

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

<b>DRC Date:</b>	<b>December 11, 2025</b>	<b>CASE #:</b>	<b>LDLVAR-2025-67 (Greens at Providence Variance)</b>
<b>LUHO Date:</b>	<b>January 22, 2026</b>	<b>LDC Section:</b>	<b>209.F &amp; PUD 89-10</b>

**Request:** The applicant is requesting a primary structure rear setback reduction from fifteen (15) feet to five (5) feet for the installation of a new insulated solid aluminum roof patio enclosure.

**Applicant:** Paulo Carneiro

**Property Owner:** Jagdeep & Raghbir Bhullar

**Location:** The subject property is located at 2401 Heritage Green Court, north of Sherbrook Avenue, south of Ronald Reagan Parkway, east of Providence Boulevard, west of Willingham Drive, northeast of the City of Davenport in Section 18, Township 26, Range 28.

**Parcel ID#:** 282618-932901-021710

**Size:** ±0.31 acres

**Land Use Designation:** Greens at Providence Phase 1 (PUD 89-10)  
Residential Low-4X (RL-4X)

**Selected Area Plan:** Ronald Reagan Parkway Selected Area Plan (SAP)

**Development Area:** Urban Growth Area (UGA)

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

**Summary:**

The applicant is seeking a variance to reduce the primary structure rear setback from fifteen (15) feet to five (5) feet for the installation of a new solid aluminum roof to extend over the existing concrete patio. The subject site is designated as Lot 171 of the Greens at Providence Phase 1 Subdivision, part of PUD 89-10 which was approved for primary structure rear setbacks of 15 feet and accessory structure rear setback of 5 feet. Because the solid roof addition will be attached or connected to the principal structure, the newly proposed solid roof under BR-2025-7848 requires a variance to reduce the primary structure rear setback from fifteen (15) feet to five (5) feet.

Staff finds this request will cause no direct or indirect harm to the community and recommends approval. Staff recommends approval of LDLVAR-2025-67 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 Greens at Providence Phase 1 Subdivision requesting a solid roof to extend coverage over a screened enclosure. Approximately 752 feet to the north, on the east side of Pinehurst Court, Lot 46 of Greens at Providence Phase 1 has an existing covered patio room. Further west off Callaway Court, case LDLVAR-2020-71 was approved for a solid aluminum roof. This expansion is minimal relative to the structure. The concrete patio is already existing. The request is not to expand the patio, only to screen and provide partial coverage to the area not already permitted under Permit No. 83576, therefore the request to provide roof coverage of the screen enclosure will have little to no effect on the immediate neighbor to the east.

### **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-2025-67**

### **CONDITIONS OF APPROVAL:**

1. The property is granted a reduction in the primary rear structure setback from fifteen (15) feet to five (5) feet for the installation of a new patio enclosure with a solid roof.
2. The applicant shall secure permission from the Homeowner Association (HOA) 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 2013, the owner purchased the subject site through a warranty deed according to the Property Appraiser (O.R. BK 08897 PGs 1578 - 1579. The subject site is designated as Lot 171 in the Greens at Providence Phase 1 Subdivision recorded under Plat Book 142, Pages 37 through 44 in 2007. It is located in the interior of the development with road frontage off Heritage Green Avenue, a private roadway. The rear of the property abuts Tract R5 designated as a retention pond. Seeking rear yard setback relief when abutting common areas has become a common practice within developments throughout the County. This roof expansion will not and is not permitted to extend into any drainage easements.

To the north and east of the subject site are similar sized lots and single-family housing. Lot 170, abutting the subject site to the east, has an enclosed pool patio to the rear under Permit No. 83576 (see Exhibit 9). Lot 170 is 0.23 acres according to Property Appraiser, smaller than the subject site, but exceeding the typical lot size in the subdivision. Across the street, at the intersection of Heritage Green Avenue and Pinehurst Court, Lot 29 has a patio enclosure under Permit No. 120990. Lot 29 is 0.33 acres according to Property Appraiser, larger than the subject site and typical lot size in the subdivision. However, a utility easement along Heritage Green Avenue limits development. Abutting the subject site to the south and west are two separate Tracts. Tract W to the west is designated as "Well", while Tract R5 to the south is designated as "Retention Pond" (see Exhibit 5).

This will not be the first covered screened patio within the Greens at Providence Phase 1 Subdivision or PUD 89-10 (see Exhibit 3 and 10). On a micro-level, in the immediate surrounding area to the subject site there are no screened patios. Once the "search radius" is expanded, approximately 752 feet to the north, on the east side of Pinehurst Court, Lot 46 of Greens at Providence Phase 1 has an existing covered patio room. Further west off Callaway Court, case LDLVAR-2020-71 was approved for a solid aluminum roof to provide full coverage over an existing screened patio on January 28, 2021.

