Orange County Zoning Division

VA-19-04-016
APPLICANT:
IVAN PRIETO

JUNE 4, 2019

Background

CASE:	VA-19-04-016
APPLICANT:	IVAN PRIETO
ZONING:	P-O
FUTURE LAND USE:	Office
ADDRESS:	1315 N. Pine Hills Rd., Orlando, FL 32808
LOCATION:	East side of N. Pine Hills Rd., north of Hernandes Dr.
TRACT SIZE:	0.186 acres / 60 ft. x 125 ft.
DISTRICT:	6

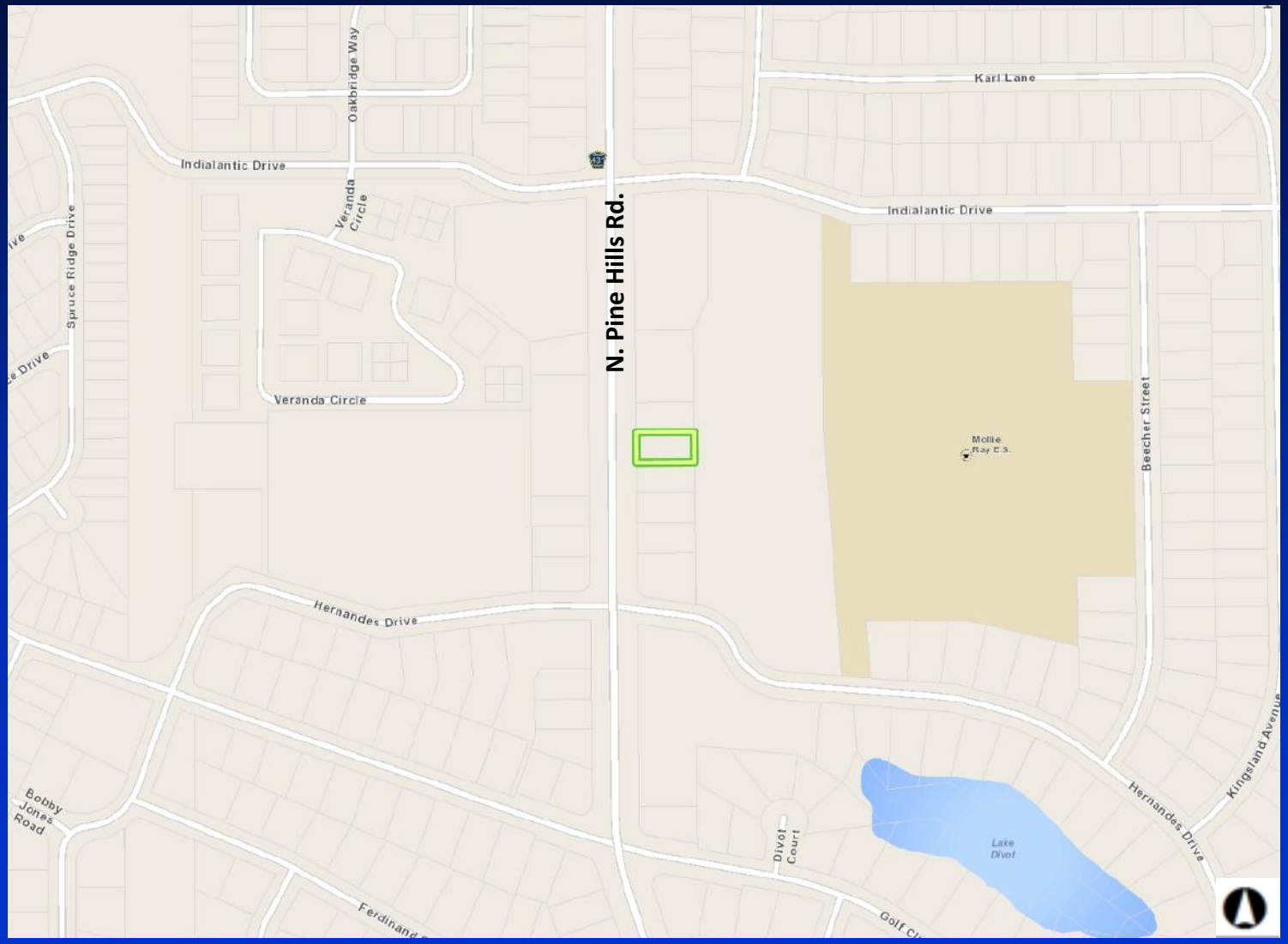
Background

REQUEST: Variances in the P-O zoning district to allow an existing accessory structure as follows:

