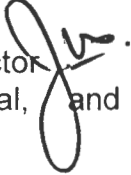




Interoffice Memorandum

April 9, 2021

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Jon V. Weiss, P.E., Director 
Planning, Environmental, and Development Services
Department

CONTACT PERSON: **Ted Kozak, AICP, Chief Planner**
Zoning Division
(407) 836-5537

SUBJECT: May 11, 2021 – Appeal Public Hearing
Applicant: New Hope Road Holdings (Anna Long)
Appellant: Alison Yurko (Giles Ashe, Tetyana Rai)
BZA Case #SE-20-11-105, March 4, 2021; District 4

Board of Zoning Adjustment (BZA) Case # SE-20-11-105, located at 6713 New Hope Rd., Orlando, in the A-2 Farmland Rural district, in District 4, is an appeal to the Board. The applicant is requesting a special exception to allow a landscaping and irrigation business; a special exception to allow 4,173 sq. ft. of detached accessory structures in lieu of 3,000 sq. ft.; and a variance to allow detached accessory structures (an existing pole barn and shed) in front of the primary structure. The subject property is located on the north side of New Hope Rd., east of Boggy Creek Rd., south of SR 417.

At the March 4, 2021 BZA hearing, staff recommended denial of the special exception to allow a landscaping and irrigation business and recommended approval of the special exception to allow 4,173 sq. ft. of detached accessory structures in lieu of 3,000 sq. ft.; and recommended approval of the variance to allow detached accessory structures in front of the primary structure. The BZA stated that the landscape and irrigation business would be compatible with other established uses in the district and recommended approval of the special exception for the landscaping and irrigation business and agreed with staff's recommendation to recommend approval of the special exception for additional detached accessory structures and the variance for detached accessory structures in front of the primary structure.

The appellant, Alison Yurko, objects to the request due to perceived incompatibility issues such as traffic and excessive noise. At the request of the District Commissioner, the public notice was expanded after the BZA hearing to include all property owners within the entire Kissimmee Farms plat area, which increased the number of notices to 132.

Page Two
May 11, 2021 – Appeal Public Hearing
New Hope Road Holdings (Anna Long)
BZA Case #SE-20-11-105, March 4, 2021; District 4

The application for this request is subject to the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the Board. A copy is available upon request in the Zoning Division.

If you have any questions regarding this matter, please contact Ted Kozak, AICP at 407-836-5537.

ACTION REQUESTED: Deny the applicant's requests; or approve the applicant's requests with conditions. District 4

**PLANNING, ENVIRONMENTAL, AND DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT**

May 11, 2021

The following is a public hearing on an appeal before the Board of County Commissioners on May 11, 2021 at 2:00 p.m.

- APPLICANT:** NEW HOPE ROAD HOLDINGS (ANNA LONG)
- APPELLANT:** ALISON YURKO (GILES ASHE, TETYANA RAI)
- REQUEST:** Special Exceptions and Variance in the A-2 zoning district as follows:
1) Special Exception to allow a landscaping and irrigation business
2) Special Exception to allow 4,173 sq. ft. of detached accessory structures in lieu of 3,000 sq. ft.
3) Variance to allow detached accessory structures (an existing pole barn and shed) in front of the primary structure
This is a result of Code Enforcement action.
- LOCATION:** 6713 New Hope Rd., Orlando, Florida 32824, north side of New Hope Rd., east of Boggy Creek Rd., south of SR 417
- TRACT SIZE:** 320 ft. x 620 ft. +/- 4.55 acres
- ZONING:** A-2
- DISTRICT:** #4
- PROPERTIES NOTIFIED:** 132, expanded

BOARD OF ZONING ADJUSTMENT (BZA) HEARING SYNOPSIS ON REQUEST:

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial of Special Exception #1, and approval of Special Exception # 2 and Variance #3. Staff noted that seventeen (17) comments were received in support and eighteen (18) comments were received in opposition.

The applicant stated that the business had been operating for 7 years with no neighbor complaints from 2014 to 2019 until another landscaping business applied for a Special Exception within the area. They contended that the use is compatible with the area, and noted that the owner will improve parking and will pay for road impacts. The applicant also showed a time lapse video of traffic on the road adjacent to the property.

Eight neighbors spoke in opposition to the request, citing concerns about the use being incompatible with the area, and the truck traffic, noting that there are only 2 roads in and out of the area. They also noted that the business has dramatically expanded over the past several years.

The applicant noted that there are no processed or manufactured materials at the site, stated that this operation cannot be blamed for all the traffic and trash, and noted that the Special Exception will limit any future expansion.

The BZA noted when the complaints were submitted, and discussed the provision of a landscaping buffer along the front of the property.

The BZA unanimously recommended approval of the Special Exceptions and the Variance by a 6-0 vote, subject to the six (6) conditions in the staff report, a new Condition 7, which states "To the extent that the site plan contradicts with the approved CAD and required setback buffers, the CAD and wetland buffer shall prevail unless a CAI is otherwise obtained." and a new Condition 8, which states "A minimum 6 ft. high opaque 15 ft. wide type B vegetative landscape buffer shall be installed along the entire length of the property adjacent to New Hope Rd."

BZA HEARING DECISION:

A motion was made by Deborah Moskowitz, seconded by Juan Velez and unanimously carried to recommend APPROVAL of the Special Exception requests in that the Board finds it met the requirements governing Special Exceptions as spelled out in Orange County Code, Section 38-78, and that the granting of the Special Exception does not adversely affect general public interest; and to recommend APPROVAL of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous; 6 in favor and 1 absent):

1. Development shall be in accordance with the site plan and elevations dated February 1, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this 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. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Days and hours of operation shall be limited to Monday through Saturday, 7 a.m. to 7 p.m.
5. Permits shall be obtained within 2 years for buildings, as applicable, or the approval of Special Exception # 2 and the variance shall be null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
6. Permits for the site work and landscaping and any other permits required shall be obtained within 1 year, or the approval of Special Exception # 1 shall be null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
7. To the extent that the site plan contradicts with the approved CAD and required setback buffers, the CAD and wetland buffer shall prevail unless a CAI is otherwise obtained.
8. A minimum 6 ft. high opaque 15 ft. wide type B vegetative landscape buffer shall be installed along the entire length of the property adjacent to New Hope Rd.

ALISON M. YURKO, P.A.
Attorneys at Law

Alison M. Yurko, Esq.
P.O. Box 2286
Winter Park, FL 32790

Re: Appeal of Special Exception/Variiances for BZA SE-20-11-105 on behalf of Giles Ashe and Tetyana Rai; New Hope Holdings, LLC/Anna Long


March 11, 2012

Dear Nick -

Attached please find a check in the amount of \$691.00 for an appeal of the above referenced BZA matter. Per your direction, I have included an appeal form with my signature and letters of authorization from clients Giles Ashe and Tetyana Rai. Note: I have also included an appeal form previously executed by Ms. Rai for inclusion in our filing, (though I understand it may not be necessary).