This expansion is minimal relative to the structure. The home is 6,760 square feet total under roof according to Property Appraiser and was built with a 172 square feet lanai. With the expansion of the screened pool area estimated to be 975 square feet and the existing concrete patio to the east estimated at 714 square feet, the total lanai and patio area totals 1,861 square feet. The concrete patio is already existing. The request is not to expand the patio, only to screen and provide partial coverage to the area not already permitted under Permit No. 83576. It will not limit the neighbor's peripheral view of the open space. Dense vegetation lines the retention pond therefore the request to provide roof coverage of the screen enclosure will have little to no effect on the immediate neighbor to the east.

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 is located in the Greens at Providence Phase 1 Subdivision, part of the larger Oakhill Estates Planned Unit Development (PUD) 89-10. Approval of the development consisted of 4,862 units (single family & multi-family), hotel/conference center, community neighborhood, and specialty retail commercial centers, two (2) golf courses and natural amenities with a gross density of 2.2 units per acre. The Greens at Providence Phase Unit 1 Subdivision was approved by PUD 89-10 and recorded under Plat Book 142, Pages 37 through 44 in 2007. The subject site is designated as Lot 171. Greens at Providence Phase 1 Subdivision was approved for primary structure rear setbacks of 15 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 2007 and met the primary structure setbacks of 20 feet front, 5 feet side, and 15 feet rear. The 6,760 square feet single family home was built with a patio and pool enclosed within a screen enclosure at the time of completion. In December 2013, the owner purchased the subject site through a warranty deed according to the Property Appraiser (O.R. BK 08897 PGs 1578 - 1579). The applicant later filed for a building permit BR-2025-7848 for the construction of a new patio enclosure with a solid roof to provide coverage over the existing patio concrete slab. Because the screen enclosure built in conjunction with the single-family home in 2007 did not have a solid roof, no variance was needed. Now, under building permit BR-2025-7848, the applicant is looking to add a solid roof to extend off the existing screen enclosure to the rear of the house into the side yard. 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 solid roof under BR-2025-7848, will require a variance to reduce the primary structure rear setback from fifteen (15) feet to five (5) 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 the typical 70' by 120' square feet (0.20-acre) lot size. Lots within Greens at Providence Phase 1 are typically 0.23 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. On certain lots the developer has already maximized the developable area by constructing homes up to the setback line. In other cases, homeowners add expansion projects such as screened patios within or up to the setback line. Within the Greens at Providence Phase 1 Subdivision, there have been numerous building permits for extended screened. Table 1 lists the variances processed and approved within the Oakhill Estates Planned Unit Development since 2020.

**Table 1**

Case	BOA/ LUHO Date	Variance
LDLVAR-2025-67	1/22/2026	Solid Roof Patio
LDLVAR-2023-69	3/28/2024	Solid Roof Patio
LDLVAR-2022-31	6/23/2022	Pool enclosure setback reduction from 5' to 3' (208.F)
LDLVAR-2022-16	5/26/2022	Solid Roof Patio
LDLVAR-2021-79	9/16/2021	Pool enclosure setback reduction from 5' to 0' (211.B)
LDLVAR-2021-63	7/22/2021	Pool enclosure setback reduction from 5' to 2' (211.B)
LDLVAR-2021-37	7/22/2021	Pool enclosure setback reduction from 5' to 2' (211.B)
LDLVAR-2020-71	1/28/2021	Solid Roof Patio
LDLVAR-2020-70	12/17/2020	Pool enclosure setback reduction from 5' to 0' (211.B)
LDLVAR-2020-43	12/17/2020	Pool enclosure setback reduction from 5' to 2' (211.B)
LDVAR-2020-80	9/24/2020	Pool enclosure setback reduction from 5' to 0' (211.B)

Since 2020, the County has processed and approved roughly 11 variances cases within the Oakhill Estates Planned Unit Development, equivalent to two (2) cases per year. Of those 11 cases, 7 are within the Greens at Providence Phase 1 Subdivision alone. This equates to over 50 percent of variances to PUD 89-10 are within the Greens at Providence Phase 1 Subdivision. It is also important to point out the type of request. Of the 11 cases, 7 are requests to reduce the rear setback from five (5) feet to within zero (0) feet for pool enclosures. These variances reference Section 208.F and Section 211.B of the Land Development Code (LDC) which states...

