

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

<b>DRC Date:</b>	<b>December 11, 2025</b>	<b>CASE #:</b>	<b>LDLVAR-2025-66 (Neal Solivita Phase 5H Variance)</b>
<b>LUHO Date:</b>	<b>January 22, 2026</b>	<b>LDC Section:</b>	<b>209.F &amp; PUD 98-12</b>

**Request:** The applicant is requesting a primary structure rear setback reduction from ten (10) feet to seven (7) feet for the installation of a new 22' by 20' solid aluminum roof.

**Applicant:** Marcos Davila

**Property Owner:** Robert Neal, Christine Neal, and Tracy Evans

**Location:** The subject property is located at 3799 Via Mazzini Court, north of Solivita Boulevard, south of Village Center Road, east of San Clemente Avenue, west of Marigold Avenue, east of Haines City in Section 15, Township 27, Range 28.

**Parcel ID#:** 282715-933580-006870

**Size:** ±0.20 acres

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

**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 seven (7) feet for the installation of a 22' by 20' solid aluminum roof to extend over the existing screened enclosure. The subject site is designated as Lot 687 of the Solivita Phase 5H – Unit 1 Subdivision, part of PUD 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 22' by 20' solid aluminum roof under BR-2025-6929 requires a variance to reduce the primary structure rear setback from ten (10) feet to seven (7) feet.

Staff finds this request will cause no direct or indirect harm to the community and recommends approval. Staff recommends approval of LDLVAR-2025-66 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 with a solid aluminum roof to extend full coverage over an existing screened enclosure. 17 single-family homes have solid roof coverage over their respective screen enclosures either portions of or in its entirety. This expansion is minimal relative to the structure. It will not limit the neighbor's peripheral view of the open space. 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 north and south.

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 2021 and met the primary structure setbacks of 10 feet front, 5 feet side, and 10 feet rear under building permit BR-2021-5553. In December 2021, the owner purchased the subject site. Now, under building permit BR-2025-6929, the applicant is looking to add a new solid roof to extend off 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-2025-66**

### **CONDITIONS OF APPROVAL:**

1. The property is granted a reduction in the primary rear structure setback from ten (10) feet to seven (7) feet for the installation of a new 22' by 20' 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 December 2021, the owner purchased the subject site through a special warranty deed, according to the Property Appraiser (O.R. BK 12062 PGs 2057 - 2058). The subject site is designated as Lot 687 in the Solivita Phase 5H – Unit 1 Subdivision recorded under Plat Book 171, Page 42 in 2019. It is located in the interior of the development with road frontage off Via Mazzini Court, a private roadway. The rear of the property abuts Tract P-3 designated as a stormwater retention 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.

To the north and south of the subject site are similar sized lots and single-family housing. Lot 686, abutting the subject site to the north, has an extended lanai to the rear. Under Building Permit BR-2021-3658, Lot 686 was approved for an 8'-0" by 18'-4" lanai with an extended patio. The patio was later screened under BR-2021-13990 (see Exhibit 10). Lot 688, abutting the subject site to the south, is one of few single-family homes where the rear yard abuts Tract P-3 without an extended screen enclosure (see Exhibit 4 and 9).

This will not be the first covered screened enclosure within this development (see Exhibit 3 and 11). On a micro-level in close proximity to the subject site, across Tract P-3, Lots 662, 664, and 666 have solid roof coverage over portions of their respective screen enclosures. Lot 662 received approval for a solid roof under BR-2022-12644 and Lot 666 received approval for a solid roof under BR-2023-172. Lot 664 did file for a Building Permit (BR-2023-661) for a 10'-0" by 14'-0" screen roof with insulated roof, however the status is listed as expired on the Accela Portal. On a Macro-level approximately 17 single-family homes have solid roof coverage over their respective screen enclosures either portions of or in its entirety.

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 BR-2022-

7041, therefore the request to provide full roof coverage of the screen enclosure will have little to no effect on the two immediate neighbors to the north and south.

