



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## New Business - Development and Environmental Services Group

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J.1

9/15/2020

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### **Subject:**

Waiver Request, Re: Waiver of Wall Requirement for O'Reilly's Mims Site Plan (20SP00017 and 20WV00010)

### **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 a BU-1, BU-2, or Industrial zoning are adjacent to residential zoning to maintain the natural vegetation.

### **Summary Explanation and Background:**

Section 62-3202(h)(10) stipulates that site development 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. In this case, the subject property abuts three residentially zoned properties to the east with approximately 170 feet to 200 feet of natural area separation between those properties and the proposed improvements. The proposed building is located 220 feet west, and proposed parking 200 feet west of the property line. The applicant asserts that a masonry wall along this property line will impact the natural vegetative buffer that the current residential use enjoys. It is the applicant's desire to maintain the natural vegetation.

Please be advised that the Board's approval applies specifically to the conditions of Site Plan application 20SP00017. Any future development, redevelopment, or land alteration of the subject property that modifies the aforementioned site plan or reduces the vegetative buffer will void the wall waiver.

### **Clerk to the Board Instructions:**



September 16, 2020

**M E M O R A N D U M**

TO: Tad Calkins, Planning and Development Director

RE: Item J.1., Waiver Request for Waiver of Wall Requirement for O'Reilly's Mims Site Plan  
(20SP00017 and 20WV00010)

The Board of County Commissioners, in regular session on September 15, 2020, granted a waiver of Section 62-3202(h)(10) which requires a 6-foot masonry or solid wall when commercial developments within a BU-1, BU-2, or Industrial Zoning are adjacent to Residential Zoning to maintain the natural vegetation, subject to the conditions of the Site Plan application 20SP00017, any future development, redevelopment, or land alteration of the subject property that modifies the Site Plan or reduces the natural vegetative buffer will void the wall barrier.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Kimberly Powell, Clerk to the Board

# BREVARD COUNTY 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 specifically to Unpaved Roads, Subdivisions, Minor Subdivisions, and Site Plans.*

## APPLICATION TYPE

- ☐ SUBDIVISION WAIVER  
☐ UNPAVED ROAD WAIVER  
☒ SITE PLAN WAIVER  
☐ OTHER

## Land Development Use Only

Request Date: \_\_\_\_\_ Fees \$ \_\_\_\_\_ Board Date: \_\_\_\_\_  
Original Project # \_\_\_\_\_ Waiver # \_\_\_\_\_  
Coordinator Initials: \_\_\_\_\_ Reference Files: \_\_\_\_\_  
County Manager/Designee approval \_\_\_\_\_

**Tax Parcel Identification:** Twp. 21S Rng. 35 Sec. 17 S/D \_\_\_\_\_ Blk/Par \_\_\_\_\_ Lot(s) \_\_\_\_\_ (List all parcels)

**Tax Account # ('s):** 2103343, 2103365, \_\_\_\_\_ (List all account numbers)

**Project Name:** O'Reilly Mims **Property Owner:** David C. & Cynthia R. Ramage Trust

**Site Address:** N/A

## ALL CORRESPONDENCE TO BE PROVIDED TO APPLICANT AT THIS ADDRESS:

Name: Kelly Agnor Company: Vaquero Ventures  
Address: 2900 Wintage Street Suite 200 E-Mail: kagnor@vaqueroventures.com  
City: Fort Worth State TX Zip 76107  
Phone 512 983-1793 Fax \_\_\_\_\_ Cell \_\_\_\_\_

## ENGINEER/CONTRACTOR (if different from applicant):

Company Name: Kimley-Horn & Associates, Inc. Eng. or Proj. Mgr.: Sara Battles  
Address: 445 24th Street Suite 200, Vero Beach, FL Ph # ( 772 ) 794-4154 Fax (      ) \_\_\_\_\_

## DESCRIPTION OF WAIVER REQUEST AND CODE SECTION:

The proposed site abuts a residential property to the east and the code section 62-3202(h)(10) states there needs to be a 6' high wall in between a commercial lot and a residential. However, the proposed building is located 220 feet west and proposed parking 200 feet west of the property line. We believe that a masonry wall along this property line will impact the natural vegetative buffer that the current residential use enjoys.

**Owner/Applicant Signature:** [Signature] **(Authorized Agent)** **Print Name:** Sara Battles

**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. Their decision approving or disapproving the waiver or interpretation is final.**

**Fees for Waivers are \$775.**

**APPLICATION FEES:** A schedule of fees and charges for review is established and adopted by the Board of County Commissioners of Brevard County, Florida, and may, from time to time, be amended.