The subject BZA application seeks to legitimize an illegal use that is currently the subject of code enforcement proceedings (see attached Exh. A). The highly intense commercial nature of the proposed use as a landscaping and irrigation business is profoundly inconsistent and incompatible with the longstanding rural residential character of the residential neighborhood where it is located, and meets none of the criteria for special exceptions per section 38-78 of the Code. In addition, there is no basis to grant the special exception and variances requested in connection with the buildings considering that they do not meet the requisite code criteria and especially considering that several were built without permits.

Thank you -



Alison Yurko
Alison Yurko PA

CC: Tetyana Rai
Giles Ashe

RECEIVED
MAR 12 2012
ORANGE COUNTY
ZONING DIVISION



ORANGE COUNTY ZONING DIVISION
 201 South Rosalind Avenue, 1st Floor, Orlando, Florida 32801
 Phone: (407) 836-3111 Email: Zoning@ocfl.net
www.orangecountyfl.net

Board of Zoning Adjustment (BZA) Appeal Application

Appellant Information

Name: Alison Yurko; Alison Yurko PA (attorney for Giles Ashe, Tetyana Rai per attached authorizations)
 Address: 926 Delaney Ave. Orlando, FL 32806
 Email: ayurkolaw@gmail.com Phone #: (407) 340-7043
 BZA Case # and Applicant: SE 20-11-105; Applicant Newhope Road Holdings (Anna Long)
 Date of BZA Hearing: 3/1/21

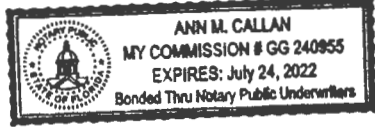
Reason for the Appeal (provide a brief summary or attach additional pages of necessary):
Application does not meet criteria for special exception (per 38-78 of code);
or variance criteria per section 30-43(3) of Code.

* Signature of Appellant: Alison Yurko Date: 3/1/21
 * Attorney for Giles Ashe and Tetyana Rai
 STATE OF Florida
 COUNTY OF Orange

The foregoing instrument was acknowledged before me this 11th day of March, 2021, by Alison Yurko who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

[Signature]
 Notary Public Signature

Notary Stamp:



NOTICE: Per Orange County Code Section 30-45, this form must be submitted within 15 days after the Board of Zoning Adjustment meeting that the application decision was made.

Fee: \$691.00 (payable to the Orange County Board of County Commissioners)
 Note: Orange County will notify you of the hearing date of the appeal. If you have any questions, please contact the Zoning Division at (407) 836-3111.

See Page 2 of application for the Appeal Submittal Process.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **MAR 04, 2021**

Case Planner: **Nick Balevich**

Case #: **SE-20-11-105**

Commission District: **#4**

GENERAL INFORMATION

APPLICANT(s): NEW HOPE ROAD HOLDINGS (ANNA LONG)

OWNER(s): 6713 NEW HOPE ROAD HOLDINGS LLC

REQUEST: Special Exceptions and Variance in the A-2 zoning district as follows:

- 1) Special Exception to allow a landscaping and irrigation business
- 2) Special Exception to allow 4,173 sq. ft. of detached accessory structures in lieu of 3,000 sq. ft.
- 3) Variance to allow detached accessory structures (an existing pole barn and shed) in front of the primary structure
This is a result of Code Enforcement.

PROPERTY LOCATION: 6713 New Hope Rd., Orlando, Florida 32824, north side of New Hope Rd., east of Boggy Creek Rd., south of SR 417

PARCEL ID: 34-24-30-6368-00-130

LOT SIZE: 320 ft. x 620 ft. /+/- 4.55 acres

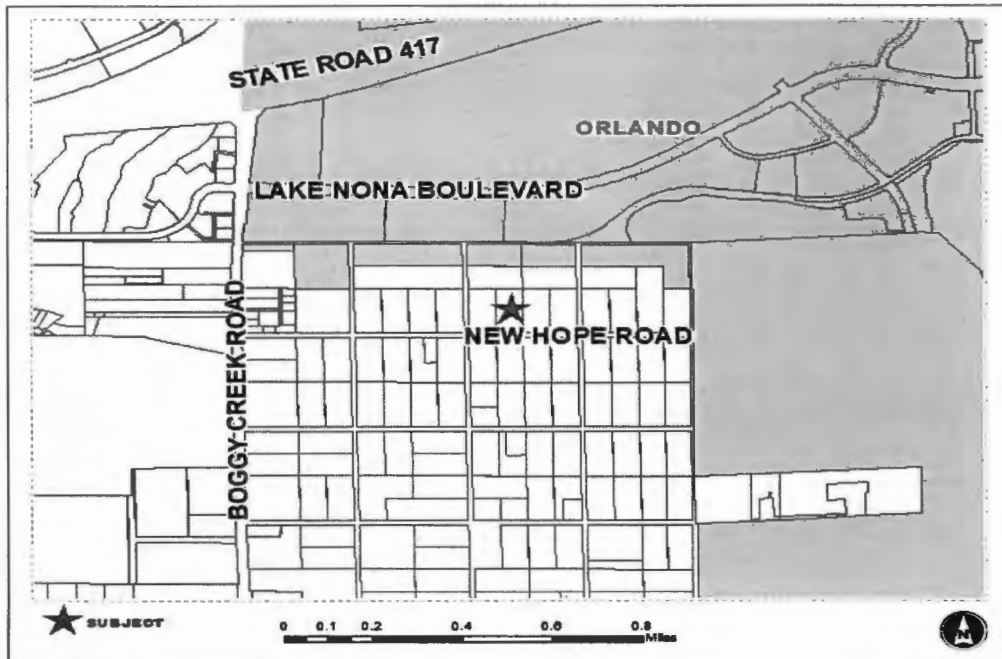
NOTICE AREA: 1,500 ft.

NUMBER OF NOTICES: 53

STAFF RECOMMENDATIONS

Denial of Special Exception #1, and approval of Special Exception #2 and Variance #3 subject to the conditions in this report. However, if the BZA finds that the applicant has satisfied the criteria for the granting of both Special Exceptions and Variances, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-2	A-2	A-2	A-2	A-2
Future Land Use	R	R	R	R	R
Current Use	Landscaping Business	Single-family residential	Vacant	Single-family residential, nursery	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The property is located in the A-2 Farmland Rural zoning district, which allows agricultural uses including nurseries, mobile homes, and single-family homes with accessory structures on larger lots. In addition, uses associated with nurseries, such as landscaping businesses and irrigation contractors are permitted through the Special Exception process.