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 PUD Modification (98-12) altered the approval leading to the plat for Solivita Phase 5H Unit – 1 recorded under Plat Book 171, Page 37 in 2019. The subject site is designated as Lot 687. PUD 98-12 was approved for primary structure rear setbacks of 10 feet and accessory structure rear setback of 5 feet. 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 2021 and met the primary structure setbacks of 10 feet front, 5 feet side, and 10 feet rear under building permit BR-2021-5553. BR-2021-5553 was approved with a 20'-8" by 10'-0" covered lanai encompassing the rear portion of the house (see Exhibit #7). In December 2021, the owner purchased the subject site through a special warranty deed according to the Property Appraiser (O.R. BK 12062 PGs 2057 - 2058). The applicant later filed for a building permit BR-2022-7041, for the construction of a new 22' by 20' 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-2025-6929, the applicant is looking to add a new solid 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 22' by 20' solid roof under BR-2025-6929 will require a variance to reduce the primary structure rear setback from ten (10) feet to seven (7) 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 lots slightly larger than the typical 65' by 115' square feet (0.17-acre) lot size of Solivita Phase 5H. Lots within Solivita Phase 5H – Unit 1 are typically 0.19 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 5H Subdivision, there have been numerous building permits for extended screened enclosures to the rear of the property. Of the development that abuts Tract P-3 to the rear, 24 homes including the subject site, have extended screen enclosures. This equates to approximately 71 percent of the 34 total single-

family homes where the rear yard abuts Tract P-3. Table 1 lists the variances processed and approved within the Poinciana and Solivita developments since 2020.

**Table 1**

Case	BOA/ LUHO Date	Variance	Case	BOA/ LUHO Date	Variance
LDLVAR-2025-60	11/20/2025	Solid Roof Patio	LDLVAR-2021-130	1/27/2022	Solid Roof Patio
LDLVAR-2025-56	11/20/2025	Solid Roof Patio	LDLVAR-2021-112	12/14/2021	Solid Roof Patio
<b>LDLVAR-2025-19</b>	<b>5/19/2025</b>	<b>SF Home</b>	LDLVAR-2021-87	10/28/2021	Solid Roof Patio
LDLVAR-2025-9	4/24/2025	Solid Roof Patio	LDLVAR-2021-68	9/16/2021	Solid Roof Patio
LDLVAR-2025-2	3/27/2025	Solid Roof Patio	LDLVAR-2021-58	7/22/2021	Solid Roof Patio
LDLVAR-2024-62	12/10/2024	Solid Roof Patio	LDLVAR-2021-50	7/22/2021	Solid Roof Patio
LDLVAR-2024-53	11/12/2024	Solid Roof Patio	LDLVAR-2021-32	7/21/2021	Solid Roof Patio
LDLVAR-2024-34	8/29/2024	Solid Roof Patio	LDLVAR-2021-31	7/21/2021	Solid Roof Patio
LDLVAR-2024-33	8/29/2024	Solid Roof Patio	LDLVAR-2021-30	7/21/2021	Solid Roof Patio
LDLVAR-2024-22	6/27/2024	Solid Roof Patio	LDLVAR-2021-14	4/22/2021	Solid Roof Patio
LDLVAR-2024-4	4/25/2024	Solid Roof Patio	LDLVAR-2021-3	3/25/2021	Solid Roof Patio
LDLVAR-2024-2	3/28/2024	Solid Roof Patio	LDLVAR-2021-1	3/25/2021	Solid Roof Patio
LDLVAR-2023-55	11/14/2023	Solid Roof Patio	LDLVAR-2020-86	1/28/2021	Solid Roof Patio
LDLVAR-2023-36	9/28/2023	Solid Roof Patio	LDLVAR-2020-80	2/25/2021	Solid Roof Patio
LDLVAR-2023-31	8/24/2023	Solid Roof Patio	LDLVAR-2020-68	12/17/2020	Solid Roof Patio
LDLVAR-2023-28	7/27/2023	Solid Roof Patio	LDLVAR-2020-66	12/17/2020	Solid Roof Patio
LDLVAR-2022-113	2/23/2023	Solid Roof Patio	LDLVAR-2020-65	12/17/2020	Solid Roof Patio
LDLVAR-2022-106	2/23/2023	Solid Roof Patio	LDLVAR-2020-64	12/17/2020	Solid Roof Patio
LDLVAR-2022-102	2/23/2023	Solid Roof Patio	LDLVAR-2020-63	12/17/2020	Solid Roof Patio
LDLVAR-2022-44	7/28/2022	Solid Roof Patio	<b>LDLVAR-2020-56</b>	<b>11/19/2020</b>	<b>SF Home</b>
LDLVAR-2022-28	6/23/2022	Solid Roof Patio	<b>LDLVAR-2020-55</b>	<b>11/19/2020</b>	<b>SF Home</b>
LDLVAR-2022-13	5/26/2022	Solid Roof Patio	<b>LDLVAR-2020-54</b>	<b>11/19/2020</b>	<b>SF Home</b>
LDLVAR-2022-12	4/26/2022	Solid Roof Patio	LDLVAR-2020-52	11/19/2020	Solid Roof Patio
LDLVAR-2022-10	3/28/2022	Solid Roof Patio	LDLVAR-2020-45	11/19/2020	Solid Roof Patio
LDLVAR-2021-139	2/24/2022	Solid Roof Patio	LDLVAR-2020-33	10/22/2020	Solid Roof Patio
LDLVAR-2021-136	2/24/2022	Solid Roof Patio	LDLVAR-2020-12	9/24/2020	Solid Roof Patio
LDLVAR-2021-135	2/24/2022	Solid Roof Patio			

