use Activity:**

<p><b>Northwest:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 7G Lot 216 3,052 sq. ft. single-family home Built 2016 0.15 acres</p>	<p><b>North:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 7G Tract LD-11 Landscape &amp; Signage 0.37 acres</p>	<p><b>Northeast:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 7G Tract LD-11 Landscape &amp; Signage 0.37 acres</p>
<p><b>West:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 7G Lot 171 2,612 sq. ft. single-family home Built 2015 0.16 acres</p>	<p><b>Subject Property:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 7G Lot 172 2,850 sq. ft. single-family home Built 2014 0.17 acres Screened Extension</p>	<p><b>East:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 7G Lot 173 2,697 sq. ft. single-family home Built 2014 0.17 acres</p>
<p><b>Southwest:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 7G Lot 23 3,097 sq. ft. single-family home Built 2014 0.17 acres Lanai Extension</p>	<p><b>South:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 7G Tract LD-13 Landscape &amp; Signage 0.35 acres</p>	<p><b>Southeast:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 7D Tract P-22 Wet detention pond 6.3 acres</p>

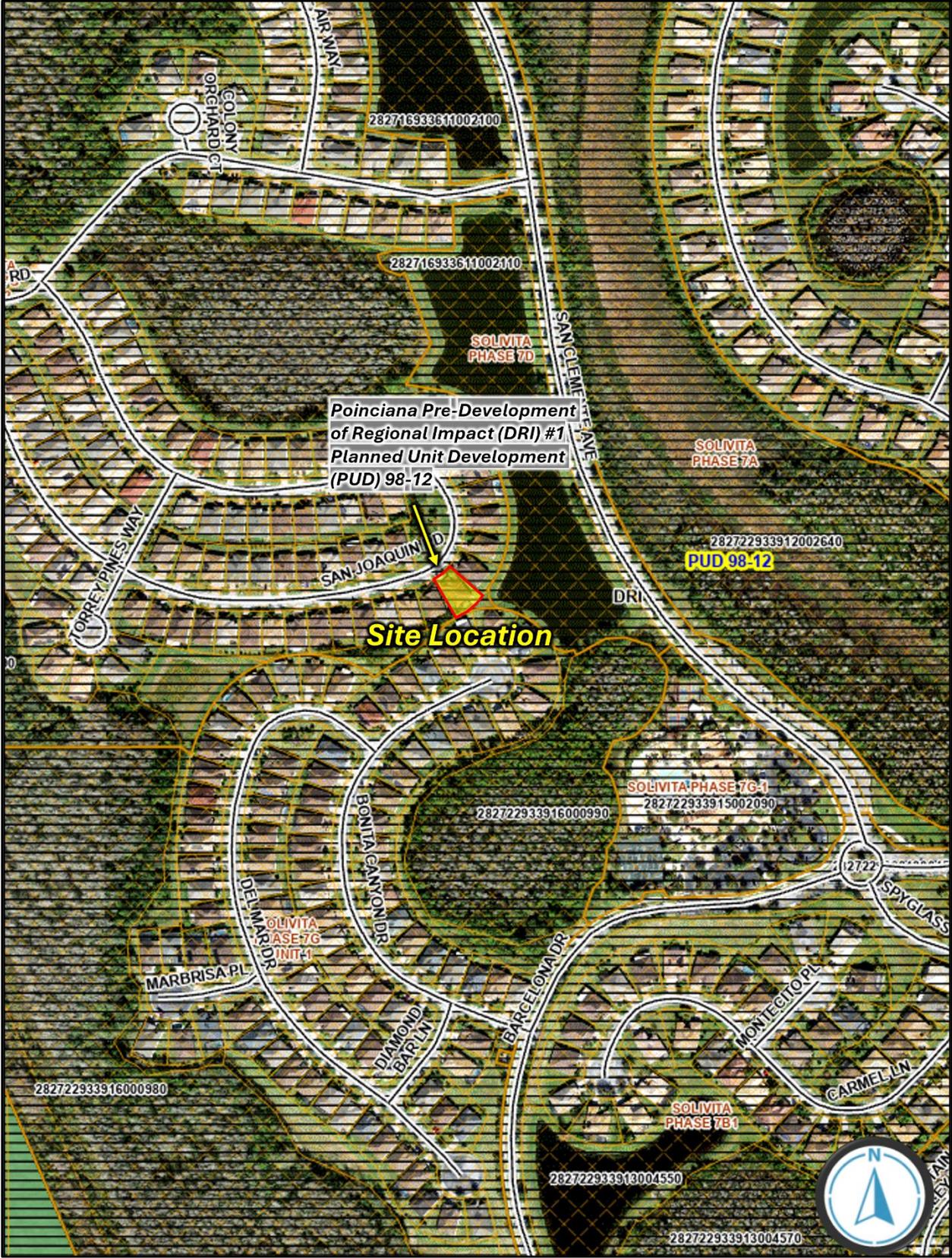
The property is part of the Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 7G – Unit 2. Phase 7G – Unit 2 of the Solivita development is single-family detached units. This proposed solid aluminum roof coverage will extend five feet (15’) off the primary structure providing full coverage over the existing lanai. This would not be the only property within the immediate surrounding area that would have a solid aluminum roof providing full coverage over an existing screened enclosure. To the southwest, Lot 23 of Solivita Phase 7G – Unit 1 has an existing 27’ by 10’ covered screen patio room (BLD-H-223865). To the southeast of the subject site is Tract LD-13 within Solivita Phase 7G – Unit 2 and further east Tract P-22 of Solivita Phase 7D. Both tracts are identified on the plats as Landscape, signage, and wet detention pond, having no negative impact from the variance request.

