



43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone 239-433-4231 Fax 239-433-9632
www.tdmcivilengineering.com
Certificate of Authorization # 29086

Tropical Fence
Narrative of Request/Lee Plan Compliance

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Narrative of Request

The property owners/applicants inherited an existing fence contracting business, Tropical Fence, located at 4814, 4818, and 4822 Palm Beach Boulevard . The previous owners purchased the adjacent lots at 393 and 397 Balboa Avenue and expanded their business onto those vacant lots, using it as a storage yard. The subject property has been used as a storage yard for approximately 20 years and it has been in its current configuration since the early 2000's. When the property owners had their business appraised for insurance purposes, it came to their attention that the storage yard was zoned TFC-2. They approached County staff regarding their options, even though a code violation for the use was never issued. The property owners have decided to rezone the subject property from TFC-2 to CPD to legitimize the existing use of open storage.

Rezoning the property will trigger a Development Order and the applicants will be required to bring the site into compliance with the Land Development Code to the maximum extent possible. The only existing improvements to the site include a chain link fence with slats along the property boundary and a rolling gate. Proposed improvements include 10-foot wide buffers abutting the residential lots to the east and south and right-of-way to the west. A 6-foot high solid opaque wall set back 10 feet from the property line is proposed along the right-of-way and 8-foot high solid opaque walls are proposed along the residential lots. This allows the buffer vegetation to be located on the residential/street side of the wall. In addition, drainage swales and pipes will be provided to address stormwater and pre-treatment will be provided before it discharges into the drainage swale along the Balboa Avenue right-of-way. The rezoning is consistent with the Lee Plan, the Land Development Code (except where deviations have been requested), and other applicable codes and regulations.

Land Development Code Compliance

A Development Order will be required to bring the existing site into compliance with the Land Development Code and all other applicable codes and regulations to the maximum extent possible, including buffering and screening, drainage, and fencing. Four deviations have been requested with this rezoning request where existing site conditions prevent full compliance with the Land Development Code.

Lee Plan Compliance

The subject property has been developed as open storage for the past 20 years. The applicant recently discovered the use isn't consistent with the TFC-2 zoning district. The applicant intends to rezone the property to CPD to legitimize the use. A local development order will be required

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to bring the site into compliance with the Land Development Code to the maximum extent possible.

POLICY 1.1.2: *The **Intensive Development** future land use category is located along major arterial roads. By virtue of their location, the County's current development patterns, and the available and potential levels of public services, areas with this designation are suited to accommodate high densities and intensities. Mixed use developments of high-density residential, commercial, limited light industrial, and office uses are encouraged to be developed as described in Objective 11.1, where appropriate. The standard density range is from eight dwelling units per acre (8 du/acre) to fourteen dwelling units per acre (14 du/acre), with a maximum total density of twenty-two dwelling units per acre (22 du/acre). The maximum total density may be increased to thirty dwelling units per acre (30 du/acre) utilizing Greater Pine Island Transfer of Development Units.*

POLICY 1.1.3: *The **Central Urban** future land use category can best be characterized as the "urban core" of the County. These areas are already the most heavily settled and have, or will have, the greatest range and highest levels of public services. Residential, commercial, public and quasipublic, and limited light industrial land uses will continue to predominate in the Central Urban future land use category. Future development in this category is encouraged to be mixed use, as described in Objective 11.1, where appropriate. The standard density range is from four dwelling units per acre (4 du/acre) to ten dwelling units per acre (10 du/acre), with a maximum total density of fifteen dwelling units per acre (15 du/acre). The maximum total density may be increased to twenty dwelling units per acre (20 du/acre) utilizing Greater Pine Island Transfer of Development Units.*

The subject property at 393 and 397 Balboa Avenue is located on the south side of Palm Beach Boulevard, east of Balboa Avenue, in the Tice Historic District. The majority of the site is the Central Urban future land use category with a small section in the Intensive Development future land use category (per Lee Spins). The site has been developed as an open storage yard for approximately 20 years, in conjunction with a fence contractor on the abutting property (Tropical Fence). Both the Central Urban and Intensive Development future land use categories are located in areas of the County that are most heavily settled and have the greatest range and highest levels of urban services. Commercial uses are permitted in both future land use categories. This is consistent with **Lee Plan Policy 1.1.2 and 1.1.3**.