Since 2020 the County has processed and approved roughly 53 variances cases within the Poinciana and Solivita developments, equivalent to 10 cases per year in these developments alone. Of those 53 cases, 49 have been for primary structure setback reductions for the installation of a solid roof to extend over an existing screened enclosure extension. In numerical value, 93 percent of variances within these developments come in for one universal request. Only four (4) variances within these developments in the last five (5) years have been for a separate request. However, Table 1 does not equate for the numerous cases that have been processed through the Building Department without the need for a variance request.

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 as seen through Table 1. Since this property backs up to open space Tract P-3 (Stormwater) and Lots 662, 664, and 666 of Solivita Phase 5H – Unit 1 have solid roof coverage over portions of their respective screen enclosures, 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 screen enclosure (BR-2022-7041) to reduce the risk of injuries as stated in their justification. The subject site is located within a 55+ community where the fully covered screened enclosure 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 5H Lot 33 4,288 sq. ft. single-family home Built 2023 0.20 acres Solid Roof Extension</p>	<p><b>North:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 5H Lot 686 3,174 sq. ft. single-family home Built 2021 0.17 acres Screened Extension</p>	<p><b>Northeast:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 5H Tract P-3 Stormwater 5.05 acres</p>
<p><b>West:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 5H Lot 32 4,188 sq. ft. single-family home Built 2023 0.20 acres</p>	<p><b>Subject Property:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 5H Lot 687 3,166 sq. ft. single-family home Built 2021 0.20 acres Screened Extension</p>	<p><b>East:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 5H Tract P-3 Stormwater 5.05 acres</p>
<p><b>Southwest:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 5H Lot 31 3,050 sq. ft. single-family home Built 2023 0.17 acres</p>	<p><b>South:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 5H Lot 688 3,107 sq. ft. single-family home Built 2021 0.20 acres</p>	<p><b>Southeast:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 5H Tract P-3 Stormwater 5.05 acres</p>