*“No part of any pool, spa or hot tub or its enclosure shall be closer than five feet to any seawall or property line. A variance to this setback requirement may be granted by the Board of Adjustment in accordance with Section 930 and 931.”*

These requests equate to over 50 percent. This development standard has since been removed from the LDC Section 211.B, remaining only in Section 208.F. Table 1 does not, however, quantify 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 in developments throughout throughout the County. Since this property backs up to open space Tract R5 (Retention Pond) and other units within Greens at Providence Phase 1 have solid roof coverage over portions or the entirety 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 over the existing concrete slab in the side yard to increase the functionality of the existing patio area as stated in their justification. The existing screened patio area was constructed when the home was built in 2007, prior to when the applicant purchased the property in 2015. The screened patio area currently maximizes the developable rear yard by extending to the 5-foot rear setback for accessory structures. The applicant intends to extend the patio eastward into the side yard, maintaining the 5-foot setback, however with the improvement of an attached

solid roof, per Section 209.F of the LDC the patio is considered part of the principal structure and shall be subject to the 15-foot rear setback.

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:**

<b>Northwest:</b> Residential Low-4X Greens at Providence Planned Unit Development (PUD) 89-10, Phase 1 Tract G1 Future Development (golf course) 29.2 acres	<b>North:</b> Residential Low-4X Greens at Providence Planned Unit Development (PUD) 89-10, Phase 1 Lot 29 5,096 sq. ft. single-family home 0.33 acres Screened Patio	<b>Northeast:</b> Residential Low-4X Greens at Providence Planned Unit Development (PUD) 89-10, Phase 1 Lot 29 5,096 sq. ft. single-family home 0.33 acres Screened Patio
<b>West:</b> Residential Low-4X Greens at Providence Planned Unit Development (PUD) 89-10, Phase 1 Tract W Well 0.53 acres	<b>Subject Property:</b> Residential Low-4X Greens at Providence Planned Unit Development (PUD) 89-10, Phase 1 Lot 171 6,760 sq. ft. single-family home Built 2007 0.31 acres Patio and Roof Extension	<b>East:</b> Residential Low-4X Greens at Providence Planned Unit Development (PUD) 89-10, Phase 1 Lot 170 5,373 sq. ft. single-family home Built 2007 0.23 acres Screened patio
<b>Southwest:</b> Residential Low-4X Greens at Providence Planned Unit Development (PUD) 89-10, Phase 1 Tract R5 Retention Pond 1.10 acres	<b>South:</b> Residential Low-4X Greens at Providence Planned Unit Development (PUD) 89-10, Phase 1 Tract R5 Retention Pond 1.10 acres	<b>Southeast:</b> Residential Low-4X Greens at Providence Planned Unit Development (PUD) 89-10, Phase 1 Tract R5 Retention Pond 1.10 acres

The property is part of the Greens at Providence Planned Unit Development (PUD) 89-10, Phase 1. Phase 1 of the Providence development is single-family detached units. This proposed solid aluminum roof coverage will extend roughly 20 feet off the east side of the primary structure providing coverage over the existing concrete patio. This would not be the only property within the surrounding area that would have a solid roof providing full coverage over an existing patio. Approximately 752 feet to the north, on the east side of Pinehurst Court, Lot 46 of Greens at Providence Phase 1 has an existing covered patio room. Case LDLVAR-2020-71 was approved for a solid aluminum roof to provide full coverage over an existing screened patio on January 28, 2021. Similar variance cases as well as setback relief for screened patio extensions can be seen throughout Phase 1 of the Greens at Providence PUD. This research does not account for cases where full roof coverage over existing screened patios was approved administratively through building permits like Lot 46 for reference. Abutting the subject site to the west is Tract W, identified on the plats as well. Abutting the subject site to the south is Tract R5, identified on the plats as Retention Pond. The current function of these Tracts are not for residential or commercial use and are not designated on the plats for future development, therefore for having no negative impact from the variance request.

