

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

DRC Date	October 10, 2024	CASE #:	LDLVAR-2024-53 (Lombardi Ct Variance)
LUHO Date	November 12, 2024	LDC Section:	PD 98-12

Project Number: LDLVAR-2024-53

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: Troy Shannon Brown
Billie Jean Brown

Location: 1400 Lombardi Court of Solivita Subdivision Phase 5D, south of Cypress Parkway, north of Village Center Road, west of Milano Road, east of Via Galuppi Street, South of Osceola County, in Section 14, Township 27, Range 28.

Parcel ID#: 282714-933557-001450

Size: ±0.15 acres (6,534 sq.ft.)

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: Malissa Celestine, 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 with large setbacks. Staff finds the request to be compatible to others in Solivita. However, the variance request requires a public hearing, and approval by the Land Use Hearing Officer (LUHO) in accordance with Section 931 of the LDC.

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

- The request **will not be injurious to the area involved or otherwise detrimental to the public welfare** because this lot is at the end of a cul-de-sac and is bordered on the encroaching setback line by a signage, recreation, drainage, utilities, and open space tract. The proposed encroachment into the rear setback is on the side farthest from the only potential residential neighbors.

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-2024-53**, 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. 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.
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 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 LDC Section 930D.

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;*

This lot is at the end of a cul-de-sac and is bordered on the encroaching setback line by a signage, recreation, drainage, utilities, and open space tract. The proposed encroachment into the rear setback is on the side farthest from the only potential residential neighbors. This expansion is minimal relative to the structure. It accounts for less than 3% of the total lot area and is a 7.7% expansion of the structure. It is not likely that granting this variance be injurious to the area involved or otherwise detrimental to the public welfare. At its closest point, the proposed enclosure will be at least 46 feet from the nearest edge of the neighboring dwellings.

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;*

Often a wedge-shaped lot is a disadvantage for expanding a structure regarding setback limits. But this request is on the broader side of the wedge, so it is farther away from neighboring structures and therefore less intrusive. The applicant's lot is larger and longer than the immediate neighbor to the west and the dwelling is smaller. The special circumstance that is peculiar with this land and structure is that the expansion of the screen porch and roof will have the least amount of adverse impact on any neighboring property owner due to the shape of the lot. The encroachment is towards common area and due to the angle of the dwelling, no aesthetic views are blocked by the extension.

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

The residence was recently constructed in this new phase of the development. The applicant just purchased it in May of this year. However, the applicant chose a lot that abuts a vast amount of open space on the rear lot line. Since the lot is on a cul-de-sac, the rear of each home is separated from each neighbor by a greater distance than if it was a square parcel on a standard linear roadway.

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 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. Many buyers within the development see no 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 a signage, recreation, drainage, utilities, and open space 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;*

The applicant recently purchased the home from the builder in May of this year. The home can meet the needs of any resident as it exists today. But the current 124 square foot Lanai is a small area to screen. Adding an additional 180 square feet makes a much more functional protected recreational 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 five-foot drainage easement. This roofed in expansion provides 144% more space for 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 1,923 sq.ft. Single-family Detached dwelling on 6,534 sq.ft. lot</p>	<p>North: PRE-DRI#1, PUD 98-12 2,350 sq.ft. Single-family Detached dwelling on 6,534 sq.ft. lot</p>	<p>Northeast: PRE-DRI#1, PUD 98-12 2,300 sq.ft. Single-family Detached dwelling on 6,534 sq.ft. lot</p>
<p>West: PRE-DRI#1, PUD 98-12 2,800 sq.ft. Single-family Detached dwelling on 5,227 sq.ft. lot</p>	<p>Subject Property: PRE-DRI#1, PUD 98-12 2,350 sq.ft. Single-family Detached dwelling on 6,534 sq.ft. lot</p>	<p>East: PRE-DRI#1, PUD 98-12 2,300 sq.ft. Single-family Detached dwelling on 6,534 sq.ft. lot</p>
<p>Southwest: PRE-DRI#1 PUD 98-12 Conservation tract</p>	<p>South: PRE-DRI#1 PUD 98-12 Signage, recreation, drainage, utilities, and open space tract</p>	<p>Southeast: PRE-DRI#1 PUD 98-12 Electric substation</p>

Phase 5D of the Solivita development is single-family detached units. This proposed screen enclosure will extend six feet (6') off the lanai and back wall with a solid roof. There is a five-foot drainage and utility easement on every property boundary. The rear yard of these units abuts a signage, recreation, drainage, utilities, and open space tract. This screen room expansion will not and is not permitted to extend into it according to the plat notes and Section 223 of the Land Development Code.