**PLEASE MAKE CHECKS PAYABLE TO: THE BOARD OF COUNTY COMMISSIONERS**

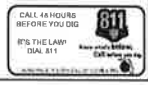
## LAND DEVELOPMENT APPLICATIONS – DOCUMENT SUBMITTAL REQUIREMENTS

Application type	Application	Waiver Criteria below	Alternative Plan Design				8 1/2 x 11 vicinity map		Fees
Waiver - Site Plan	1	Y	-		-	-	1	-	Y
Waiver - Subdivision	1	Y	-				1		Y

### WAIVER CRITERIA (SUBDIVISION, UNPAVED ROADS & 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:

- 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.  
The existing site has approximately 200 feet of natural vegetation that separates the proposed improvements from the existing residential lot. It is the applicant's desire to maintain the natural vegetation, and in the event a future owner would consider impacting the natural vegetation, the improvements would come back in for site plan review and a wall constructed.
- The granting of the waiver will not be injurious to the other adjacent property.  
The proposed waiver would benefit the adjacent residential use and maintain the natural 200' vegetative buffer that exists today.
- The conditions, upon which a request for waiver 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.  
The conditions are particular due to the shape of the property and the distance from the proposed improvements to the existing property line with the residential lot.
- The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan of the county and the requirements of this article.  
The waiver is consistent with the intent of this code to buffer from the adjacent residential use. The applicant intends to keep 200' of natural vegetation buffering the proposed improvements from the residential lot.
- Delays attributed to state or federal permits.  
N/A
- Natural disasters.  
N/A
- County development engineer and affected agencies concur that an undue hardship was placed on the applicant. (To be filled out by County staff)



CALL 48 HOURS  
BEFORE YOU DIG

IT'S THE LAW!  
DIAL 811

**811**  
any state's hotline,  
CALL before you dig  
800-4-A-DIGIT

**O'REILLYS MIMS**  
PREPARED FOR  
**O'REILLYS**

SHEET NUMBER  
**C-101**

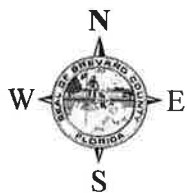
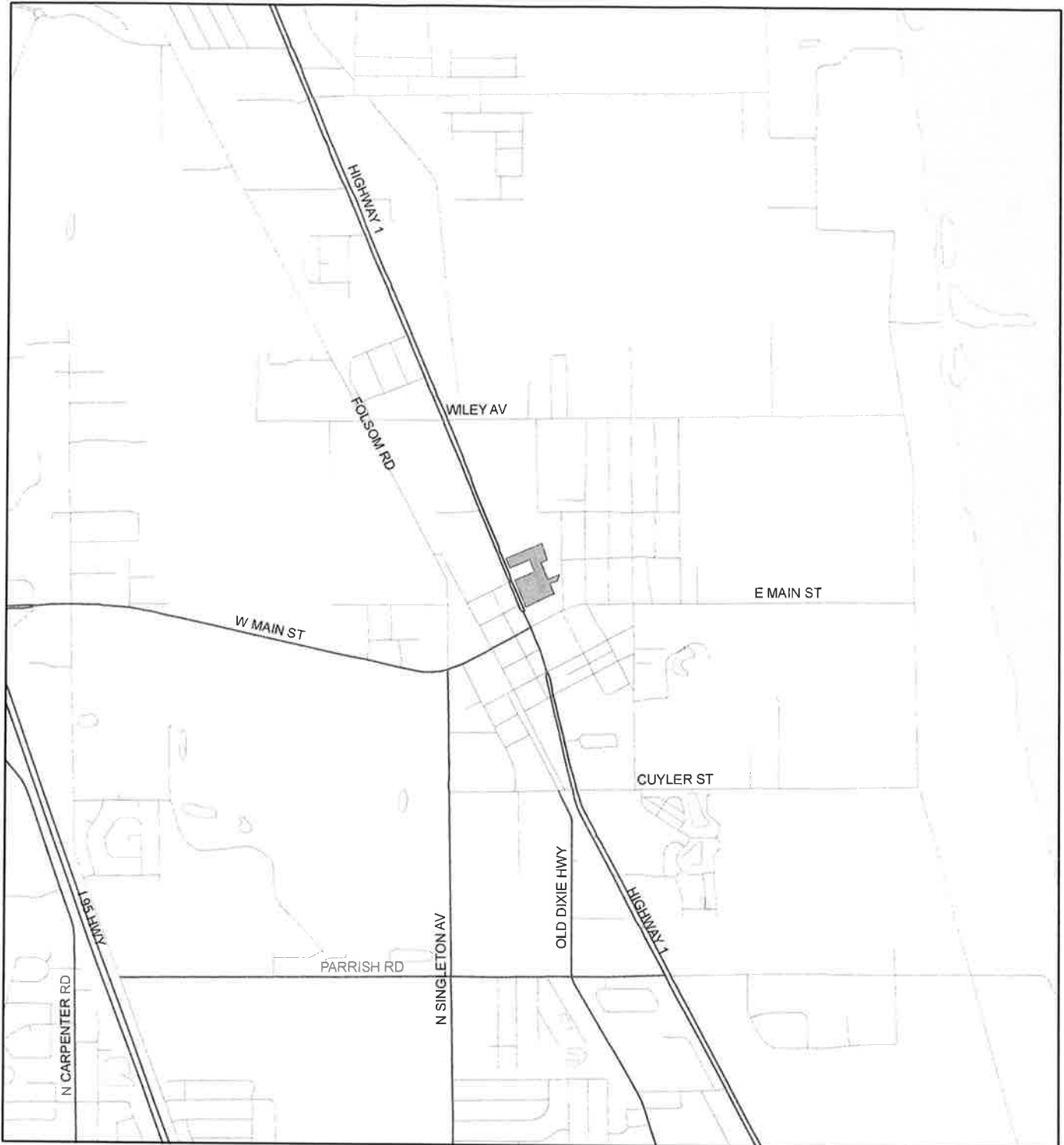
OVERALL SITE PLAN