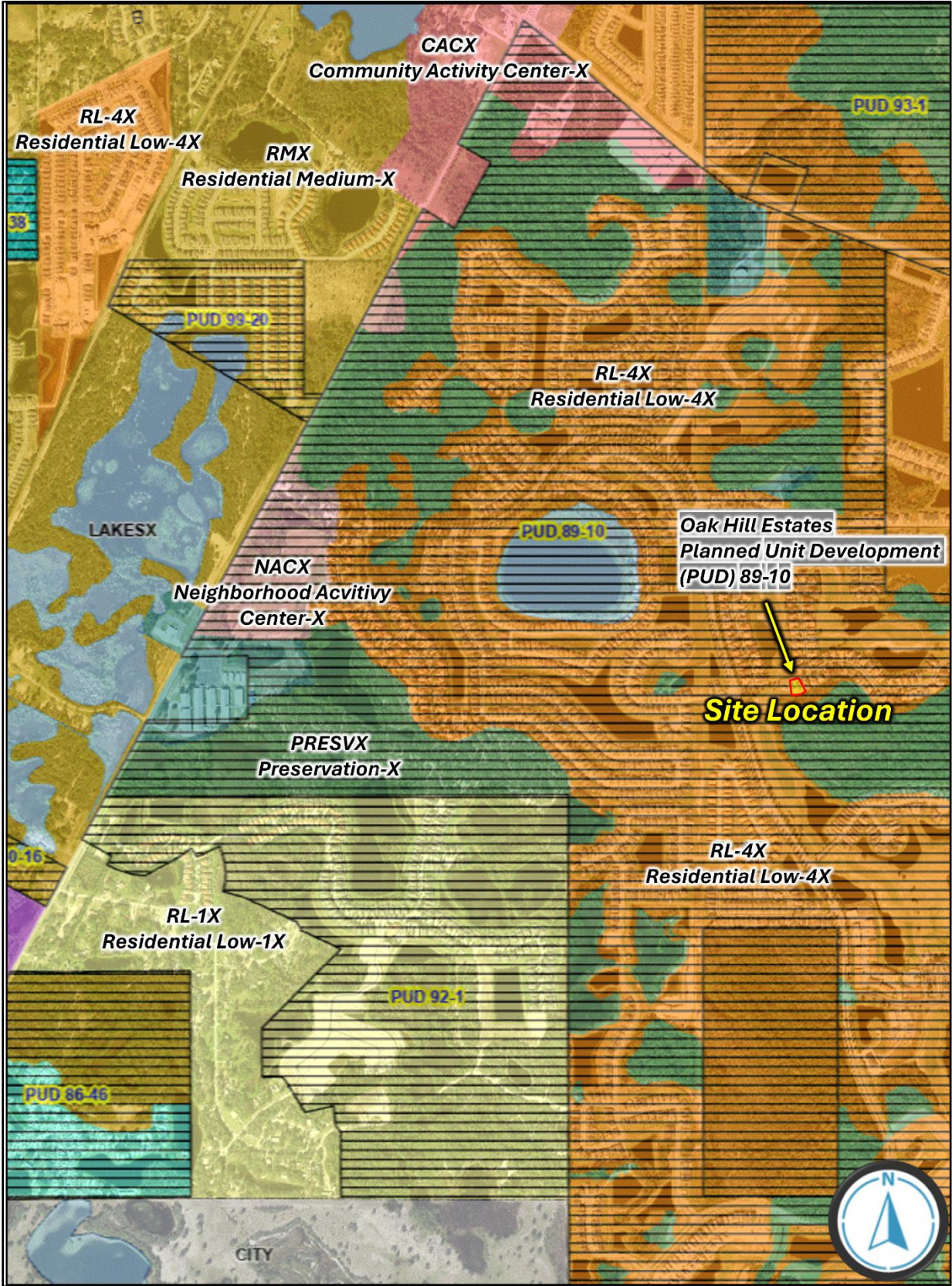
**Exhibits:**

Exhibit 1	Location Map	Exhibit 7	Permit No. Floor Plan
Exhibit 2	Future Land Use Map	Exhibit 8	Permit No. Elevations
Exhibit 3	Aerial Imagery (Context)	Exhibit 9	Permit No. 83576 Pool Screen
Exhibit 4	Aerial Imagery (Close)	Exhibit 10	PUD 89-10 Variance Map
Exhibit 5	Site Plan		
Exhibit 6	Justification		



