



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.3.

2/9/2021

Subject:

Waiver Request, Re: Waiver of Wall Requirement for Fraternal Order of Eagles (20SP00008)(District 3)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

The applicant is requesting that the Board of County Commissioners grant a waiver of Section 62-3202(h)(10) which requires a 6-foot masonry or solid wall when commercial developments within BU-1, BU-2, or industrial zoning classifications are adjacent to residential zoning.

Summary Explanation and Background:

Section 62-3202(h)(10) stipulates that site plans within BU-1, BU-2, or industrial zoning classifications shall construct a minimum of a six-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, when the subject property abuts a residential zoning classification.

The applicant states that the subject property that will be developed for a new Fraternal Order of Eagles clubhouse. The property is zoned BU-1 (General retail, commercial) and is abutted to the east by a property zoned AU (Agricultural residential) owned by Florida Power and Light Company and developed and operated as an electrical transformer substation. The FPL property is located 172 feet east of the proposed clubhouse, and contains improvements of an outbuilding, fencing, stabilized and paved surfaces, and numerous electrical transformers.

The applicant asserts that the granting of the waiver will not be injurious to the FPL property, and that the waiver is consistent with the intent and purpose of zoning regulations as well as the County's Comprehensive Plan to buffer any residential uses from a commercial use. In this case, the FPL property has an agriculture residential zoning designation, but is being used for a non-residential use. The applicant also asserts that it is unlikely that FPL will vacate the property and the site redeveloped for residential uses given that the properties surrounding the FPL property are zoned for commercial uses.

Clerk to the Board Instructions:



February 10, 2021

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item F.3., Waiver Request for Waiver of Wall Requirement for Fraternal Order of Eagles (20SP00008)

The Board of County Commissioners, in regular session on February 9, 2021, granted a waiver of Section 62-3202(h)(10) which requires a six-foot masonry or solid wall when commercial developments within BU-1, BU-2, or industrial zoning classifications are adjacent to residential zoning.

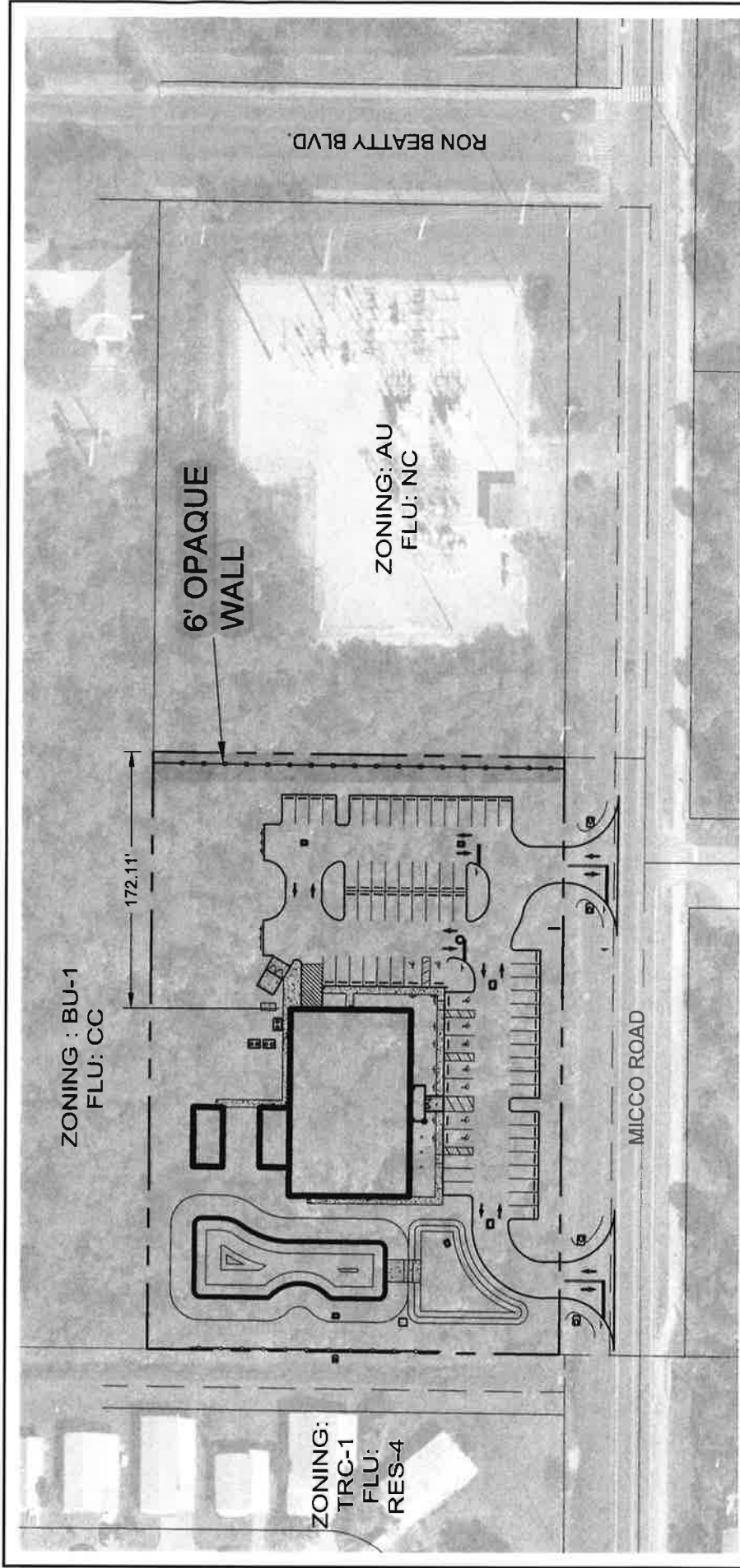
Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

sm/



VICINTY MAP

SCALE: 1" = 100'