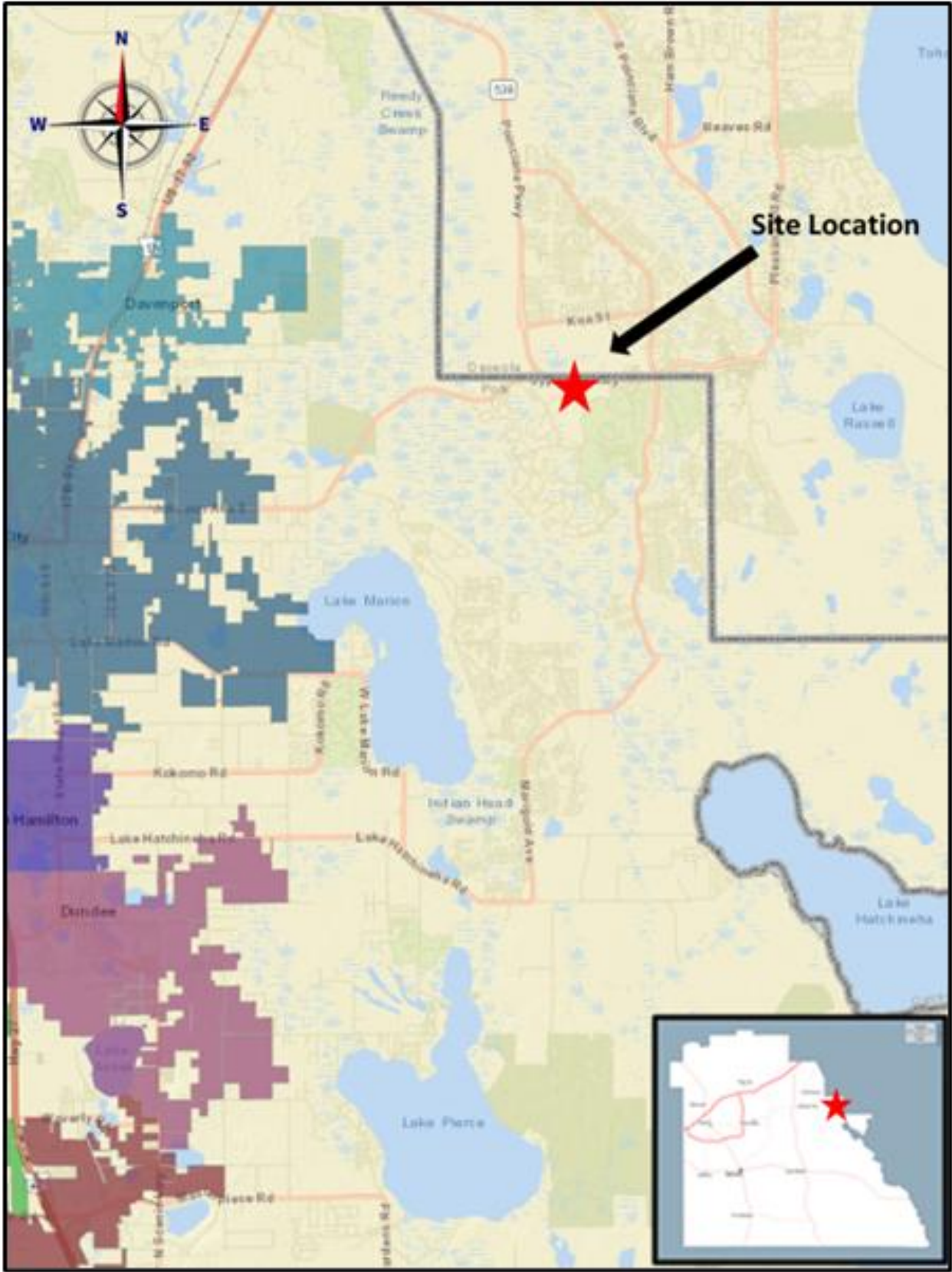
The property is part of the Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 98-12, Solivita Phase 5H – Unit 1. Phase 5H – Unit 1 of the Solivita development is single-family detached units. This proposed solid aluminum roof coverage will extend 20 feet off the primary structure providing full coverage over the existing screened patio. 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 patio. To the northwest, Lot 33 of Solivita Phase 5H – Unit 3 has an existing covered screen patio room (BR-2023-6724). To the east of the subject site is Tract P-3 within Solivita Phase 5H – Unit 1 and further east are Lots 662, 664, and 666 that have existing covered screen patio rooms. Lot 662 received approval for a solid roof under BR-2022-12644 and Lot 666 received approval for a solid roof under BR-2023-172. Lot 664 did file for a Building Permit (BR-2023-661) for a 10'-0" by 14'-0" screen roof with insulated roof, however the status is listed as expired on the Accela Portal. Tract P-3 is identified on the plats as Stormwater, 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

Exhibit 7      BR-2021-5553  
Exhibit 8      BR-2022-7041  
Exhibit 9      Southwest View  
Exhibit 10     Northwest View  
Exhibit 11     Google Earth Aerial Context