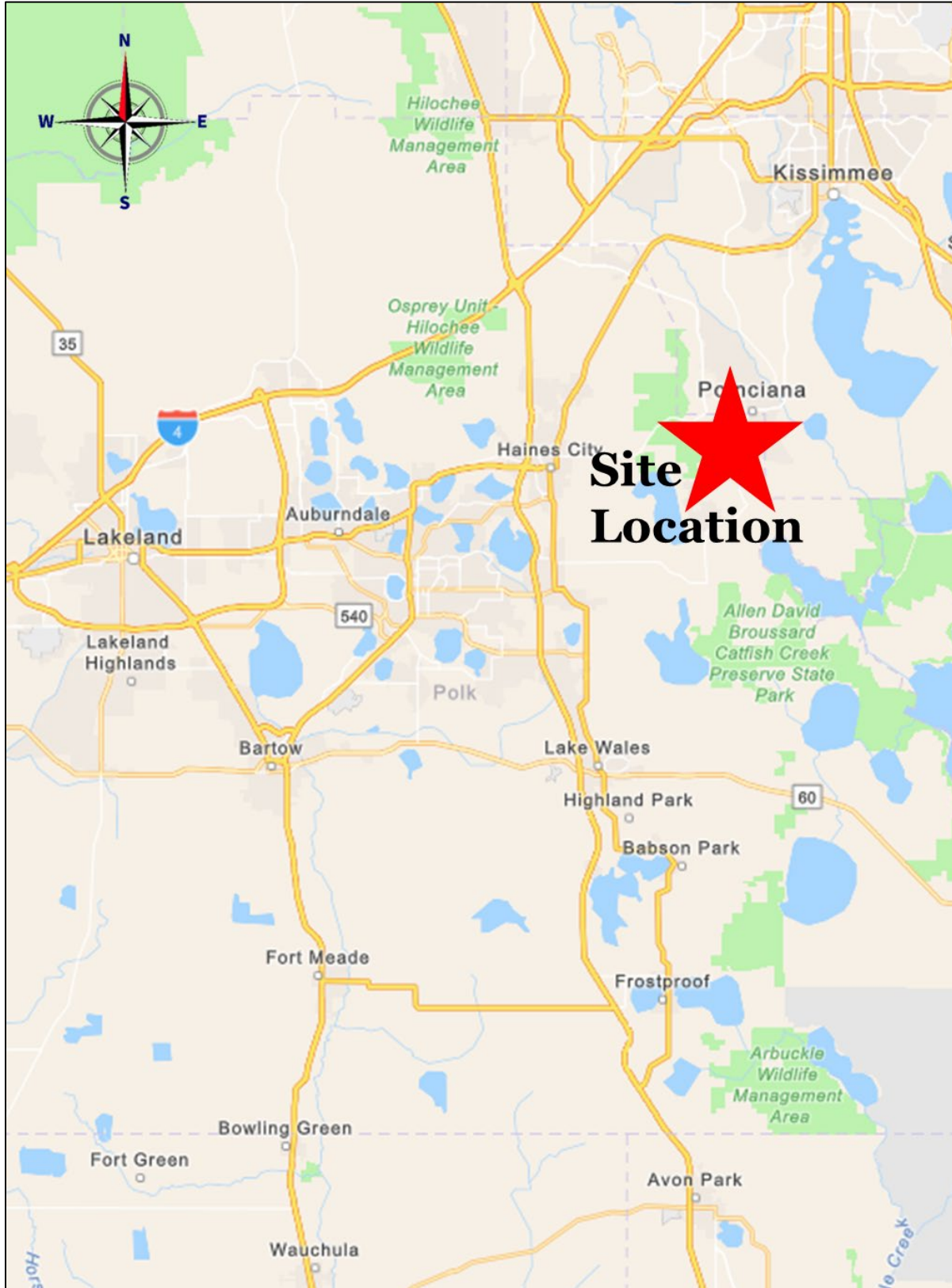
Comments from other Governmental Agencies:

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

Exhibit 1



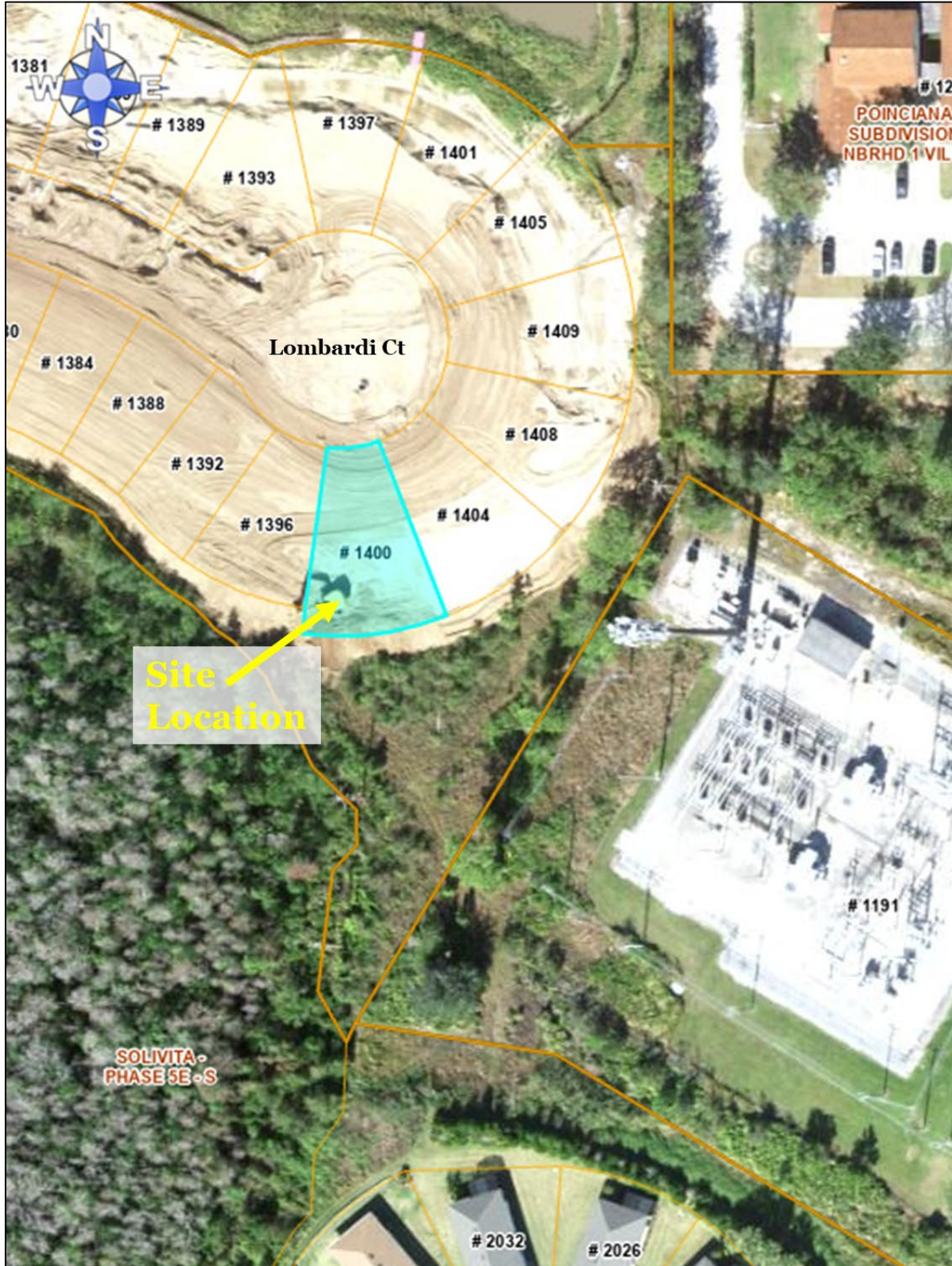
Location Map



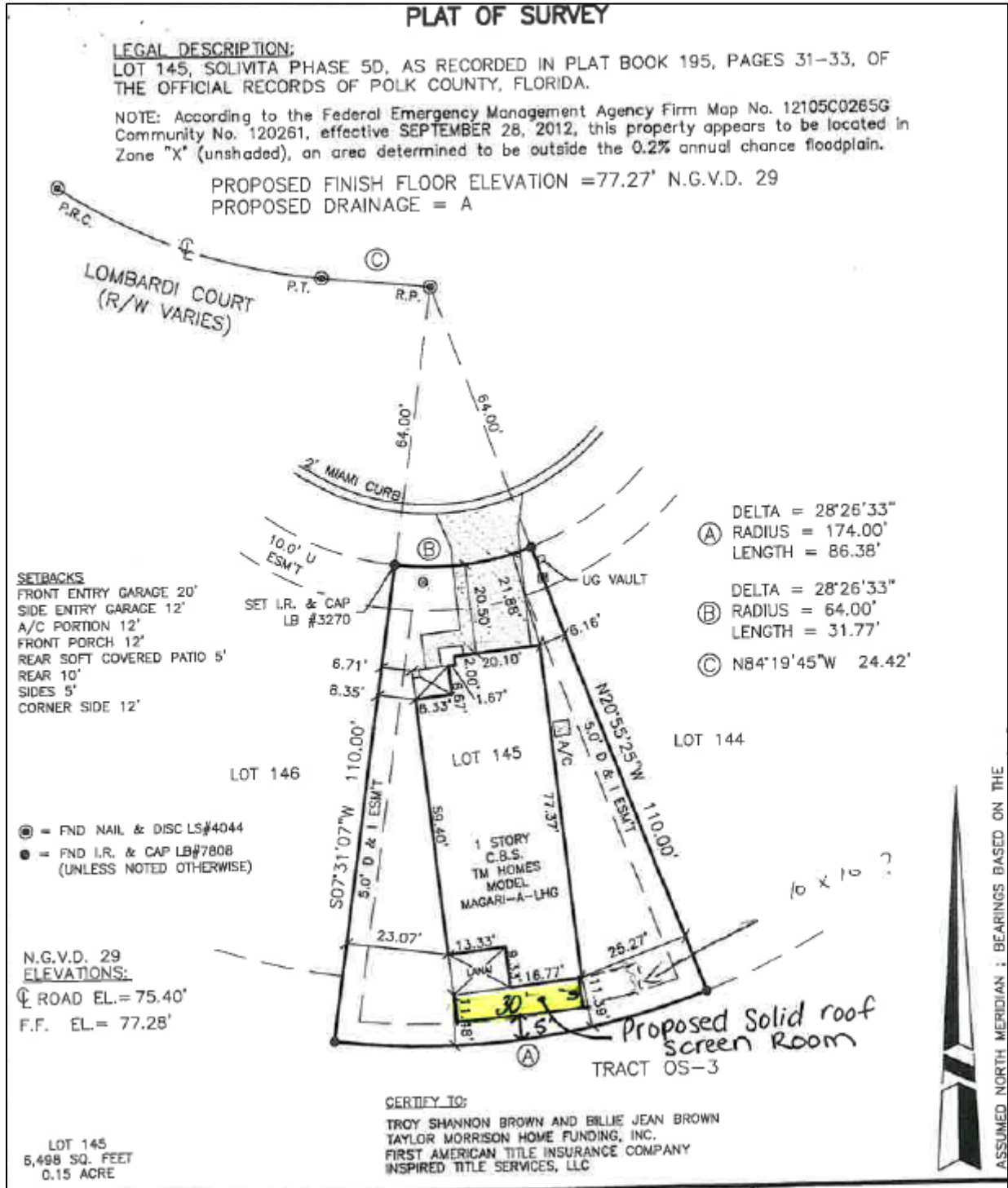
Future Land Use



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, this variance would not be injurious to the area involved or detrimental to 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? Purchased home in May of 2024. The permit number for the new home build is BR-2023-12377	⬇
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? Yes, there is HOA approval for this request.	⬇

Applicant's Justification