FRATERNAL ORDER OF THE EAGLES MICCO, FLORIDA	JOB NO.	19-0391
	DESIGNED	RG
	DRAWN	QWR
	CHECKED	JANUARY 2021
	DATE	AJB
1835 - 20TH STREET VERO BEACH, FL 32960 PH. (772) 569-0035 FX. (772) 778-3617 MELBOURNE, FL - PH (321) 253-1510 FT. PIERCE, FL - PH (772) 468-9055	SCALE	1/4/2021
MBV ENGINEERING, INC. MOA BOWLES VILLAMIZAR & ASSOCIATES CONSULTING ENGINEERING CA #3728		



BOARD OF COUNTY COMMISSIONERS

Planning and Development
Planning and Zoning
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321) 633-2070 Phone

LAND DEVELOPMENT WAIVER APPLICATION

This form should be used for all waiver requests or appeals associated with the Code of Ordinances, Section 62, as it relates to Subdivisions, Minor Subdivisions, and Site Plans. Fees for Waivers are \$775.00.

Office Use Only		
1/15/2021	\$775	
Request Date	Fees	Board Date
20SP00008	21WV00004	
Original Project Number	Waiver Number	
TC		
Coordinator Initials	Reference Files	
County Manager/Designee Approval		

APPLICATION TYPE: ☐ Subdivision Waiver ☒ Site Plan Waiver ☐ Other

If other, please indicate

Tax Parcel Identification:

30	38	11	00		3520
Township	Range	Section	Subdivision	Block/Parcel	Lot

Tax Account Numbers (list all) 3006387

Fraternal Order of Eagles

Project Name

Mr. Mark Kipp

Property Owner

Site Address:N/AStreetCityStateZip Code**CORRESPONDENCE TO BE PROVIDED TO APPLICANT AT THE ADDRESS BELOW:**Mr. Mark KippKipp's Commercial Property, LLCApplicant NameCompany12736 79th Avenue SebastianFL32958StreetCityStateZip Code607-725-3135Phone NumberCell Phone NumberFax NumberEmail Address**ENGINEER/CONTRACTOR (if different from applicant)**MBV Engineering, Inc.Ms. Rebecca Grohall, AICPCompanyEngineer or Project Manager1835 20th Street Vero BeachFL32960StreetCityStateZip Code772-569-0035rebeccag@mbveng.comPhone NumberCell Phone NumberFax NumberEmail Address**DESCRIPTION OF WAIVER REQUEST AND CODE SECTION:**

We are seeking a waiver from Section 62-3202(h)(10) requiring a 6 foot tall masonry wall adjacent to residential zoning classification (which is the property that is to the east, which currently houses the FPL electric transformer substation).


Owner/Applicant SignatureMr. Mark KippPrint Name

If you wish to appeal any decision made by the county staff on the waiver, you may request the Board of County Commissioners to make a determination. The Board's decision approving or disapproving the waiver or interpretation is final.

LAND DEVELOPMENT APPLICATION DOCUMENT SUBMITTAL REQUIREMENTS

Waivers for Site Plans or Subdivisions require an application, waiver criteria (listed below), an 8 ½-inch x 11 inch vicinity map, and a fee of \$775.00.

WAIVER CRITERIA FOR SUBDIVISIONS AND SITE PLANS

For a waiver to be considered and approved by staff, your request must comply with all of the following criteria. Please explain, in detail, how your request meets the following conditions.

1. The particular physical conditions, shape, or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out.

This site has the unique physical condition of being owned by Florida Power and Light Company (FPL) and operated as an electric transformer substation. This site contains improvements of an outbuilding, fence, stabilized and paved surfaces and numerous electrical transformers. Its use according to the Property Appraiser is 9120- Utility (Electric) Company Improved (Account 3006388). The structure proposed to be built is 172 feet away from the property line.

2. The granting of the waiver will not be injurious to the other adjacent property.

The granting of this waiver will not be injurious to other adjacent property as the waiver is requested for the parcel boundary that is shared entirely between the applicant and FPL. The parcel immediately to the east of the FPL station and Ron Beatty Boulevard is zoned Industrial, the property to the north of the FPL site is home to a variety of offices.

3. The conditions, upon which a request for waivers are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant.

This waiver is solely for the eastern edge of the applicant's parcel and seeks a waiver from the 6 foot opaque fence requirement of being adjacent to a residentially zoned parcel, which is being utilized as an electrical substation.

4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan, and the requirements of this article.

The waiver is consistent with the intent and purpose of the zoning regulations as well as the County's Comprehensive Plan to buffer any externalities of a commercial use from a residential use. In this case, the property may have an underlying agricultural residential (AU) zoning classification but is being used for non-residential use. It is unlikely that FPL would vacate that parcel anytime in the future, and given that the properties that adjoin it to the north and west are zoned commercial and the properties to the east are zoned for industrial, the highest and best use of that property is not residential.

5. Delays attributed to state or federal permits.

None.

6. Natural disasters.

None. Although, there is an on going state of emergency due to COVID-19.

7. County development engineer and affected agencies concur that an undue hardship was placed on the applicant. (To be filled out by county staff)