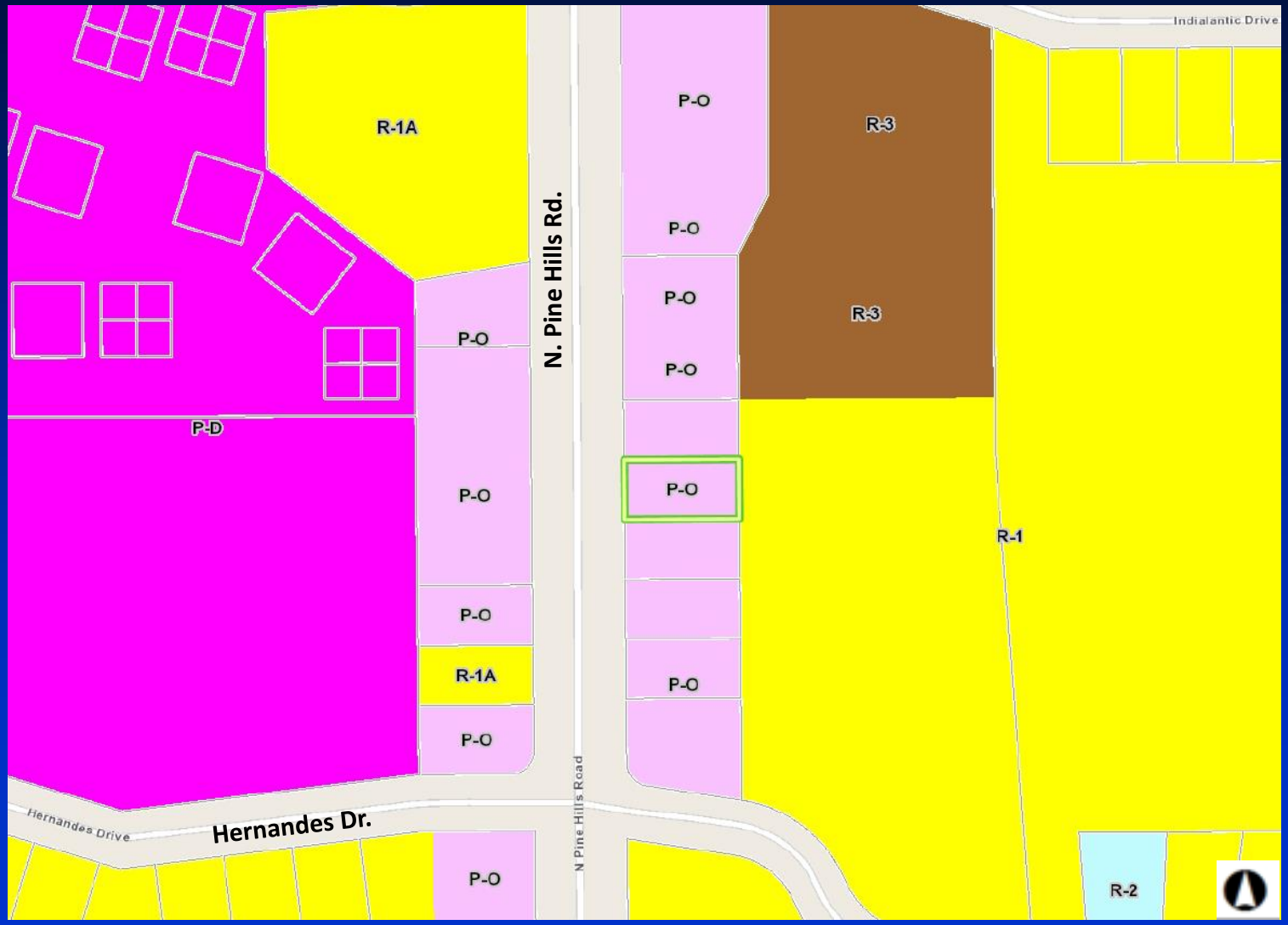
1) To allow a rear yard setback of 2 ft. in lieu of 30 ft.
2) To allow side yard setbacks of 3 ft. in lieu of 10 ft.