The area consists of vacant land, single family homes, citrus groves and nurseries. The subject property was created by a lot split in 1979 from the original Orlando-Kissimmee Farms Plat, which was recorded in 1926, and is considered to be a conforming lot of record. The applicant purchased the property in 2014.

The site is developed with: a 633 sq. ft. storage building, labeled on the site plan as Building A, constructed in 2006 under permit #B06016099; a 846 sq. ft. storage building, constructed without a permit, labeled on the site plan as Building B; a 3,000 sq. ft. warehouse/office building, constructed without a permit, which is labeled on the Site Plan as Building C; a 2,525 sq. ft. pole barn, labeled as Building D constructed in 2006 under permit #B06016098; a 132 sq. ft. wellhouse, labeled as Building E was constructed in 2008 under permit #B08010924; a 35 sq. ft. pumphouse labeled as Building F constructed without a permit. The unpermitted structures appear to have been installed between 2005 and 2006 based on aerials. The code requirements for the location of accessory structures was the same at the time the buildings were constructed, as it is now. Therefore, it is unclear how permits were issued based on this code.

Code Enforcement cited the owner in January of 2020 for operating a landscape operation without a Special Exception, and for accessory structures with no principle structure. (Incident 561660). Upon review of the site, it was determined that Building C is considered to be the principle structure and all others are considered accessory.

Staff observed that the property contained mulch piles in front by the road, pallets along the side entryway, parking and vehicular access on unimproved surfaces, and a small portion of the property being used for a nursery, and a wetlands area at the rear of the site.

The applicant is requesting approval of Special Exceptions to allow a landscaping and irrigation business on the property, and to allow 4,173 sq. ft. of detached accessory structures in lieu of 3,000 sq. ft. The applicant is also

requesting approval of a variance to allow detached accessory structures (an existing pole barn-Building D and shed-Building A) to be located in front of the primary structure.

The applicant is not proposing to add any structures and is proposing modifications to the parking area and the addition of landscaping, to meet code. The applicant has stated that they will move their mulch stocks from the front of the property to the rear. Approximately 50 people are employed by the company. The applicant states that the days and hours of operation will be Monday through Saturday, 7 a.m. to 7 p.m.

The parking requirements for the property are as follows:

Office: 1,600 sq. ft. @ 1 parking space per 200 sq. ft., requiring 8 spaces

Warehouse: 1,400 sq. ft. @ 1 parking space per 1,000 sq. ft., requiring 2 spaces, and 1 parking space per bay, requiring 2 spaces

Storage: 4,004 sq. ft. @ 1 parking space per 1,000 sq. ft., requiring 5 spaces

The total parking spaces required is 17 spaces. The site plan shows 21 parking spaces, and 1 accessible parking spaces for a total of 22 spaces, thus meeting the parking code requirement. The applicant is proposing to use 57 stone for parking and drive aisles.

The applicant submitted letters of support from the most impacted property owners located to the north, south, east and west of the subject property. At the time of the drafting of this staff report, staff has received 16 correspondences from neighbors in the area who are against the project.

On December 31, 2020, a Conservation Area Determination (CAD-20-10-210) was completed for the property, to delineate wetlands on the northwest and southwest portions of the property. The site plan has been updated to reflect these areas.

The Orange County Transportation Planning Division provided the following comments: This project will generate 132 daily trips and 60 P.M. peak hour trips. Therefore, the project will have a minimal impact on the roadway segments within the impact area. Based on this information, all roadway segments are currently operating within their adopted capacity except for the segment of Boggy Creek Road which is currently operating at a Level of Service F. Prior to permit approval, the developer/applicant will have to submit a traffic study and participate in the cost of improving the deficient roadway segments to secure concurrency. The participation will be on a proportionate share basis.

On Thursday, February 18, 2021, a virtual Community Meeting was held to allow for input. The meeting was attended by the applicant, County staff, and nine residents. The majority of the residents in attendance spoke against the case. They were concerned with parking on the adjacent road, the high number and speed of truck traffic on the area, and the trucks causing damage to the road and noise impacts due to the operations. They were also concerned with the impacts of mulch piles on the groundwater and felt that it is an incompatible use for the neighborhood and will set precedent for other prohibited uses in the area.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	20 ft
Min. Lot Width:	100 ft.	320 ft.
Min. Lot Size:	0.5 ac.	4.56 ac.

Building Setbacks (that apply to structure in question) (Measurements in feet)

	Code Requirement	Proposed
Front:	35 ft.	60 ft. (South)
Rear:	50 ft.	350 ft. (North)
Side:	10 ft.	68 ft. (West), 88 ft. (East)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The provision of landscape, irrigation and lawncare businesses as conditioned through the Special Exception process is consistent with the Comprehensive Plan since such a use provides a service to the surrounding residential areas.

The provision of accessory structure square footage above 3,000 sq. ft., is permitted in the A-2 zoning district through the Special Exception process if performance standards such as setbacks are met, and is consistent with the Comprehensive Plan since the proposal is compatible with the surrounding uses.

Similar and compatible with the surrounding area

Special Exception #1: The landscaping and irrigation business is not compatible with other existing nearby uses such as plant nurseries and single-family acreages due to truck traffic, noise, safety, odor, intensity, and appearance.

Special Exception #2: The provision of additional accessory structure square footage is compatible with the surrounding area, since the primary structure setbacks from the property lines are met and since the property is large and screened by perimeter landscaping.

Shall not act as a detrimental intrusion into a surrounding area

Special Exception #1: The landscaping and irrigation business on the subject property has and will continue to negatively impact the surrounding area due to the intensity of the use, noise and truck traffic caused by the operations.

Special Exception #2: The provision of additional accessory structure square footage is compatible with the surrounding area, and will not act as a detrimental intrusion into the area due to the size of the property and the visual screening of the structures.

Meet the performance standards of the district

The landscaping and irrigation business meets setbacks, height limits, parking requirements, and other performance standards of the district (except for the building locations for which a variance is being requested). The provision of additional accessory structure square footage will meet the performance standards of the district, upon the granting of the Special Exception for square footage, and the variance for the building locations.

Similar in noise, vibration, dust, odor, glare, heat producing

Special Exception #1: The landscaping and irrigation business does and would continue to generate noise, vibration, dust, and odor, due to truck traffic, intensity of the use and onsite material storage that is not similar to the adjacent and nearby nurseries and adjacent residences.

Special Exception #2: The provision of additional accessory structure square footage will not generate any more noise, vibration, dust, odor glare or heat that is dissimilar to existing conditions by a majority of properties in the area. Further the property is vegetated and will be buffered, which will offset any potential impacts.

Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code

The owner has provided a plan which indicates hedge materials at the perimeter and the addition of trees installed with a separation of 40 ft. on center, around the site.

VARIANCE CRITERIA

Special Conditions and Circumstances

The existing location of the accessory structures is a consideration of special conditions and circumstances. Removal or relocation of these structures that were permitted and constructed in 2006 would be necessary to meet code requirements.

Not Self-Created

The accessory structures were constructed after receiving approval of permits and the placement of those structures in front of the primary structure is not due to actions on the part of the current owner.

No Special Privilege Conferred

Granting the variance will not be conferring any special privilege. The accessory structures will remain in the location that they were permitted and constructed in 2006.

Deprivation of Rights

The orientation and location of the accessory structures were as permitted and constructed in 2006. Denying t variance will deprive the applicant the ability to continue the use of these structures.

Minimum Possible Variance

: accessory structures in the current locations as permitted is the minimum possible variance.

Purpose and Intent

Since the existing situation has existed since these structures were permitted in 2006, approval of the request will be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding area. The location of the existing buildings will not be out of character with the overall area, which includes other non-residential uses such as nurseries.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations dated February 1, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this 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. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. Days and hours of operation shall be limited to Monday through Saturday, 7 a.m. to 7 p.m.
5. Permits shall be obtained within 2 years for buildings, as applicable, or the approval of Special Exception # 2 and the variance shall be null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
6. Permits for the site work and landscaping and any other permits required shall be obtained within 1 year, or the approval of Special Exception # 1 shall be null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Anna Long
420 S Orange Ave. Suite 700
Orlando, FL 32801



ATTORNEYS AT LAW

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Attorneys and Counselors at Law

Orlando
Fort Pierce
Tallahassee
Viera/Melbourne

ANNA LONG
(407) 428-5120
along@deanmead.com

October 13, 2020

VIA E-MAIL: (Nick.balevich@ocfl.net)
and FEDERAL EXPRESS

Orange County Zoning Division
Orange County Administration Center
201 S. Rosalind Avenue, #1
Orlando, FL 32801

Re: CONSOLIDATED/REVISED COVER LETTER
Special Exceptions and Variance Application
6713 New Hope Road, Orlando, Florida
Parcel ID No. 342430636800130

Dear Sir or Madam:

This letter is being transmitted, as requested, to consolidate correspondence and revise, previous cover letters dated September 2, September 25 and September 30, 2020, respectively, for the subject application/property. Supporting documentation for the requested special exceptions and variance has been previously provided unless referenced and attached hereto. The application fees have previously been submitted and received by the County as well.

Landscape Systems, Inc., is a related entity to the current property owner, 6713 New Hope Road Holdings, LLC. 6713 New Hope Road Holdings, LLC purchased the subject property in 2014. While the current use denoted on the Orange County Property Appraiser's website provides that the property's use was/is a single family residence, at the time of the purchase in 2014, the property was vacant. Landscape Systems, Inc. conveyed the property to Landscape Systems Holdings, LLC on May 22, 2019. On that same date, Landscape Systems Holdings, LLC, conveyed the property to the current owner. Landscape Systems Holdings, LLC is a related party to the current owner, 6713 New Hope Road Holdings, LLC. At no time, from the time of the related entity purchase in 2014 through present date, was a single family residence located or intended to be constructed on the property. A copy of a 2014 aerial submitted on September 2, 2020 shows what appears to have been a sidewalk leading to what likely was a house. The other structures were not/are not residential in nature.

O3045094.v1

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Orange County Zoning Division
October 13, 2020
Page 2

Landscape Systems Holdings, LLC, the landscape operating entity, employs 40 employees. These individuals are dependent upon their employment with Landscape Systems Holdings, LLC for their livelihoods.

The requested Special Exceptions and Variance are consistent with Orange County's Comprehensive Policy Plan.

Special Exceptions:

The property owner is also requesting two special exceptions. The first is to allow for a landscaping, irrigation and sod business with NO on-site processing of raw materials. The second is to allow for the existing detached accessory structures in excess of 3,000 square feet (the size of the principal structure) to remain.

Special Exception for Use:

The request for the first special exception is to allow for the operation of a landscaping, irrigation and sod company (no on-site processing of raw materials) (Chapter 38, Article V, Section 38-137, Orange County Code of Ordinances). The operations at this site have been on-going for a number of years, as the owner was unaware, due in part to the like businesses around the property, that the same required a Special Exception. Upon notification from Orange County for the need of a Special Exception for the business, the Owner moved quickly to bring the property into compliance and had intended to submit the subject application for review and approval in March. At the direction of zoning staff, the applicant hired a traffic engineer to complete a traffic analysis to accompany the Special Exception application. When Governor DeSantis issued the Safe at Home Order in response to COVID-19, the ability to complete the traffic analysis was delayed; that in turn, delayed the subject submittal as well. The traffic analysis has now been completed. The efforts to obtain the required approvals can proceed as well.

The criteria set forth under Section 38-78, Orange County Code are met, as explained in detail below:

1. The use shall be consistent with the Comprehensive Policy Plan: The continued use of this rural property as a landscaping, irrigation and sod company is consistent with the Comprehensive Policy Plan. The requested use is a permissible use provided a special exception is approved. The underlying land use of the subject property and surrounding properties is rural. The examples provided in our previous submittals noted above of like business operations in the area are also zoned A-2 and have an underlying land use designation as rural.

2. The use is similar to and compatible with the surrounding area and the use is consistent with the pattern of surrounding development: There are existing like and similar operations in close proximity to the subject site. One such business is adjacent to the subject site.

3. The use shall not act as a detrimental intrusion into a surrounding area: As previously noted, the operations has been located without issue on the subject property since 2014. No complaints have been issued against the operations as to noise, dust, disruption, traffic, etc. In

O3045094.v1

Orange County Zoning Division
October 13, 2020
Page 3

In addition, none of the adjacent neighbors have objected to the operations nor are they objecting to the requested special exception. Letters of no objection were included with September 2, 2020 submittal.

4. The use has met the performance standards of the district in which the use is permitted: As previously noted, the applicant was unaware that a special exception was required to operate the business which has been on-going without issue since 2014. If performance standards were an issue, the same would have been so noted by neighbors/the County over the past 6 years. Performance standards have been met and will continue to be met.