OBJECTIVE 2.1: DEVELOPMENT LOCATION. *Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, and prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities.*

POLICY 2.1.1: *Most residential, commercial, industrial, and public development is expected to occur within the designated future urban areas on the Future Land Use Map through the assignment of very low densities to the non-urban categories.*

POLICY 2.1.2: *New land uses will be permitted only if they are consistent with the Future Land Use Map and the goals, objectives, policies, and standards of this plan.*

OBJECTIVE 2.2: DEVELOPMENT TIMING. *Direct new growth to those portions of the future urban areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created.*

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POLICY 2.2.1: Rezoning and DRI proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare.

POLICY 2.2.2: The Future Land Use Map indicates the uses and density ranges that will ultimately be permitted on a given parcel. However, it is not a guarantee that such densities or uses are immediately appropriate, as the map provides for the County's growth beyond the 2045 planning horizon. During the rezoning process the Board of County Commissioners will balance the overall standards and policies of this plan with three additional factors:

1. Whether a given proposal would further burden already overwhelmed existing and committed public facilities such that the approval should be delayed until the facilities can be constructed; and
2. Whether a given proposal is for land so far beyond existing development or adequate public facilities that approval should be delayed in an effort to encourage compact and efficient growth patterns; and
3. Whether a given proposal would result in unreasonable development expectations that may not be achievable because of acreage limitations contained in the Acreage Allocation Table (see Table 1(b)).

As stated above, the subject property has been utilized as an open storage yard for approximately 20 years. The previous property owners purchased the property and expanded their fence contracting business onto the vacant lots. The properties on all sides are developed with a mix of commercial and residential uses. Lee County Utilities provided a letter of availability stating that potable water and sanitary sewer lines are in operation adjacent to the lots. The nearest Fire/EMS station is located approximately 1.4 miles to the southeast at 9351 Workmen Way. The nearest Lee County Sheriff's station is located at 121 Pondella Road, North Fort Myers, approximately 6 miles to the northwest. Lee Tran Route 100 services Palm Beach Boulevard so public transit is located nearby. In addition, pedestrian facilities are located along Balboa Avenue and Palm Beach Boulevard. This is an area of Lee County that is heavily developed and where urban services are available and adequate to service the site, including surrounding roads. This is consistent with **Objective 2.1: Development Location, Policies 2.1.1, 2.1.2, Objective 2.2: Development Timing, and Policies 2.2.1 and 2.2.2.**

GOAL 4: GENERAL DEVELOPMENT STANDARDS. Pursue or maintain land development regulations which protect the public health, safety and welfare, encourage creative site designs and balance development with service availability and protection of natural resources.

OBJECTIVE 4.1: WATER, SEWER, AND ENVIRONMENTAL STANDARDS. Consider water, sewer, and environmental standards during the rezoning process. Ensure the standards are met prior to issuing a local development order.

The applicant, Tropical Fence, is requesting to rezone the subject property in order to legitimize the existing open storage yard, which is used in conjunction with the fence contracting business located on the abutting lots along Palm Beach Boulevard. No structures are proposed as part of the rezoning request. However, Lee County Utilities provided a letter of availability stating that potable water and sanitary sewer lines are located adjacent to the site. No reuse lines are located in the vicinity.

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The subject property is fully developed as an enclosed gravel/shell covered lot. No landscaping, open space or habitat of any kind is currently provided. Lee County approved a waiver from all environmental maps and reports since the site is 100% impervious. This is consistent with **Lee Plan Goal 4, Objective 4.1**.