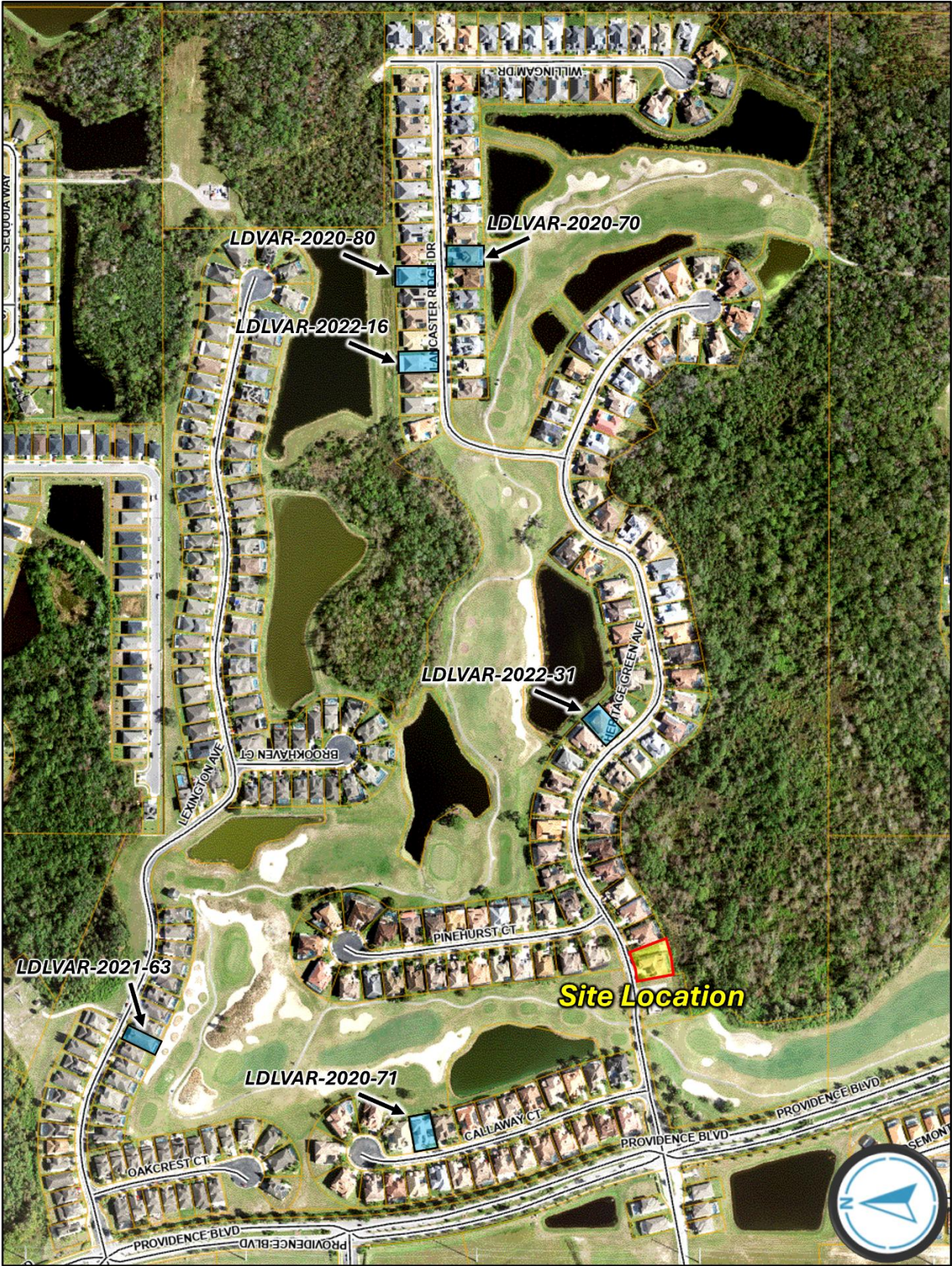
Land Use Hearing Officer  
Variance/KSR





Future Land Use Map





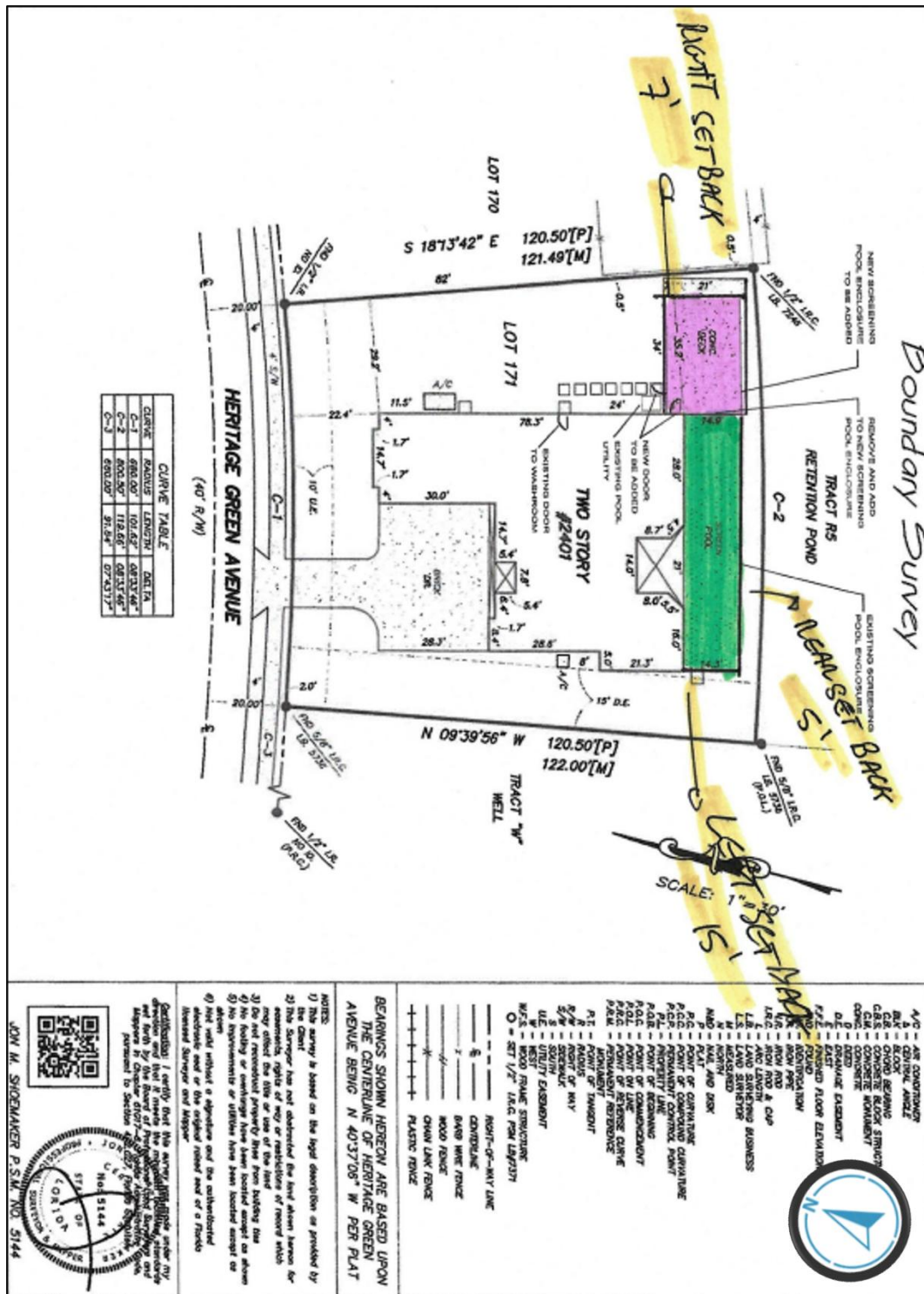
Aerial Imagery (Context)