5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district: As previously noted, the business for which the special exception is being requested has operated without issue or incident at the subject site since 2014. The property adjacent and east of the subject property operates a landscaping business. The property directly to the west of the subject property is a single family residence, is buffered from the subject site with natural vegetation. Additionally, this property owner has provided a letter of no objection for the requested special exception. The property directly to the north of the subject property is also a single family residence, partially buffered from the subject site with natural vegetation. Additionally, this property owner has provided a letter of no objection as well for the requested special exception. New Hope Road abuts the subject property to the south and across from New Hope Road to the south is a vacant residential 4.56 acre lot. As noted above, confirmation of no objection from neighbors were previously provided.

6. Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code. Buffer yard types shall track the zoning district in which the use is permitted: The landscape buffer yards on the property are in accordance with Section 24-5 of the Orange County Code. Buffer yard types track the A-2 zoning district.

It is understood that the Orange County Building Division must review and approve building plans for all existing structures located on the property. Two of the existing buildings were permitted through the Orange County Building Division. Building drawings for the third existing building was previously provided.

The subject site is 4.56 acres. The business offers installation of landscape, irrigation and sod, for new construction around Central Florida. Work trucks leave the site for most of the business day, returning around 6:00-7:00 p.m. The workday begins at 7:00 a.m. and concludes around 6:00-7:00 p.m., Monday through Friday and occasionally on Saturdays within the same time parameters. A list of all the trucks and trailers associated with the business, stored on site nights and weekends was previously provided. Parking for the employees is provided on the site. The business has a stock inventory of plants, trees, irrigation supplies and pre-processed mulch, nothing more.

Special Exception for Square Footage of Existing Detached Accessory Structures:

The second special exception request is to allow for the existing detached accessory structures to remain. The total square footage of the detached accessory structures, including the

O3045094.v1

Orange County Zoning Division
October 13, 2020
Page 4

pump house and the well house (depicted on the revised site plan as amended and provided as a PDF and on the photographs, both previously provided) is 4173 square feet. (Chapter 38, Article IX, Section 38-1426, Orange County Code of Ordinances).

The criteria required per Section 38-78 Orange County Code is met. This special exception for the existing detached accessory structures will not change any of the "use" criteria previously detailed in our earlier submittals.

Section 38-1426(a)(3)(b)6 allows for detached accessory structures with a cumulative square footage of greater than 3,000 square feet, if the property is within an agriculturally zoned parcel with greater than 2 developable acres, provided that a special exception is obtained and that all of the following conditions are met:

- i. No detached accessory structure shall exceed five thousand (5,000) square feet in gross floor area and thirty-five (35) feet in overall height; and
- ii. These detached accessory structures shall be set back as follows:
 - I. Front — Fifty (50) feet.
 - II. Sidc/side street — Twenty-five (25) feet.
 - III. Rear — Thirty-five (35) feet.
 - IV. Normal high water elevation — Fifty (50) feet

Each of the detached accessory structures meets the conditions set forth above. Each is depicted on the previously submitted site plan with their respective square footages noted, as well as the distances of each from the property lines/setbacks. None of the detached accessory structures are below the normal high water elevation of 50'.

The Special Exception criteria set forth in Section 38-78, Orange County Code are met:

1. The use of the additional detached accessory structures is consistent with the Comprehensive Policy Plan.
2. The use of the additional detached accessory structures is similar and compatible with the surrounding area and is consistent with the pattern of surrounding development. The surrounding area is rural in nature. The structures on the property, with the exception of the principal structure, have been on site, in some instances for decades. All of the structures, except for the principal structure were existing at the time the property owner acquired the property.
3. The use of the additional detached accessory structures will not act as a detrimental intrusion into a surrounding area. As previously noted, the detached accessory structures on the property have been on site, in some instances for decades. All of the structures, except for the principal structure were existing at the time the property owner acquired the property.

O3045094.v1

Orange County Zoning Division
October 13, 2020
Page 5

4. The use of the additional detached accessory structures meets the performance standards of the district in which the use is permitted, i.e. agricultural.

5. The use of the additional detached accessory structures is similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the agricultural zoning district.

6. Landscape buffer yards shall be in accordance with section 24-5 of the Orange County Code. Buffer yard types shall track the agricultural zoning district in which the use is permitted. The landscape buffers are depicted on the revised site plan.

Variance request:

The request for the variance is to allow for the existing detached accessory structures to remain in their current locations, which includes the location of the overflow warehouse/pole barn/storage structure and an existing shed, in front of the principal structure. Both are depicted on the revised site plan, with dimensions provided for each. Elevations were provided on the photographs submitted on September 30, 2020.

Section 38-1426(a)(3)b.3., Orange County Code of Ordinances, provides that a detached accessory structure shall not be located in front of the principal structure unless the principal structure is located in the rear half (1/2) of the lot/parcel, or when located on an agriculturally zoned lot/parcel with ten (10) or more developable acres. In these situations, the detached accessory structure shall comply with all principal structure setbacks.

The subject property has an agriculturally zoning designation, however the property is not 10 acres in size. Therefore a variance from this provision of the County Code is requested for these existing detached accessory structures.

The criteria set forth under Section 30-43(3), Orange County Code are met, as explained in detail below:

1. Special Conditions and Circumstances: All of the detached accessory structures located on the property, including those located in front of the principal structure, have been on the property for a number of years, prior to the current property owner's purchase of the property. Given the rural nature of the property providing a variance to allow the two detached accessory structures to remain in their current location will address the special circumstances that resulted from previous owners' construction of the same. Additionally, as noted in the September 2, 2020 application submittal to the County, a portion of the property has on-site wetlands. The location of the on-site wetlands, limits the property owners' ability to relocate the detached accessory structures, while still maintaining the required wetland buffers, landscape buffers, drive aisle and parking spaces.

2. Not Self-Created: As noted above, all of the detached accessory structures located on the property, including those located in front of the principal structure, have been on the property for a number of years, prior to the current property owner's purchase of the property.

O3045094.v1

Orange County Zoning Division
October 13, 2020
Page 6

3. No Special Privilege Conferred: Approving a variance on the subject property to allow for the two detached accessory structures to remain in their current location (in front of the principal structure) does not confer a special privilege, but rather allows for the operation of a compatible business on the property, while taking into consideration the fact that these buildings were built prior to the property owner acquiring the property. It allows for continued use of existing structures that serve a purpose and have been serving that same purpose for a number of years. Additionally, as noted in the September 2, 2020 application submittal to the County, a portion of the property has on-site wetlands. The location of the on-site wetlands, limits the property owners' ability to relocate the detached accessory structures, while still maintaining the required wetland buffers, landscape buffers, drive aisle and parking spaces.