OBJECTIVE 5.1: *All development approvals for residential, commercial, and industrial land uses must be consistent with the following policies, the general standards under Goal 4, and other provisions of this plan.*

POLICY 5.1.5: *Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in the LDC, Chapter 10, are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The LDC will continue to require appropriate buffers for new developments.*

The open storage yard has been in existence for approximately 20 years, abutting residential uses to the east and south. The only existing improvements to the site consist of a chain link fence with slats along the property boundary, separating the commercial use from the residential use. There aren't any buffers or vegetation of any kind or drainage. The entire site is impervious surface, fenced in with a chain link fence. This rezoning request will not only legitimize the existing commercial use of the site, but it will bring the site into compliance to the maximum possible. Ten-foot wide Type C landscape buffers with an 8-foot high solid opaque wall are proposed abutting the residential lots to the east and south. This allows the buffer vegetation to be located between the wall and property line on the residential side. A Type C buffer is required to provide 5 trees and 18 shrubs per 100 linear feet. Note 4 states that the shrubs may not be pruned to reduce height, so they will effectively act as a living vegetative barrier in addition to the physical barrier of the wall. A 10-foot wide Type B buffer with 6-foot high solid opaque wall is proposed along the Balboa Avenue right-of-way. The addition of a solid, opaque wall with trees and shrubs on the residential side softens the commercial development when viewed from the residential lots and public right-of-way.

The applicant is not proposing any buildings or structures on the property. They're only requesting to be able to continue the same use as the past 20 years, which is basically an open storage yard that is fully enclosed and not visible from the right-of-way or abutting residential lots. The use itself is not changing and is not detrimental to the character or integrity of the residential environment. If anything, the addition of a solid opaque wall (instead of chain link fence) and vegetation is an improvement over what's currently there. The deviations and conditions minimize any potential impacts to the residential lots. This is consistent with **Lee Plan Objective 5.1 and Policy 5.1.5**.

GOAL 6: COMMERCIAL LAND USES. *To permit orderly and well-planned commercial development at appropriate locations within the County.*

OBJECTIVE 6.1: *Development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 4 and other provisions of this plan.*

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POLICY 6.1.1: *All applications for commercial development will be reviewed and evaluated as to:*

- 1. Traffic and access impacts (rezoning and development orders);*
- 2. Landscaping and detailed site planning (development orders);*
- 3. Screening and buffering (planned development rezoning and development orders);*
- 4. Availability and adequacy of services and facilities (rezoning and development orders);*
- 5. Impact on adjacent land uses and surrounding neighborhoods (rezoning);*
- 6. Proximity to other similar centers (rezoning); and*
- 7. Environmental considerations (rezoning and development orders).*

POLICY 6.1.4: *Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities.*

POLICY 6.1.5: *The land development regulations will require that commercial development be designed to protect the traffic-carrying capacity of roads and streets. Methods to achieve this include, but are not limited to: frontage roads; clustering of activities; limiting access; sharing access; setbacks from existing rights-of-way; acceleration, deceleration and right-turn-only lanes; and, signalization and intersection improvements.*

POLICY 6.1.6: *The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.*

POLICY 6.1.7: *Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.*

POLICY 6.1.8: *Prohibit commercial development from locating near existing or planned school areas in such a way as to jeopardize the safety of students.*

The subject property is used as a storage yard for a commercial contracting business, Tropical Fence, located at 4814, 4818, and 4822 Palm Beach Boulevard. The only improvements to the existing site consist of a chain link fence with slats along the property boundary, separating the commercial use from the residential use. This rezoning request will not only legitimize the existing commercial use of the site, but it will bring the site into compliance to the maximum possible. In addition to the commercial use along Palm Beach Avenue and the single-family residential uses to the east and south, other nearby uses include an auto repair shop, a pawn shop, the American Legion fraternal club, and other various commercial and residential uses. The open storage yard has been in existence for approximately 20 years, abutting residential uses to the east and south, Balboa Avenue right-of-way to the west, and commercial to the north. The open storage yard, as proposed, is compatible with existing uses in the neighborhood.