Location Map



Land Use Hearing Officer  
Variance/KSR





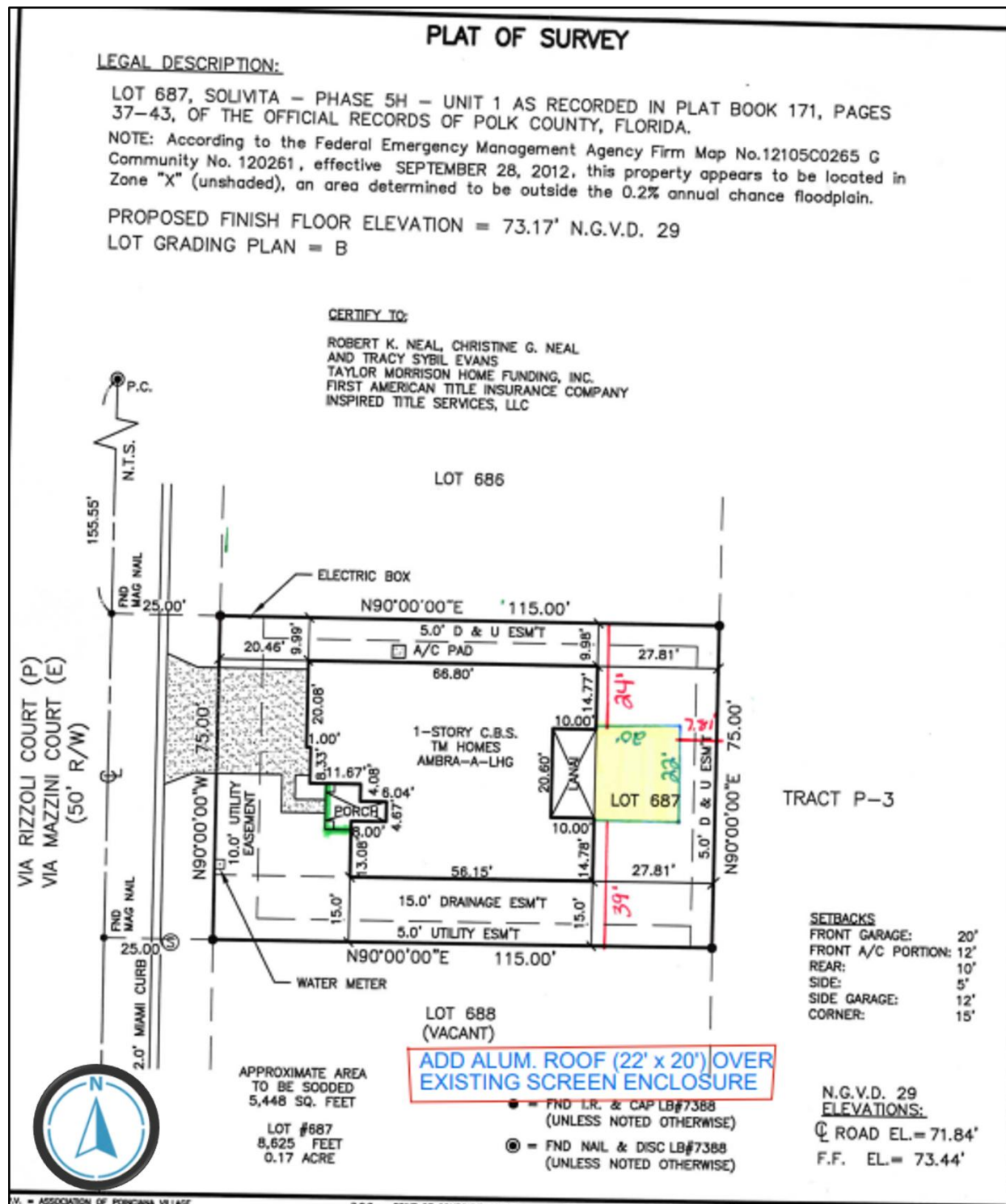
## Aerial Imagery (Context)





Aerial Imagery (Close)





# Site Plan

## **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?**

Property Bought 12/2021.  