## Aerial Imagery (Close)





## **CRITERIA FOR GRANTING VARIANCE**

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

No. The rear of the property abuts a stormwater retention pond, not another residential lot. Therefore, the proposed roof addition will have no visual, privacy, or drainage impact on neighboring properties.

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

The property's rear boundary abuts a retention pond, not another residential lot, so the proposed structure would not impact privacy, airflow, or light access to neighboring properties.

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

The applicant bought the property in 2015 and the house was built in 2007. Do not have the permit number of when the house was built.

### **What is the hardship if the variance is not approved?**

If the variance is not approved, the homeowner cannot build a usable covered patio area because the existing pool and screen enclosure occupy nearly all of the space allowed by the 15-foot rear setback. This prevents any shaded outdoor seating near the pool. The hardship is not self-created, as the home and pool were built by the developer before the current owner purchased the property in 2017. The rear of the lot borders a retention pond, not another home, so maintaining the full setback provides no public benefit. The variance would allow reasonable use of the property consistent with the neighborhood.

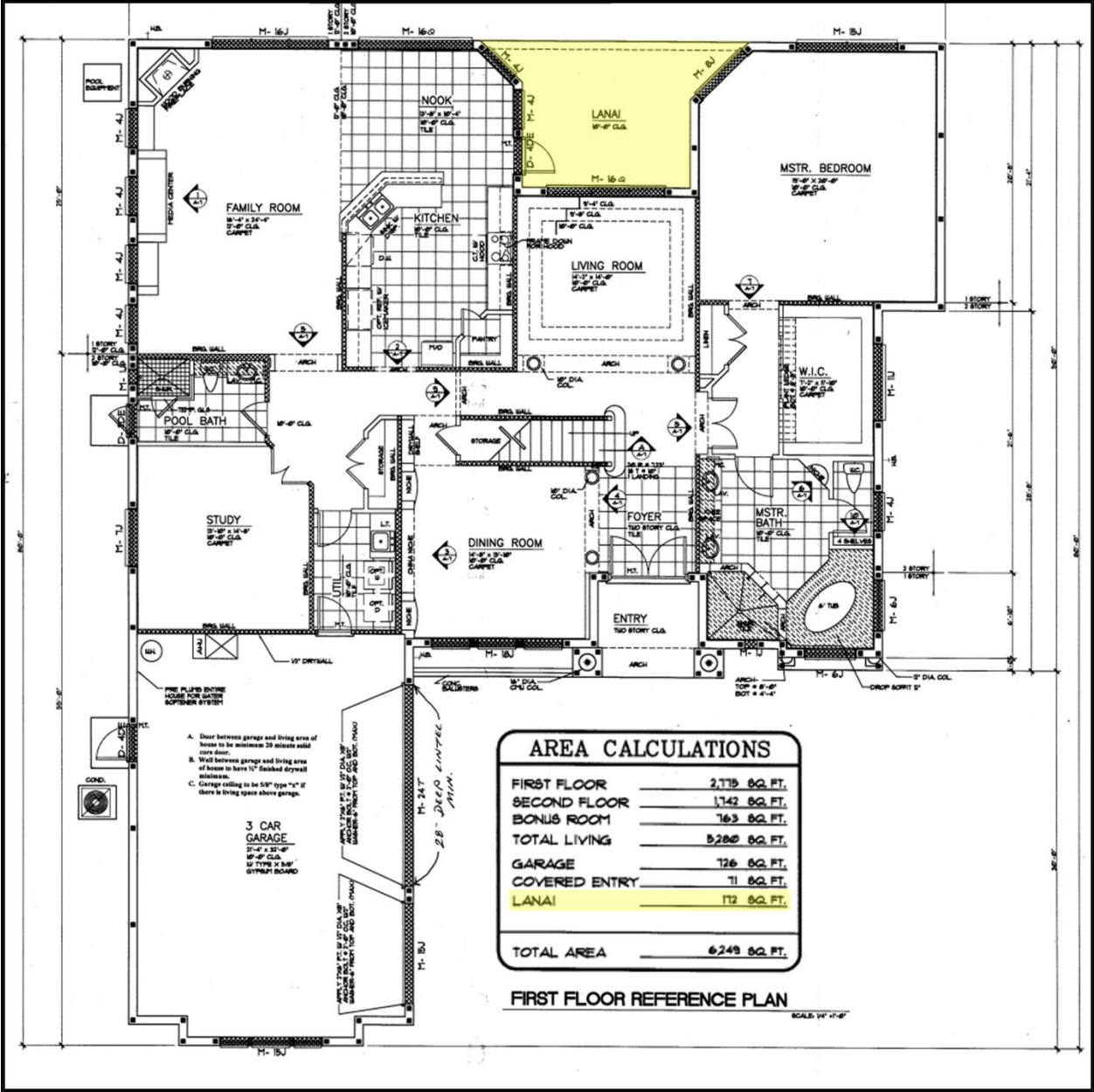
### **Is this the minimum variance required for the reasonable use of the land?**