4. Deprivation of Rights: Denying the requested variance would deprive the property owner of rights commonly enjoyed by others in the same zoning district that do not have to contend with issues that have resulted from previous owners constructing the detached accessory structures in their respective locations. Additionally, as noted in the September 2, 2020 application submittal to the County, a portion of the property has on-site wetlands. The location of the on-site wetlands, limits the property owners' ability to relocate the detached accessory structures, while still maintaining the required wetland buffers, landscape buffers, drive aisle and parking spaces.

5. Minimum Possible Variance: The variance that is being requested is for existing detached accessory structures. Their respective locations are depicted on the revised site plan. The areas for which the variance is being requested are not excessive.

6. Purpose and Harmony: Approval of the variance as requested, allowing for the existing detached accessory structures to remain in their current locations, which includes the location of the overflow warehouse/pole barn/storage structure and an existing shed, in front of the principal structure, will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to public welfare.

The requested Special Exceptions and Variance meet the criteria set forth in the applicable County code provisions.

The applicant on behalf of the property owner respectfully submits this consolidated revised cover letter to support approval for the Special Exceptions and Variance application and supporting documents previously submitted on September 2, September 25 and September 30, 2020. Please note, the Environmental Protection Division, Orange County, has requested that the property owner complete and submit a Conservation Area Determination (CAD). The same is in the process of being completed. It is expected that the CAD will be submitted to EPD within the next two weeks. As a result of the need for an approved CAD, we have requested and you have agreed to move this item to the December BZA meeting date. I will advise when the CAD has been approved so that you can schedule the required Community Meeting.

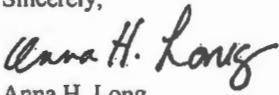
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COVER LETTER PAGE 7

Orange County Zoning Division
October 13, 2020
Page 7

Should you have any questions regarding the same, please do not hesitate to call me at
(407) 428-5120.

Sincerely,



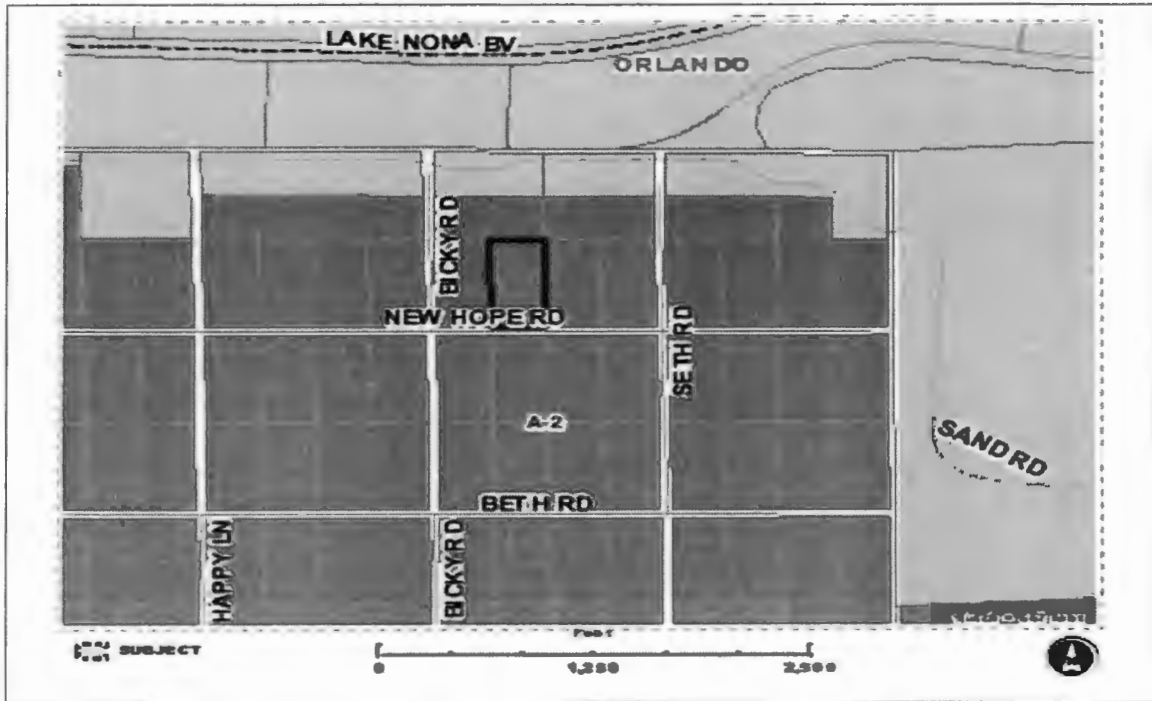
Anna H. Long

AHL:ph

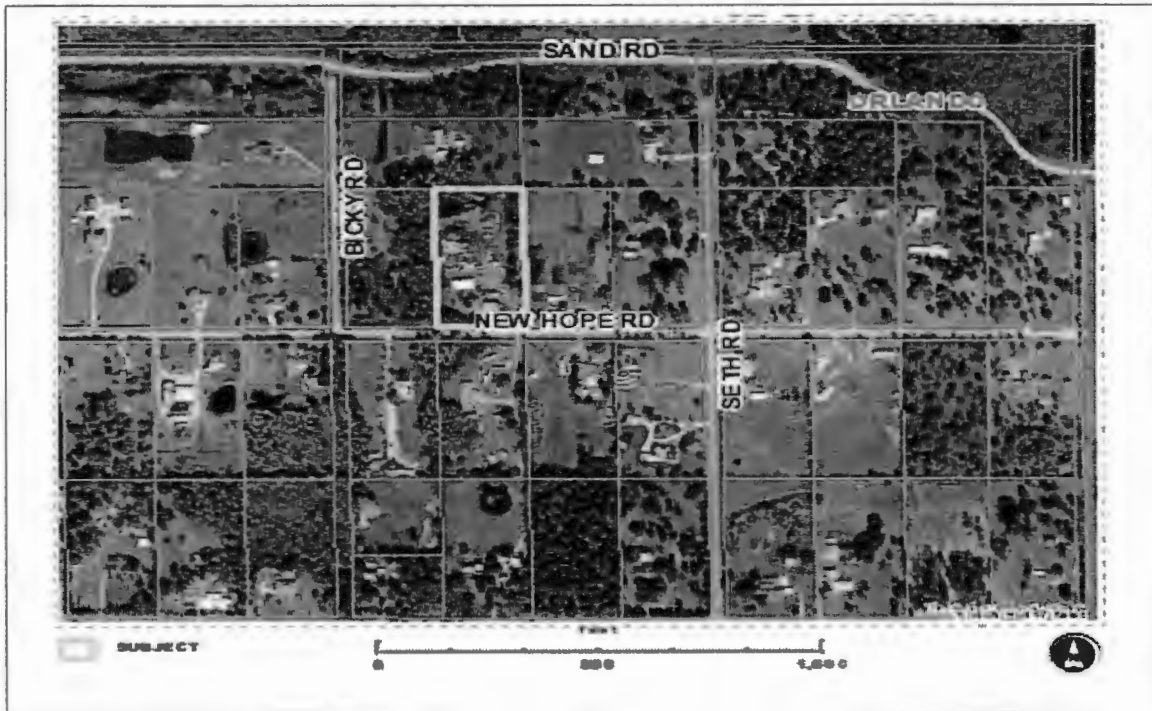
c: Megan Marshall (via email: Megan.Marshall@ocfl.net) w/o Attachments
Wilbert Ventura (via email: Wilbert.Ventura@ocfl.net) w/o Attachments
Martin B. White (via email: martin@landscapesystems.net)