This is a result of Code Enforcement action.

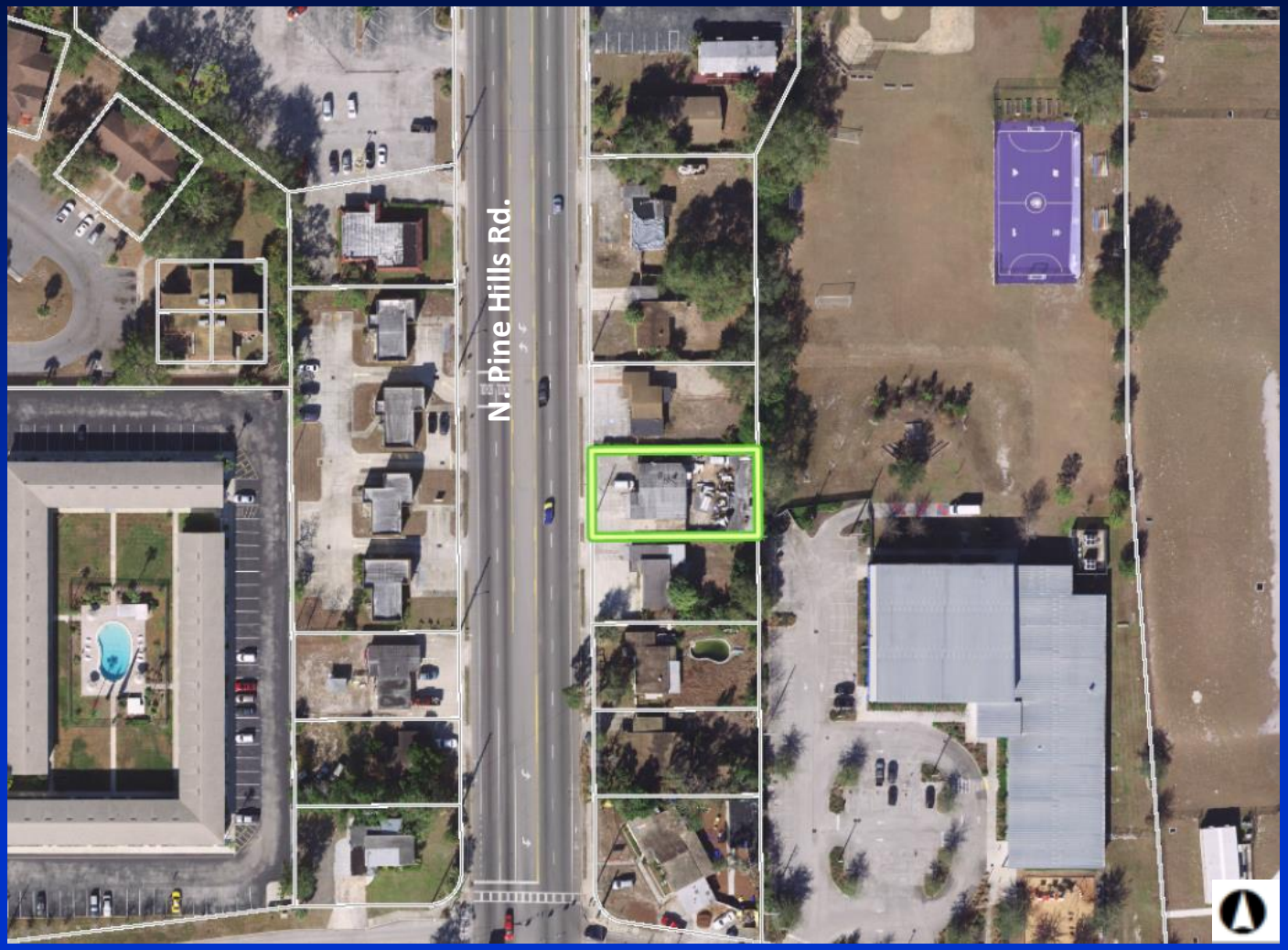
Location Map



Zoning Map


Indialantic Drive
R-1A
P-O
R-3
P-O
P-O
R-3
P-O
N. Pine Hills Rd.
P-O
P-D
P-O
P-O
R-1
P-O
R-1A
P-O
P-O
N Pine Hills Road
Hernandes Drive
Hernandes Dr.
P-O
R-2