**Exhibits:**

- Exhibit 1 Location Map
- Exhibit 2 Future Land Use Map
- Exhibit 3 Aerial Imagery (Context)
- Exhibit 4 Aerial Imagery (Close)
- Exhibit 5 Site Plan
- Exhibit 6 Justification

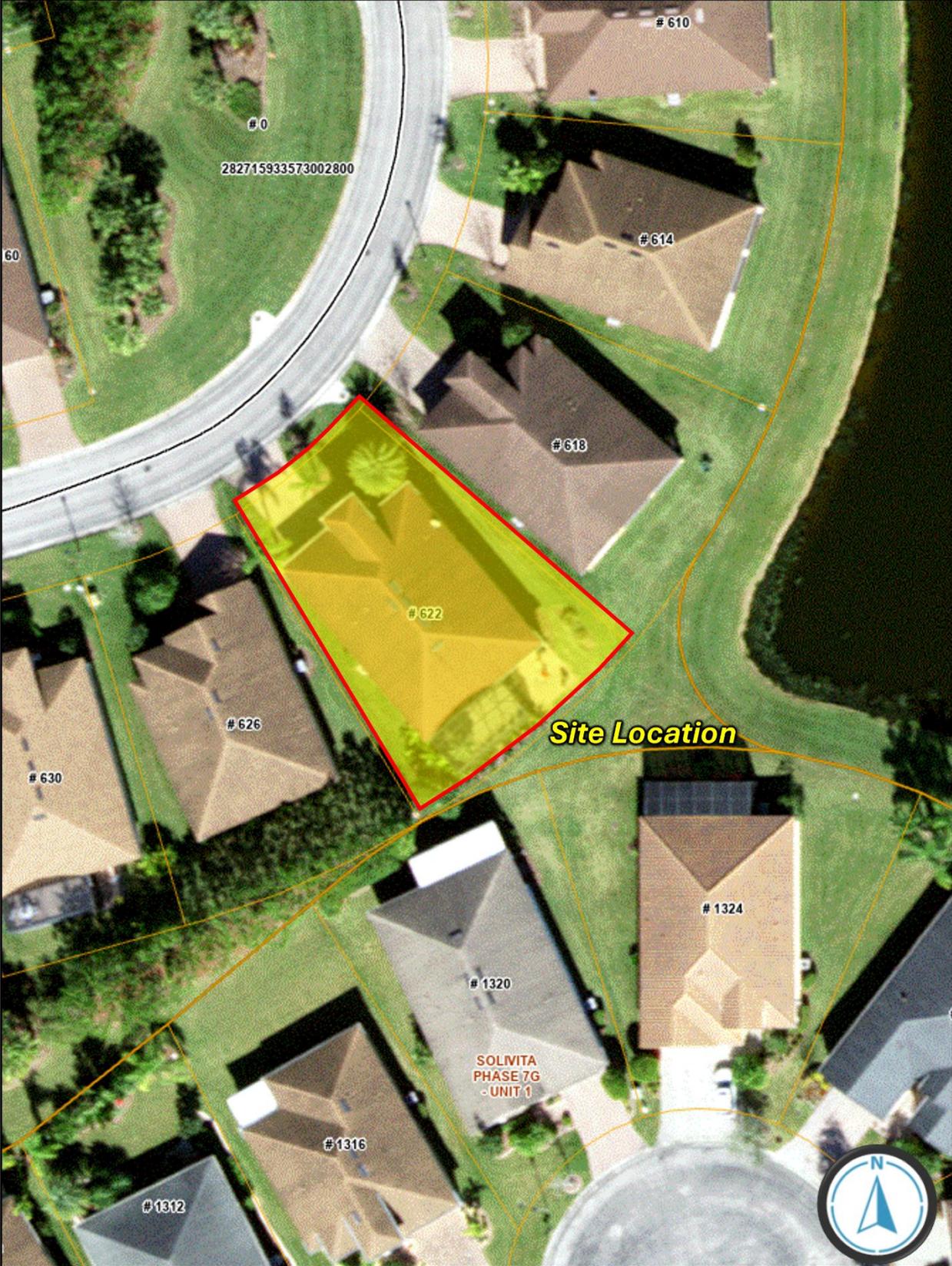


# Location Map



# Future Land Use Map





Aerial Imagery (Close)



**CRITERIA FOR GRANTING VARIANCE**

Will the variance be injurious to the area involved or detrimental to the public welfare?  