BR-2021-5553

### **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.

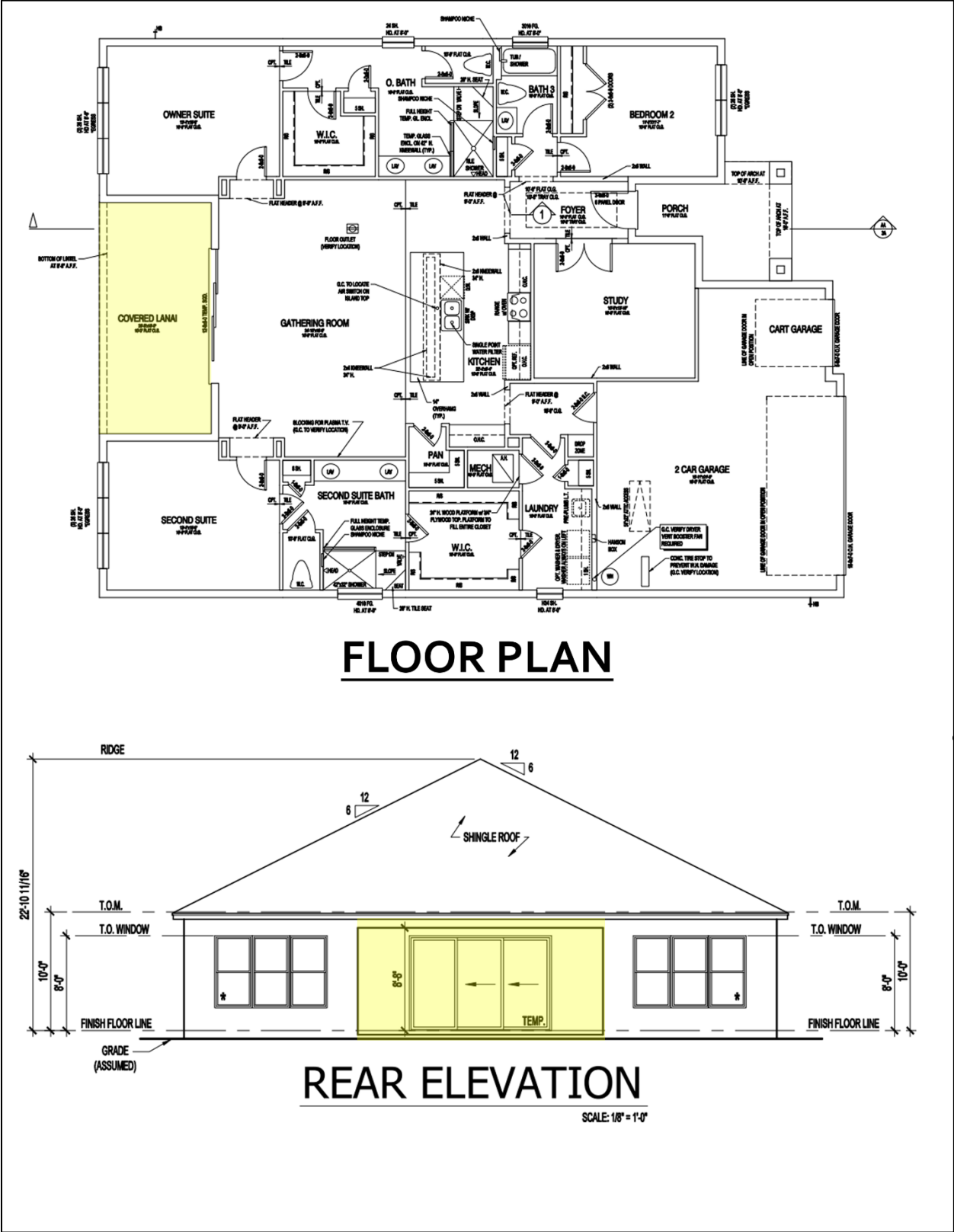
### **Is this the minimum variance required for the reasonable use of the land?**