Aerial Map

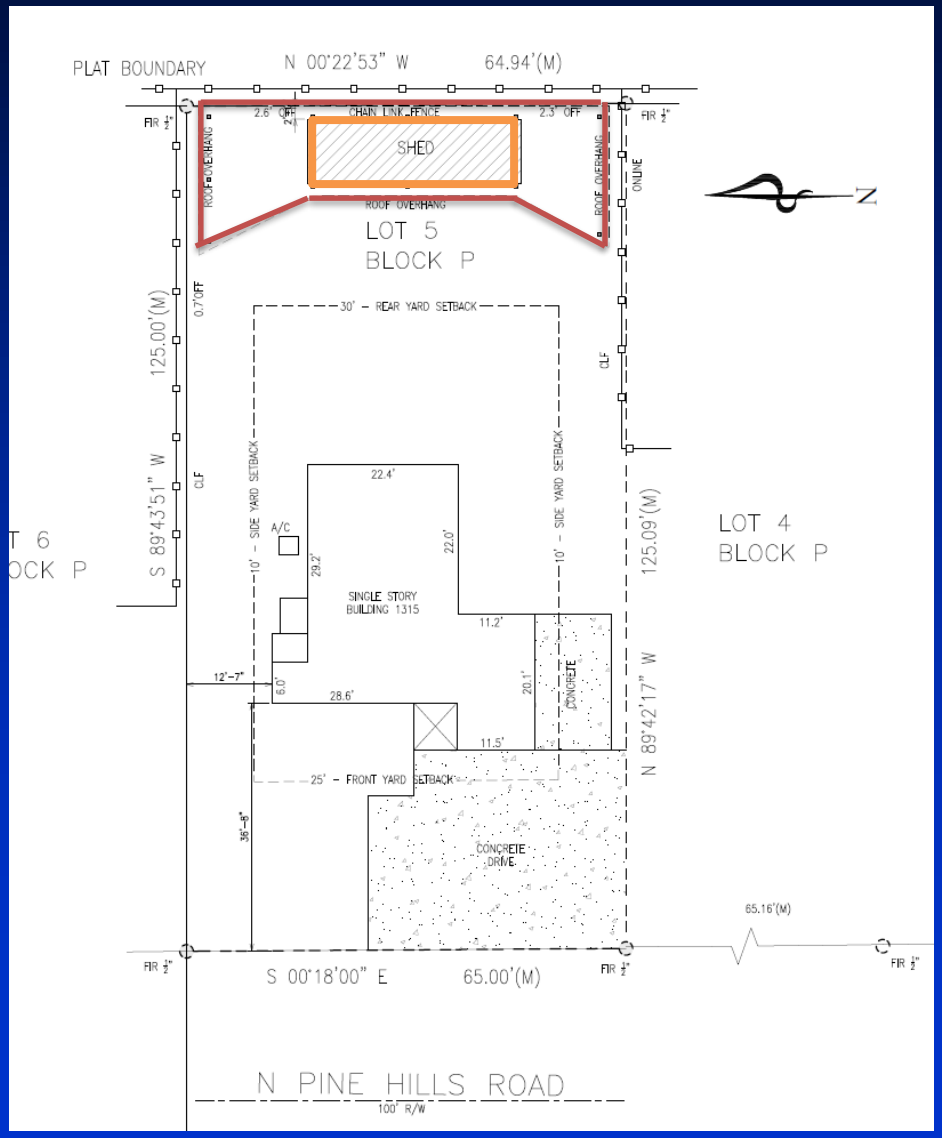


Close-Up Aerial Map

History

- October 1983 – Property was re-zoned R-1A to P-O.
- February 2006– Applicant purchased the property, and the shed/carport structures were constructed sometime that year.
- May 2018 – Applicant was cited by Code Enforcement for the unpermitted accessory structure(s).