Direct access to the site will remain at the existing driveway on Balboa Avenue. Although this is a full-access driveway, most employees and visitors exit out onto Palm Beach Boulevard through the abutting property, which is Tropical Fence's primary location and main office. The existing business, Tropical Fence, has two driveways on Palm Beach Boulevard and one on Balboa Avenue. When Palm Beach Boulevard was widened and improved, the center turn lane was

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eliminated, making Palm Beach Boulevard an arterial road with a divided median. Only traffic traveling eastbound can turn directly into the site from Palm Beach Boulevard. Due to the site layout of the overall development (including the main site on Palm Beach Boulevard), delivery trucks turn onto Balboa Avenue, enter the site at that driveway and exist onto Palm Beach Boulevard. This is the traffic circulation that works best for the existing conditions of the site and the surrounding roadway network. This allows vehicles to enter and exit the site in a forward manner since there isn't room to turnaround on site. According to the Traffic Impact Statement, the open storage development creates minimal traffic. The AM Peak Hour Average Vehicle Trip Ends is 2 and the PM Peak Hour Average Vehicle Trip Ends is 3. Balboa Avenue has sufficient capacity for the development and turn lanes are not required.

The site is currently development from property line to property line without buffers, open space or drainage. Due to the small size of the lots, the applicant is proposing 10-foot wide Type C landscape buffers with an 8-foot high solid opaque wall abutting the residential lots to the east and south. This allows the buffer vegetation to be located between the wall and property line on the residential side. A Type C buffer is required to provide 5 trees and 18 shrubs per 100 linear feet. Note 4 states that the shrubs may not be pruned to reduce height, so they will effectively act as a living barrier in addition to the physical barrier of the wall. A 10-foot wide Type B buffer with 6-foot high wall is proposed along the Balboa Avenue right-of-way. The vegetative buffers screen and soften the development from the outside and the walls enclose the open storage yard so it's not unattractive to the neighbors, community, and general public.

Lee County Utilities provided a letter of availability stating that potable water and sanitary sewer lines are in operation adjacent to the lots. The nearest Fire/EMS station is located approximately 1.4 miles to the southeast at 9351 Workmen Way. The nearest Lee County Sheriff's station is located at 121 Pondella Road, North Fort Myers, approximately 6 miles to the northwest. Lee Tran Route 100 services Palm Beach Boulevard so public transit is located nearby. In addition, pedestrian facilities are located along Balboa Avenue and Palm Beach Boulevard. Drainage swales and pipes are provided to collect storm water, pre-treat it as required, and discharge into the Balboa Avenue right of way swales. No building structures are proposed or parking, just open storage. Rezoning the subject parcel legitimizes the use that's been on this land for the past 20 years and does not open up the area to future commercial development. The nearest school is Orange River Elementary to the east, which is accessed from Lexington Avenue. Rezoning the subject property to commercial planned development for the proposed use will not have any detrimental effects on the elementary school. This is consistent with **Lee Plan Goal 6, Objective 6.1, and Policies 6.1.1, 6.1.4, 6.1.5, 6.1.6, 6.1.7, and 6.1.8.**

GOAL 34: TICE HISTORIC COMMUNITY PLAN. *Redevelop the Community Plan area into vibrant commercial and residential neighborhoods, with mixed use centers, landscaping, safe pedestrian and bicycle facilities, improved transit service, and an array of public space and recreational areas while protecting the community's historic resources.*

POLICY 34.1.1: *In the Tice Gateway and Tice Historic Center utilize the Mixed Use Overlay to encourage mixed use developments consistent with Goal 11 that integrate multiple land uses, public amenities and utilities at various scales and intensities in order to provide: diversified land development; a variety of housing types; greater connectivity between housing, workplaces, retail businesses, and other destinations; reduced trip lengths; more transportation options; and pedestrian and bicycle-friendly environments. Tice Gateway is defined as the properties with frontage on Palm Beach Boulevard. The Tice Historic Center is the area of the Community Plan*

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area contiguous to the City of Fort Myers at the intersection of Tice Street and Palm Beach Boulevard.