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 scoop of the current screen enclosure and replacing the screen roof with a solid roof only.

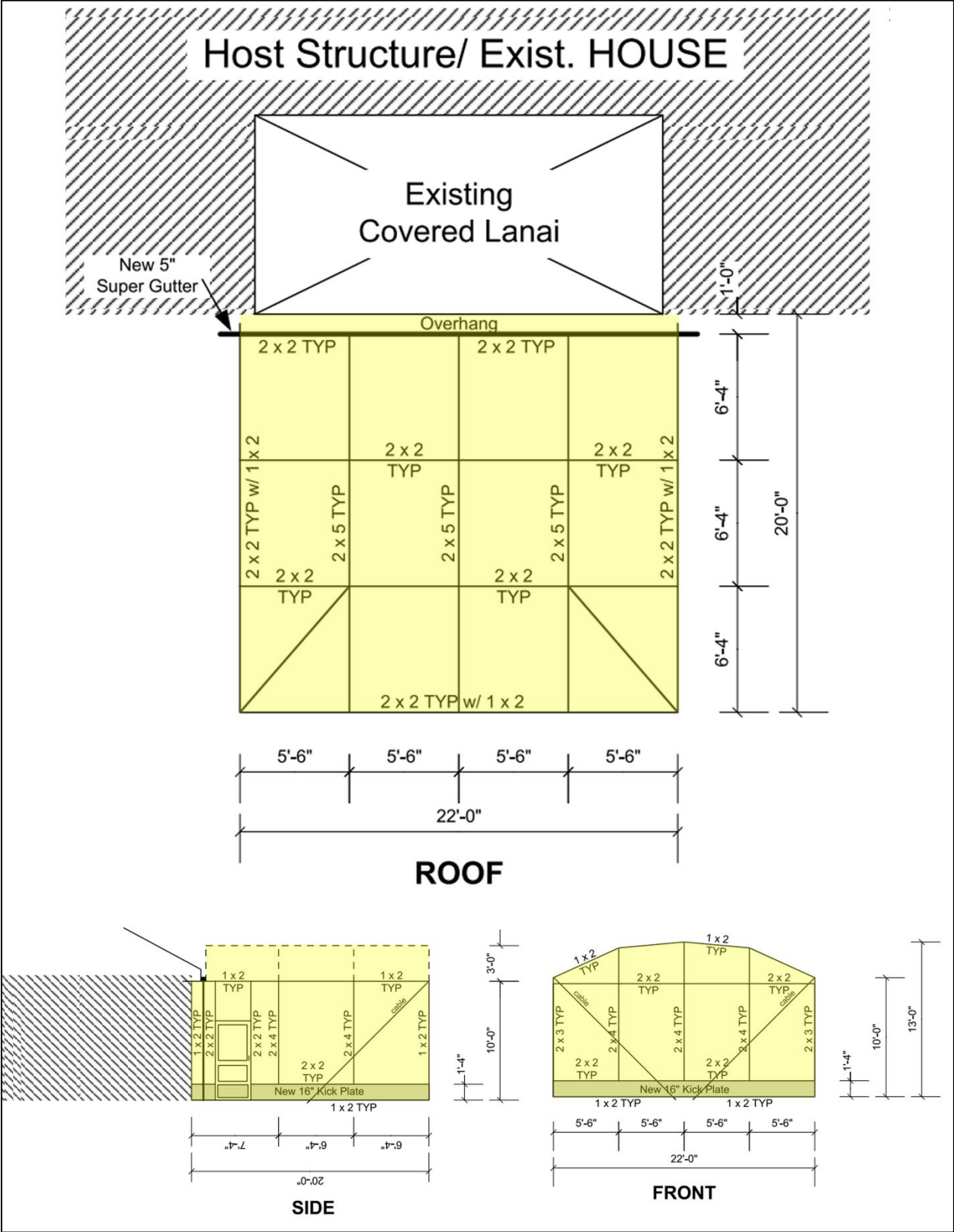
### **Do you have Homeowners Association approval for this request?**