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ZONING MAP

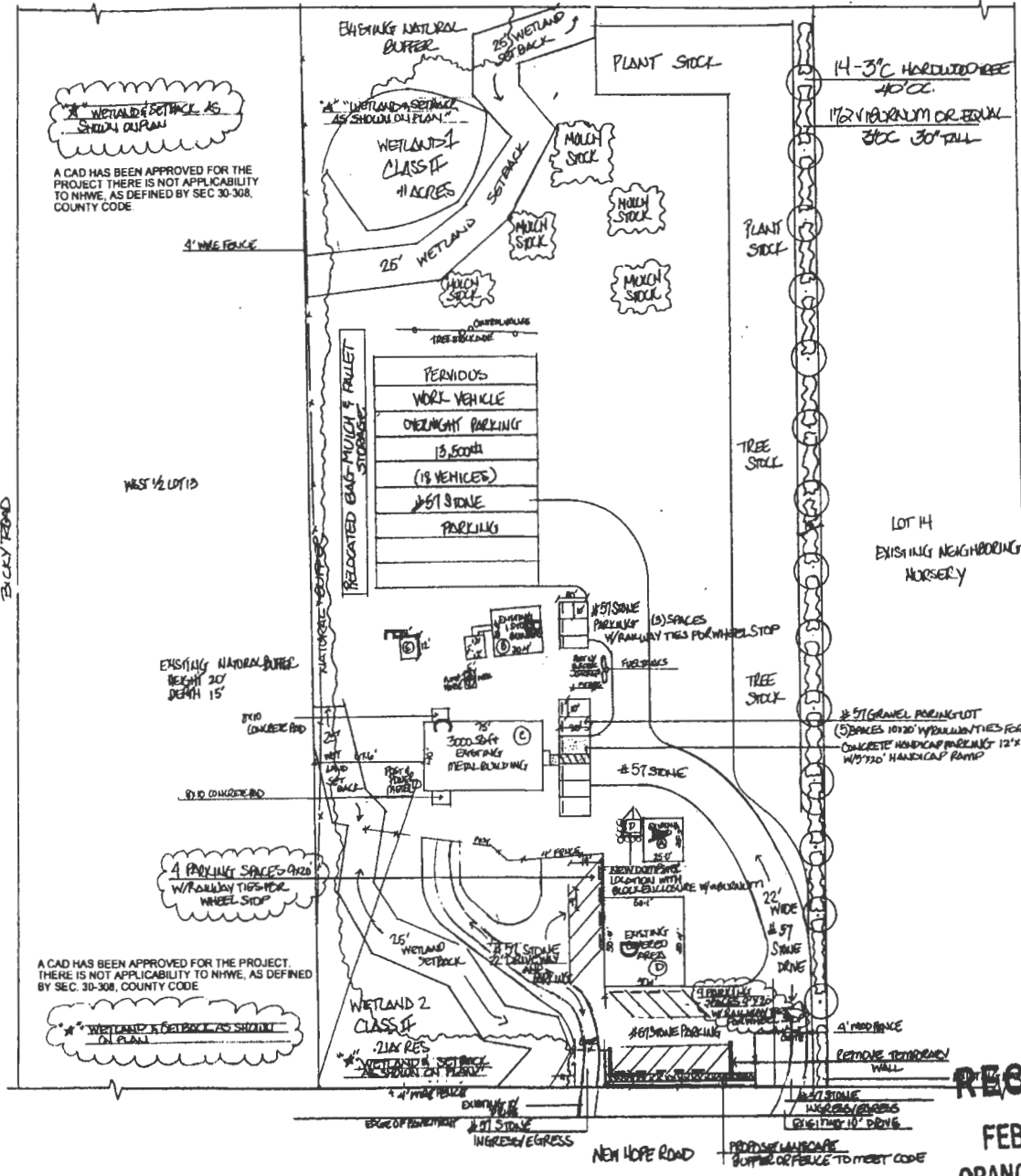


AERIAL MAP



CLOSE UP AERIAL MAP





SITE PLAN
 6705 NEW HOPE ROAD
 ORLANDO, FLORIDA

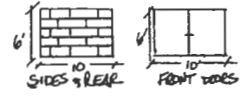
LEGAL DESCRIPTION
 EAST 1/2 OF LOT 13 ORLANDO KISSIMEE PLATS, ACCORDING
 TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK D,
 PAGE III 1/2 PUBLIC RECORDS OF ORANGE COUNTY, FL

SCALE: 1"=40'
DATE: REVISED 1/20/21



HOURS OF OPERATION MONDAY-FRIDAY 7AM-7PM

DUMPSTER BLOCK ENCLOSURE DETAIL
 SCALE 1"=10'



NOTE: RELOCATE PALLETS TO BACK HALF OF PROPERTY
RELOCATE BAG MULCH TO BACK HALF OF PROPERTY

PARKING CALCULATIONS

USE	REQUIREMENTS	EXIST'G SQ FT	REQUIRED SPACES
STORAGE (A)	1/1000 FT ²	2816 FT ²	1
STORAGE (B)	1/1000 FT ²	1632 FT ²	1
OFFICE (C)	1/1000 FT ²	1400 FT ²	2
WAREHOUSE (D)	1/1000 FT ²	1400 FT ²	2
WAREHOUSE (E)	1 SPACE / 2800 FT ²	2800 FT ²	2
WAREHOUSE (F)	1/1000 FT ²	1328 FT ²	1
PUMPHOUSE (G)	1/1000 FT ²	35 FT ²	1

TOTAL SPACES REQUIRED 19
PARKING SPACES PROVIDED 21
HANDICAP PARKING 1

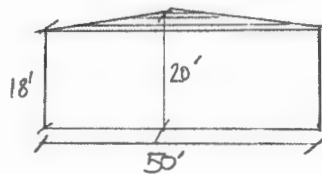
RECEIVED
FEB 01 2021
ORANGE COUNTY
ZONING DIVISION

ELEVATIONS

EXISTING BUILDINGS AT LAND PURCHASE



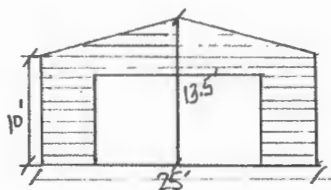
POLE BARN "D" STORAGE
2525 sq ft



SCALE 1"=20'