This 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 is an existing screen enclosure on an existing concrete slab. We are converting the screen roof to a solid roof. No other special conditions exist that are peculiar to the land, structure, or building involved.

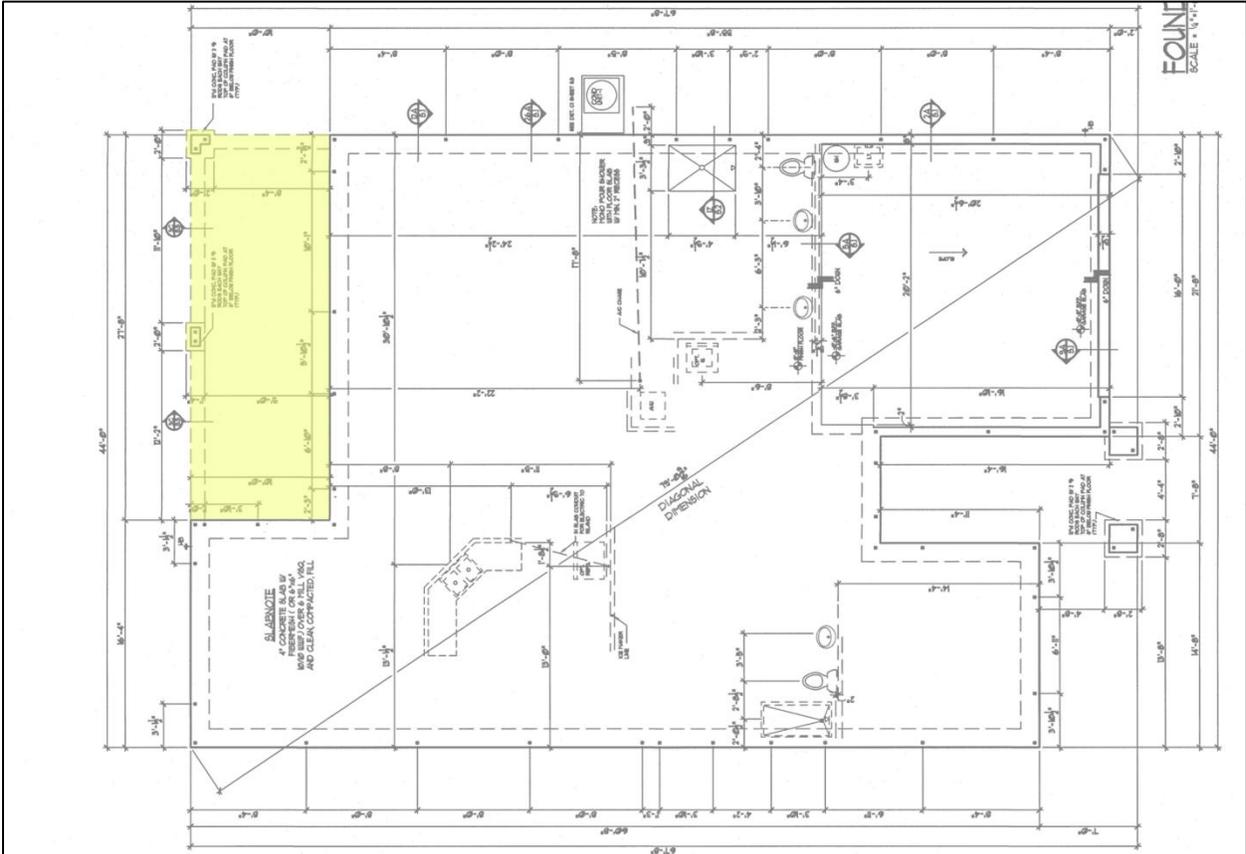
When did you buy the property and when was the structure built? Permit Number?  
05/2022