Yes, we have HOA approval.

## **Justification**

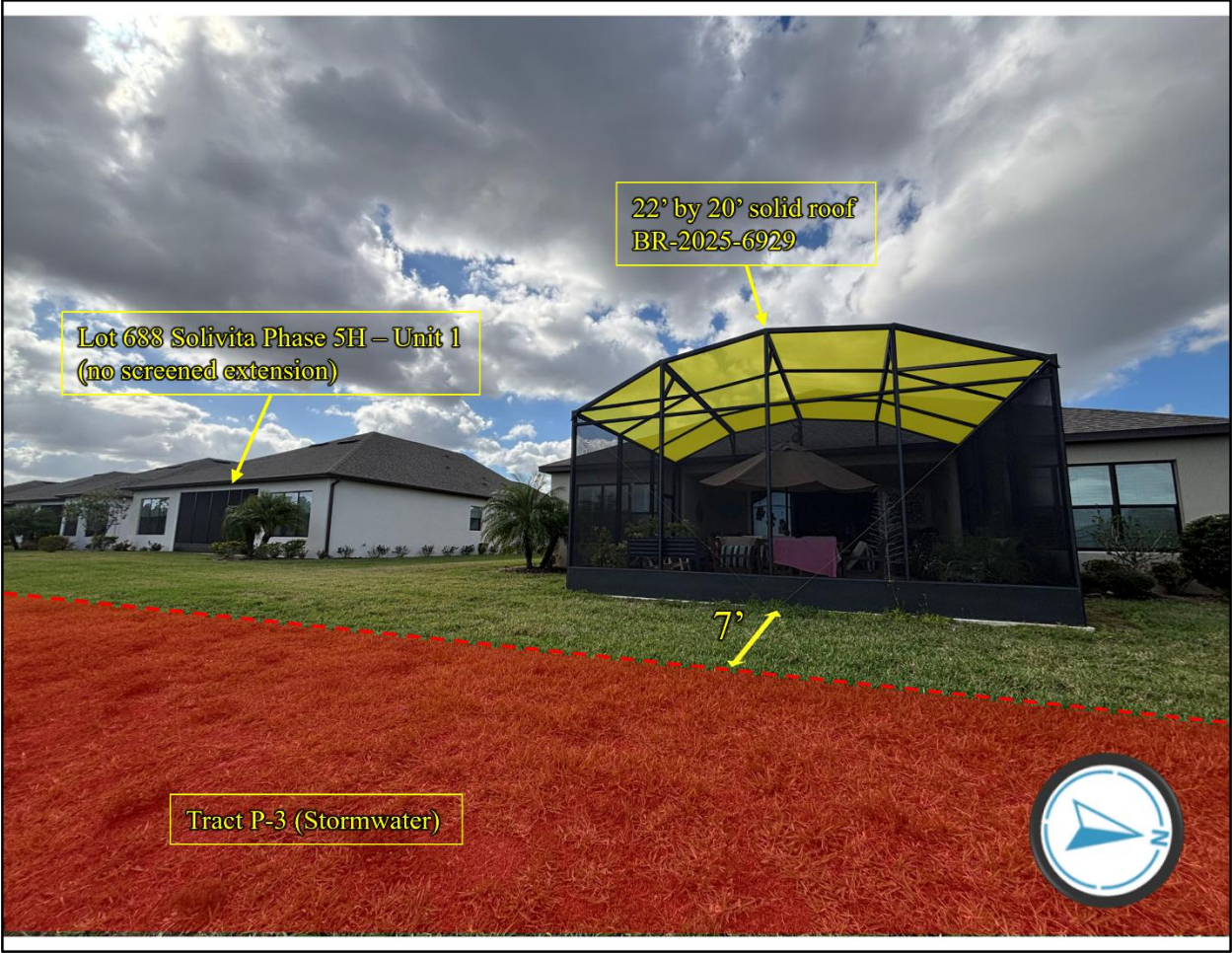


BR-2021-5553



BR-2022-7041



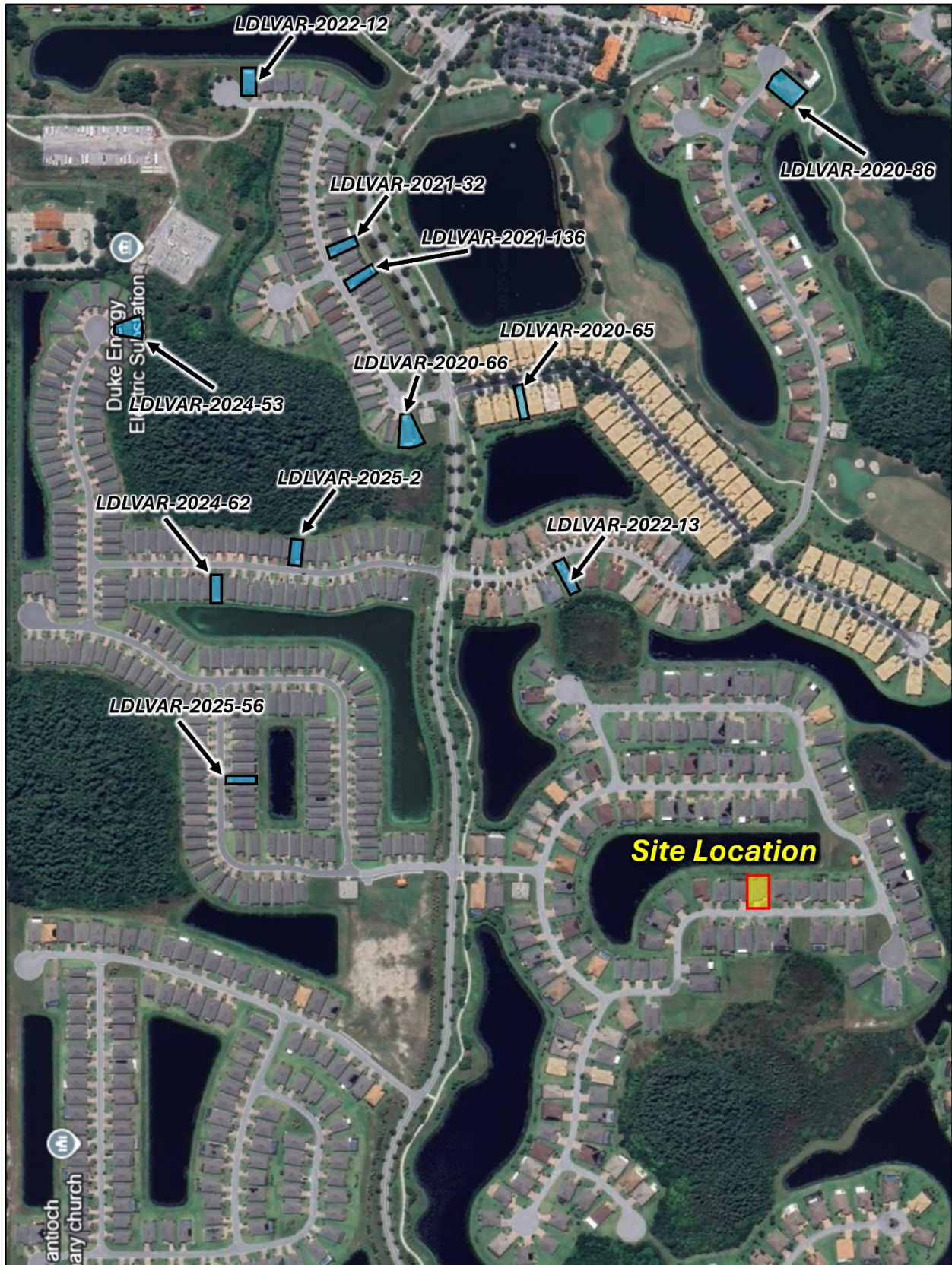


Southwest View



Northwest View





## Google Earth Aerial Context