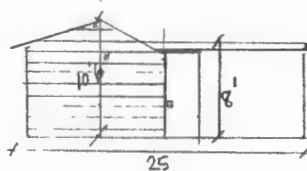
STORAGE "A" 625 sq ft



SCALE 1"=10'



STORAGE "B" FRONT ELEVATION
840 sq ft



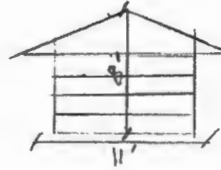
SCALE 1"=10'



ELEVATIONS



WELL HOUSE 1924

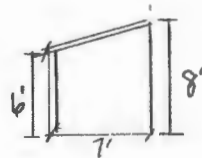


SCALE 1"=10'



PUMP HOUSE

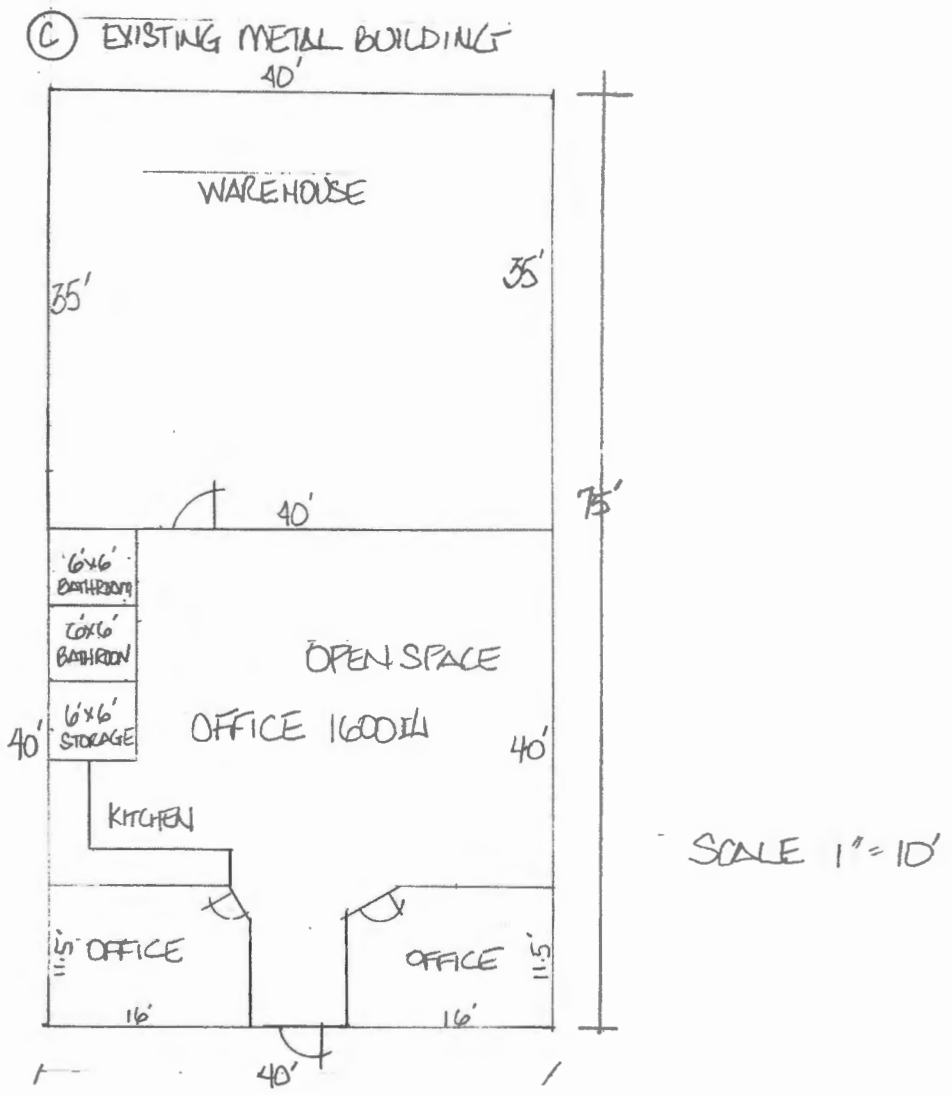
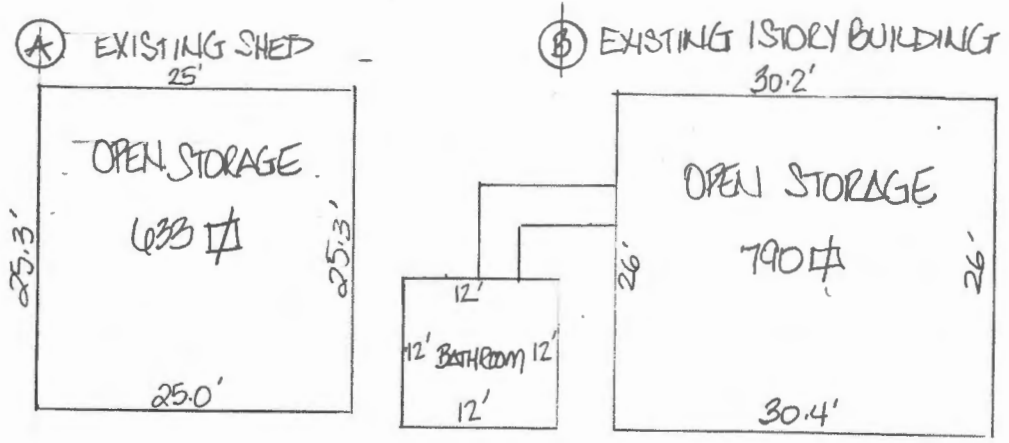
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SCALE 1"=10'



FLOOR PLANS



SITE PHOTOS



Front from New Hope Rd. looking north



East entrance from New Hope Rd. looking north

SITE PHOTOS



West entrance from New Hope Rd. looking northeast



Bldg. D-2,525 sq. ft. pole barn, looking west

SITE PHOTOS



Bldg A-633 sq. ft. shed, and Bldg C-3,000 sq. ft. Office-Warehouse, looking west



Facing north, along east property line

SITE PHOTOS



Mulch piles at rear, facing north



Bldg B-846 sq. ft. storage bldg., and Bldg C-3,000 sq. ft. Office-Warehouse, looking south

SITE PHOTOS



Proposed parking area facing east