



# City of Eustis

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TO: Eustis City Commission

FROM: Tom Carrino, City Manager

DATE: March 5, 2026

RE: Resolution Number 2026-24: Variance for Fence Height and Type for Property Located at 2044 E Orange Avenue (after-the-fact)

## **Introduction:**

Resolution Number 2026-24 approves a Variance to the City of Eustis Land Development Regulations Section 110-5.7 to allow for six-foot barbed wire fence at 2044 E Orange Avenue.

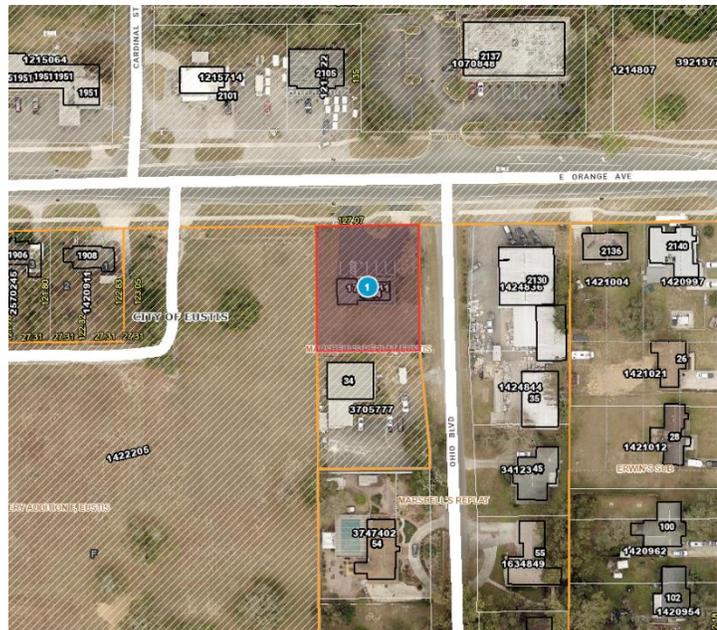
## **Background:**

### **Pertinent Site Information:**

1. The property is approximately 0.35 acres, located at 2044 E Orange Avenue.
2. The property is conforming to the dimensional criteria for a Commercial Building Lot in a Suburban Corridor (SC) design district.

### **Applicant's Request:**

The applicant, Andrew Patten for the owner Florida Binsness, LLC, is requesting a variance to the maximum height to allow for a six (6) foot barbed wire fence (after-the-fact). Fences are normally limited to four (4) feet in height in the front yard of properties, while barbed wire fencing is not permitted with the Mixed Commercial (MCR) future land use district. The applicant's justification for the request is that the fence provides additional security, and the site is adjacent to properties – including city-owned property – that also have barbed wire fencing. The applicant states that the fence contractor assured him that barbed wire fencing was allowed on-site because adjacent properties along have barbed wire fencing. The applicant was sent a Notice of Violation from Code Enforcement on January 21, 2026 (Case # 01078), and is requesting the variance to allow the chain link fence with barbed wire to remain on the property.



**ANALYSIS OF REQUEST: LAND DEVELOPMENT REGULATIONS, SECTION 102-31.1 MAJOR VARIANCES.**

- (a) Generally. A variance is a request to modify or eliminate a provision of these land development regulations concerning the type, size, dimension, or height of a sign, lot, building, or structure, for a particular property and/or a request to waive any other development standard or provision of the land development regulations that cannot be addressed under section 102-21.1.

***The applicant requests a variance to the six (6) foot high fence maximum to allow for the six feet along the entire perimeter of the site, and a variance to the fence type to allow for the construction of an six (6) high perimeter barbed wire fence to serve as enhanced security and consistent with existing fences adjacent to the site.***

- (b) Requirements for Variance. Variances may be granted when the person subject to a land development regulation demonstrates that the purpose of the land development regulation will be or has been achieved by other means, and when the application of the regulation would create substantial hardship or would violate principles of fairness. For the purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal or other type of hardship such as the following:

***Not applicable.***

- 1) "There exist special circumstances and conditions which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same land use district. Land use violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed hardship relief."

***The site is located in an area in which barbed wire fences are already present. While some of the fencing is located on unincorporated properties, the city cemetery also has barbed wire fencing and the site would be consistent with fencing already found in that area.***

- 2) "The special conditions and circumstances do not result from actions of the applicant, nor could the conditions or circumstances be corrected or avoided by the applicant."

***The applicant has indicated that past trespassing and other criminal acts prompted the installation of the six-foot barbed wire fence.***

"Principles of fairness are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the same regulation."

***Principles of fairness are not violated because the use is site-specific, but it is also found on other properties within the city.***

"Financial loss, business competition, or purchase of property with intent to develop in violation of the restrictions of the Land Development Regulations shall not constitute grounds for approval."