OBJECTIVE 34.2: COMMERCIAL AND ECONOMIC LAND USES. *Provide commercial, economic, and employment opportunities within the Community Plan area by establishing active economic corridors centered along Palm Beach Boulevard, Ortiz Avenue, and Tice Street that feature high quality, distinct, and visually appealing commercial developments.*

POLICY 34.2.1: *Maintain land development regulations that address the following:*

c. Lots that have irregular size, depth, building placement, and lack parking, landscaping, and infrastructure facilities; and

d. Vegetative and light features that help unify and add visual appeal to developments.

POLICY 34.2.2: *Maintain development standards for commercial developments to be designed as to support a walkable, multimodal community with transportation facilities that provide for the needs of pedestrians, cyclists, transit riders, and drivers by providing:*

a. Interconnection of adjacent commercial uses in order to minimize vehicular access points on primary road corridors; and

c. Pedestrian connections such as sidewalks, trails, crosswalks, walkways and entrances, signalized and or lighted crossings, shade, and other pedestrian elements.

OBJECTIVE 34.3: TRANSITIONAL USES. *Establish transitional use areas between commercial corridors and single-family residential neighborhoods.*

POLICY 34.3.1: *Transitional uses include pedestrian oriented retail uses, commercial offices, day care centers, mid-rise multifamily buildings, live-work units, and accessory apartments.*

POLICY 34.3.3: *It is anticipated that transitional uses will coexist with existing single-family residences in the transitional use area.*

The subject property is in the Tice Historic District. The fence contracting business has frontage on Palm Beach Boulevard and Balboa Avenue. The lots with frontage on Palm Beach Boulevard are zoned correctly for the use (C-1) and are in the mixed-use overlay. As noted previously, the applicants recently discovered the two lots on Balboa Avenue are not zoned correctly for the existing use (TFC-2). The applicant intends to rezone the property from TFC-2 to CPD in order to legitimize a commercial use that has been in existence on the subject property for approximately 20 years. In doing so, the applicant will be required to bring the site into compliance with the current Land Development Code to the maximum extent possible.

As it currently exists, the site doesn't have any buffers, green open space, or drainage; however there is an existing sidewalk along Balboa Avenue and Palm Beach Boulevard, providing pedestrian connectivity. In addition, the property is surrounded by a chain link fence with slats, which are no longer permitted. Proposed improvements include 10-foot wide vegetative buffers and a 8-foot high solid opaque wall on three sides of the property facing the residential lots and right-of-way. There's an existing rolling gate providing access to the site from Balboa Avenue. The existing gate may need to be replaced to match the new fence/wall at time of Development Order permitting. In addition, drainage swales and pipes are proposed to address storm water drainage. Upgrading a site that has been used for commercial purposes for 20± years is an improvement to the surrounding community, including the abutting residential properties. The few deviations that have been requested are to address the limitations of the existing site. The primary business, Tropical Fence, is a commercial business in the Mixed-Use Overlay on Palm

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Beach Boulevard, while the two lots on Balboa Avenue act as a transition to the residential lots to the east and south. This is consistent with **Lee Plan Goal 34, Policy 34.1.1, Objective 34.2, Policies 34.2.1 and 34.2.2, and Objective 34.3, and Policies 34.3.1 and 34.3.3.**

The applicant has proven entitlement to the rezoning as set forth in LDC Sec. 34-145(d)(4). The request:

- (a) Complies with the Lee Plan;
- (b) Meets the Land Development Code and other applicable County regulations or qualifies for deviations;
- (c) Is compatible with existing and planned uses in the surrounding area;
- (d) Will provide access sufficient to support the proposed development intensity;
- (e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- (f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- (g) Will be served by urban services, as defined in the Lee Plan, if located in a Future Urban area category.

Additional findings for planned developments:

- (a) The proposed use or mix of uses is appropriate at the proposed location;
- (b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development;
- (c) The requested deviations enhance the achievement of the objectives of the planned development and preserve and promote the general intent of the LDC to protect the public health, safety, and welfare.