Yes, the insulated roof would be attached to the existing screen enclosure as a continuation of the enclosure.

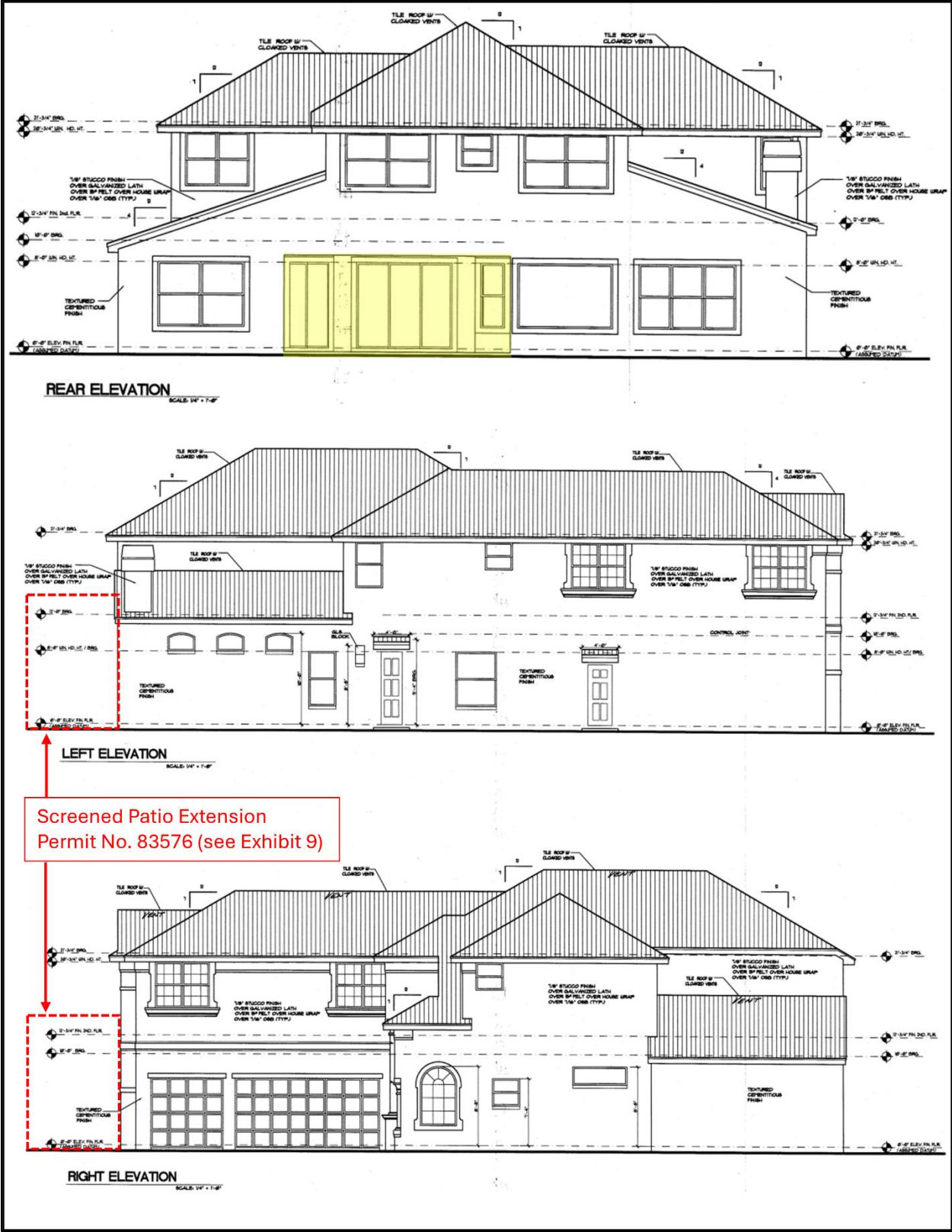
### **Do you have Homeowners Association approval for this request?**