What is the hardship if the variance is not approved?  
The hardship will be a risk to slip and fall due to the current screen roof and the ability to allow rain. This home is located in the 55+ community and is home to the elderly.

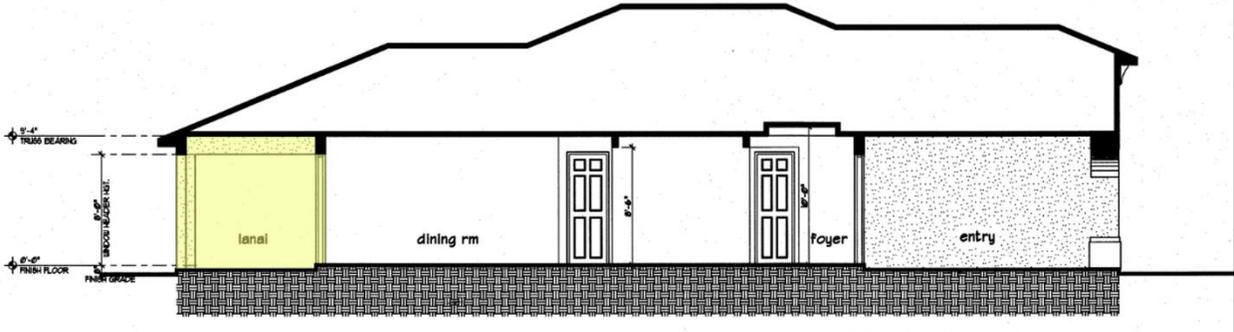
Is this the minimum variance required for the reasonable use of the land?  
Yes, this is the minimum variance required for the reasonable use of the land as the screen enclosure is existing. We are keeping the size in the existing scope of the current screen enclosure and replacing the screen roof with a solid roof only.

Do you have Homeowners Association approval for this request?  
Yes, we have Solivita HOA approval.