Site Plan


PLAT BOUNDARY
N 00°22'53" W
64.94'(M)
CHAIN LINK FENCE
SHED
ROOF OVERHANG
LOT 5
BLOCK P
30' - REAR YARD SETBACK
10' - SIDE YARD SETBACK
SINGLE STORY
BUILDING 1315
A/C
CONCRETE
25' - FRONT YARD SETBACK
CONCRETE
DRIVE
S 89°43'51" W
125.00'(M)
N 89°42'17" W
125.09'(M)
LOT 4
BLOCK P
S 00°18'00" E
65.00'(M)
65.16'(M)
N PINE HILLS ROAD
100' R/W

Site Photograph

View from Pine Hills Road

Site Photograph

View of neighboring property to the rear

Site Photograph

Existing structure(s) – looking east towards rear yard

Site Photograph

Northern carport structure

Site Photograph

Rear property line

Staff Findings and Analysis

- There is an existing 2,651 sq. ft. office building on the property which the applicant uses as an office for his construction business. The applicant utilizes the accessory structure(s) to store equipment for his business.
- The lot does not meet the minimum lot width or size for the P-O zoning district, however, it is considered a lot of record.
- The property is located in the Pine Hills Neighborhood Improvement District, which was created to promote and facilitate Pine Hills as a safe, business-friendly community. A contractor's office is a permitted use in both the improvement district and in the Professional Office (P-O) zoning district. However, outdoor storage and storage of vehicles overnight is not permitted in either the improvement district nor the zoning district.

Staff Findings and Analysis

- The accessory structure is comprised of two portions: a shed and an open carport structure.
- The applicant hired a contractor in 2006, to construct the shed in the rear yard. At a later date the covered carport area was constructed. A permit was not pulled for either structure; therefore the applicant was cited by Code Enforcement in May 2018, for the structure.
- The applicant applied for a building permit in September 2018 and it was denied, as the structure(s) did not meet the required setbacks.
- The code does not have different setbacks for accessory structures in non-residential zoning districts as all structures are considered primary and must meet principal structure setbacks. Also, setbacks for open structures are measured to the edge of the column, not to the edge of the roof overhang.

Staff Findings and Analysis

- Staff recommended approval of Variance #1 as the rear yard abuts an open area and all the storage will be located inside this structure which will meet the intent of the P-O zoning district. Staff recommended denial of Variance #2 request as allowing the variance would confer a special privilege, the applicant would not be deprived of any rights, and allowing the carports to remain will encourage further outdoor storage of materials and equipment which may be injurious to the area.

Public Feedback

- Mailed 198 notices to property owners within 500 ft. radius of the property:
  - Staff received 3 letters in support of the request.
  - Staff received 0 letters in opposition to the request.

Variance Criteria

Section 30-43 (3), Orange County Code

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for zoning variance shall be approved unless the Board of Zoning Adjustment finds that all of the following standards are met:

1. Special Conditions and Circumstances - Special conditions and circumstances exist which are peculiar to the property and which are not applicable to other properties
2. Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant
3. No Special Privileges Conferred - Approval will not confer on the applicant any special privilege
4. Deprivation of Rights - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district
5. Minimum Possible Variance - The minimum variance that will make possible the reasonable use of the land, building, or structure
6. Purpose and Intent - Approval will be in harmony with the purpose and intent of this Chapter and will not be injurious to the neighborhood

BZA Findings

- The BZA agreed with staff's recommendation to allow the shed to remain and require the applicant to remove the existing carport structures.
- The property abuts a dumpster/open area to the rear.
- The P-O zoning district does not allow outdoor storage.
- BZA recommend approval of variance #1 and denial of variance #2 with a 7-0 vote.

Conditions of Approval

1. Development in accordance with the site plan and elevations, dated February 5, 2019, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
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.

Conditions of Approval

4. Outdoor sales, storage, or display shall be prohibited.
5. The applicant shall obtain and finalize permits for all accessory structures within 120 days of final action on this application by Orange County or this approval becomes null and void.

Requested Action

- Approve the applicant's request; or
- Approve the applicant's request with modifications and/or conditions; or
- Deny the applicant's request.

*Any approval is subject to standard conditions of approval.