Yes. The project has been reviewed and approved by the Homeowners Association (HOA).

## **Justification**

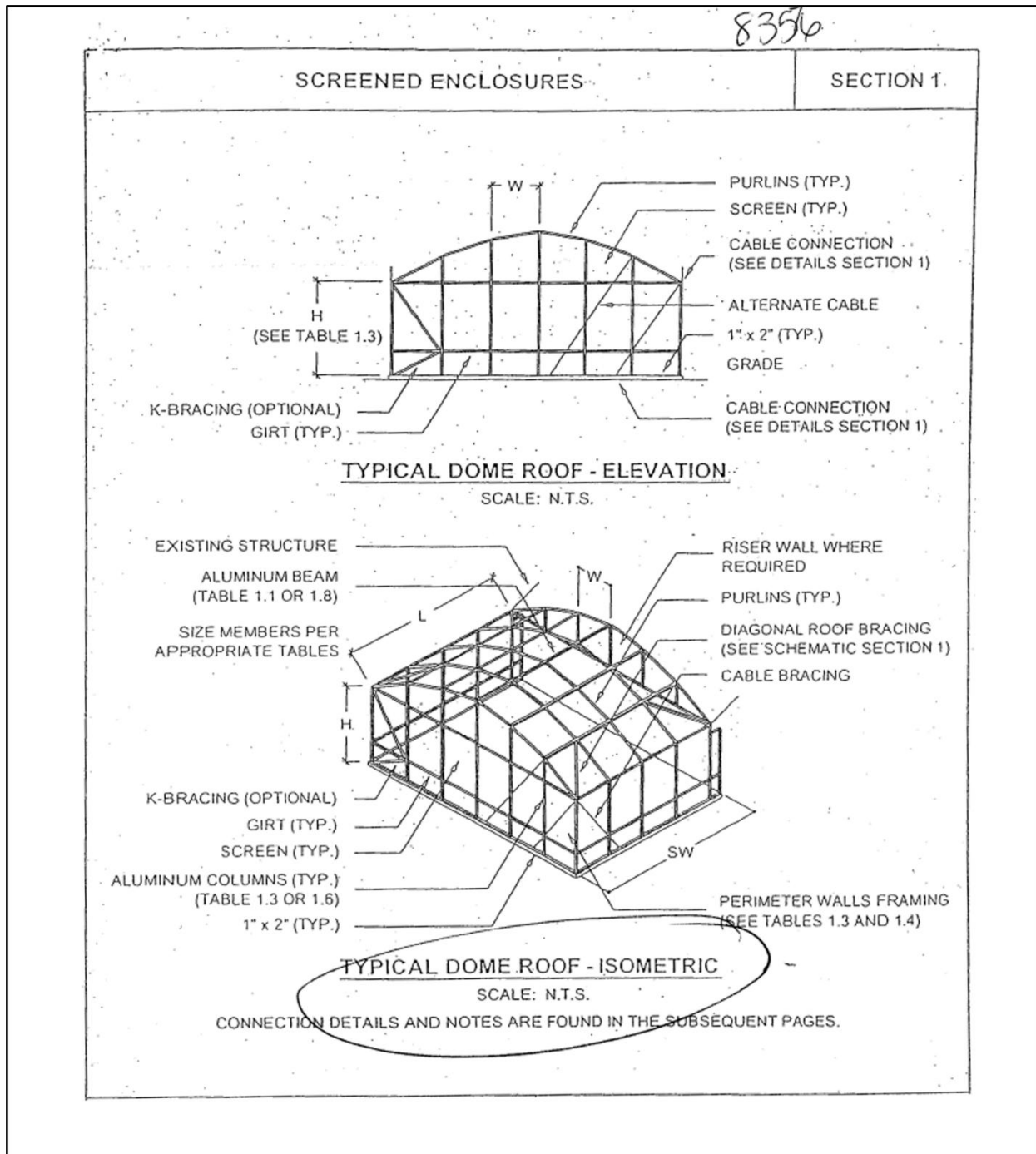


Permit No. 78876 Floor Plan



Permit No. 78876 Elevations





## Permit No. 83576 Pool Screen





## PUD 89-10 Variance Map