**Not applicable.**

“The City Commission must also make the following findings in order to approve a Variance”:

- a. The granting of relief does not create unsafe conditions or other detriments to the public welfare beyond the normal effects of development otherwise allowed.”

***The granting of relief would allow for greater on-site security for the site and create safer conditions that benefit both the business owner and the public welfare.***

- b. "The granting of relief does not confer upon the applicant any special privilege that is denied by this Land Development Regulation to the lands, buildings, or structures in the same district”.

***Granting relief would allow the applicant special privilege by providing the opportunity to build a six (6) foot barbed wire fence, while barbed wire fencing is generally prohibited outside of the General Industrial (GI) future land use. However, adjacent properties to the site in the City as well as unincorporated parcels have barbed wire fencing.***

- c. “The granting of relief does not violate the general intent and purpose of this Land Development Regulation nor the policies of the Comprehensive Plan.”

***“The general purpose of this Code is to establish procedures and standards for the development of land within the corporate boundaries and the planning area of the City, such procedures and standards being formulated in an effort to promote the public health, safety and welfare and enforce and implement the City’s Comprehensive Plan, while permitting the orderly growth and development within the City and Eustis planning area consistent with its small-town community character and life style.”***

***Approval of this request should not impact the public health, safety, and welfare negatively. Barbed wire fencing is consistent with the fencing on other adjacent properties, including the city cemetery, which is to the west of the subject site.***

- d. “The relief granted is the minimum degree of relief necessary to make possible the reasonable use of the land, building, or structure in compliance with all other applicable regulations.”

***The requested setback variance is the minimum to allow for reasonable use of the property (construction of a new fence).***

**APPLICABLE POLICIES AND CODES:**

**Land Development Regulations:**

The posts or any portion of each fence which contacts the ground shall be of a material or chemical treatment that is ground contact resistant to decay, corrosion, and termite infestation. The posts, if wooden, must also be pressure treated for strength and endurance.

(b) Fences shall be permitted as follows/as depicted on the graphic:

- In a primary street setback, at a maximum height of 4-feet.
- In a secondary street setback, open fencing may be 6-feet high, but opaque fencing shall be limited to a height of 4-feet; 4-foot opaque fences in secondary street setbacks may be topped with additional 2-feet of open or lattice type fencing.
- In a rear or common yard setback, open fences may be 8-feet tall; 6-foot opaque fences may be topped with additional 2-feet of open or lattice type fencing.
- Fences located in landscape buffers along public streets associated with nonresidential or complex building types in suburban design districts are subject to limitations in chapter 115.
- Fences installed for the sole purpose of screening of trash can storage areas, mechanical equipment, or utilities shall be exempt from permitting, provided such fence is clearly not within a required setback and does not exceed maximum height. If necessary to screen existing utilities, the development services director may approve fencing exceeding maximum height in setbacks.





4-foot solid fence or 4-foot open fence   
 6-foot solid fence   
 6-foot solid fence topped with 2-foot lattice

- (c) In areas where the property faces two roadways, or is located in any other area construed to be a corner lot, no fence exceeding four feet high shall be located in the vision triangle, specified in chapter 115, and identified as clear sight zone.
- (d) The smooth side of fence shall face a right-of-way or private road, except split rail.
- (e) A fence constructed for protection and safety from hazard by another public agency may not be subject to the aforementioned height limitations. Approval to exceed the minimum height standards may be given by the director of development services upon receipt of satisfactory evidence of the need to exceed height standards.
- (f) No fence or hedge shall be constructed or installed in such a manner as to interfere with drainage on the site.
- (g) Should the fence encroach on any public easement, the owner shall assume all expense of any necessary removal (either temporary or permanent) or relocation.
- (h) Barbed wire shall be permitted in association with fences as follows:
  - (1) In association with bona-fide agricultural uses;
  - (2) In conservation (CON) land use districts;
  - (3) In general industrial (GI) land use districts atop fences 6 feet or taller;
  - (4) On properties where an industrial building lot or industrial complex lot typology has been approved via development plan, site plan, or preliminary subdivision plat atop fences 6 feet or taller;

- (5) On properties containing water/wastewater treatment plants or electric substations atop fences 6 feet or taller;
- (6) On properties with barbed wire fencing installed prior to December 15, 2016, which, upon administrative verification by development services, shall be deemed legally non-conforming and shall be permitted to be repaired or replaced as needed.

**Recommended Action:**

The request for setback relief meets Land Development Regulation's requirements for a Variance or the required findings for Variance approval, so staff recommends approval.

**Policy Implications:**

None.

**Alternatives:**

1. Adopt Resolution Number 2026-24
2. Deny Resolution Number 2026-24

**Budget/Staff Impact:**

Not Applicable

**Prepared By:**

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**Reviewed By:**

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