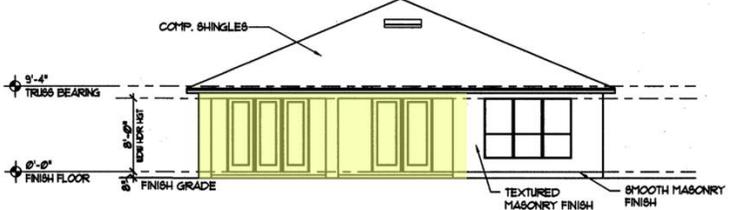
# Justification



FLOOR PLAN

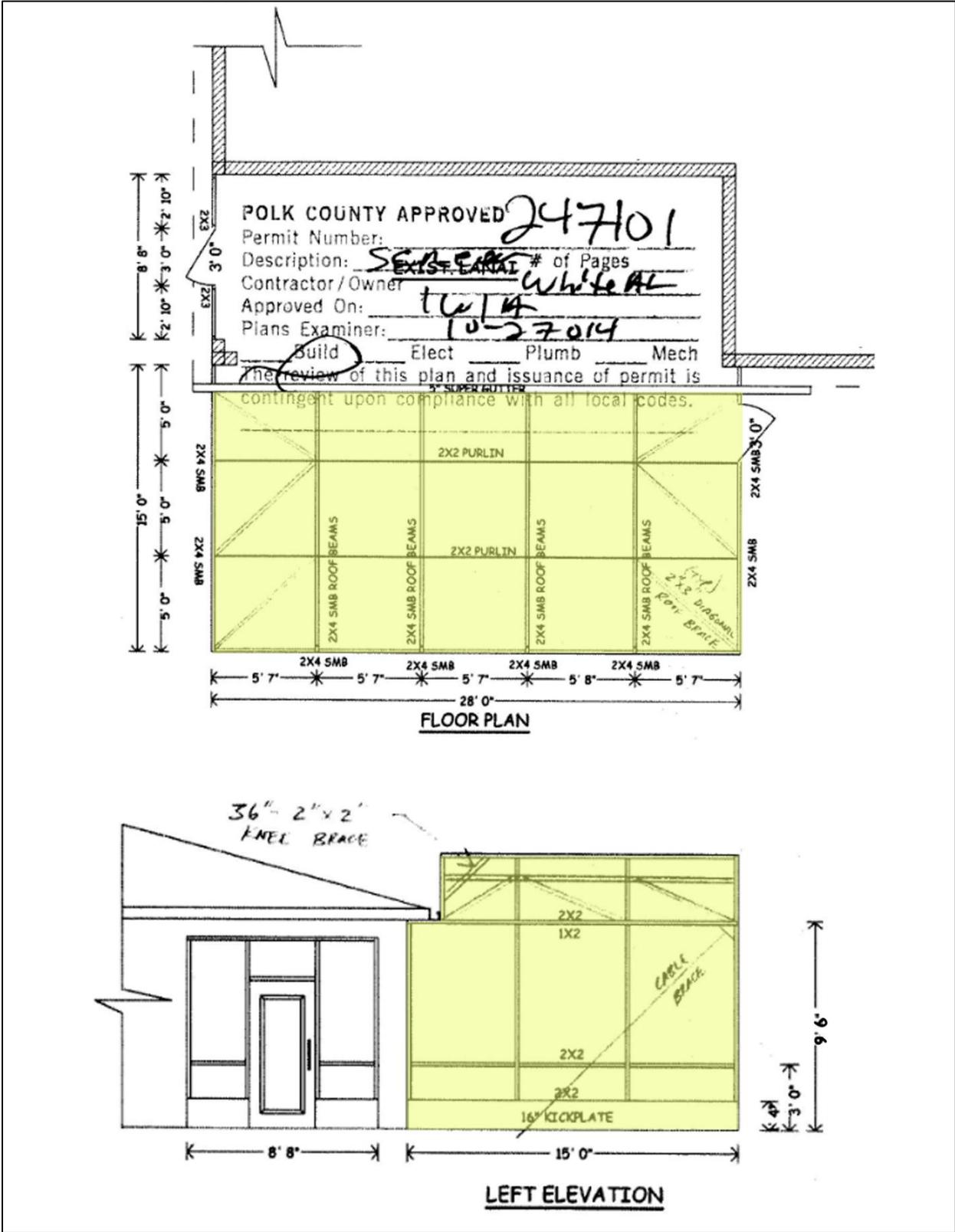


BUILDING SECTION  
SCALE: 1/4" = 1'-0"



REAR ELEVATION  
SCALE: 1/8" = 1'-0"

BLD-H-223850



BLD-H-247101