**Kimley»»Horn**  
 2020 BULLY-HORN AND ASSOCIATES, INC.  
 445 24th STREET, SUITE 200, VERO BEACH, FL 33580  
 PHONE: 772-784-4100  
 WWW.KIMLEY-HORN.COM CA 00000006

[illegible]

# LOCATION MAP

O'REILLY'S AUTO PARTS WALL WAIVER  
20WV00010



1:24,000 or 1 inch = 2,000 feet

 Subject Property

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/5/2020

**From:** [Jones, Jennifer](#)  
**To:** [Lewis, Sally A](#)  
**Subject:** FW: 20WV00010 O'Reilly's Mims Wall Waiver  
**Date:** Wednesday, September 9, 2020 10:23:27 AM

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Sally, this is for F.4. on Tuesday's agenda.

**From:** Ramos, Tania  
**Sent:** Wednesday, September 9, 2020 10:22 AM  
**To:** Calkins, Tad <tad.calkins@brevardfl.gov>; Elmore, Amanda T <Amanda.Elmore@brevardfl.gov>; Lewis, Sally A <Sally.Lewis@brevardfl.gov>  
**Cc:** Jones, Jennifer <jennifer.jones@brevardfl.gov>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>; Craven, Tim <Tim.Craven@brevardfl.gov>  
**Subject:** 20WV00010 O'Reilly's Mims Wall Waiver

Good morning,

Terry Clark of 2560 Mitchell Avenue has called twice regarding the O'Reilly's Mims wall waiver. He lives in the residence behind the proposed site, but he will not be able to attend the meeting. He would like to express that he would hate to see all of the old oak trees removed to build a wall. If they are required to build it, he would like to make sure that the trees are not disturbed and that it does not affect his existing fence.

Thank you,  
Tania

Tania Ramos, CNU-A, Planner II  
Land Development  
Brevard County Planning & Development  
2725 Judge Fran Jamieson Way, Building A-114  
Viera, FL 32940  
Office (321) 350-8278  
Email [tania.ramos@brevardfl.gov](mailto:tania.ramos@brevardfl.gov)

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

**From:** pa imp  
**To:** Ramos, Tania  
**Subject:** I'm emailing you about my concern O'Reilly's Mims waiver of 6ft High Solid Wall  
**Date:** Wednesday, September 9, 2020 3:19:55 PM

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**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I think that the wall should be 6 ft to 10 ft away from my property line not 6 inch and I also think that all the trees shouldn't be cut down because they are over hundreds of years old. And why are you going to put a injunction between my property and Terry's property we cannot see what's going on then in the back of our property if you put a wall there so my answer is this I don't mind you putting up with the wall straight behind our houses but don't cut down trees and put the wall straight instead of putting injunction between me and Terry's property because that's really going to look very awkward so what our u going to put there..... My phone # is 321-223-5328

Patricia mitchell  
2528 Mitchell ave  
Mims fl 32754

*Sent from my MetroPCS 4G LTE Android device*