CIVIL ENGINEERING
TDM
CONSULTING, INC.

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

September 7, 2022

Mr. Dirk Danley Jr., Principal Planner
Lee County Department of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Reference: Tropical Fence
DCI2022-00036 (2nd Resubmittal)

Dear Mr. Danley:

We are in receipt of your review letter dated September 2, 2022 for the above referenced project. The following items are submitted for your continued review per this request for additional information:

1. One (1) copy of the revised Schedule of Deviations.

Responses to each individual item/comment are as follows:

Environmental Review:
Elizabeth A. Workman – EWorkman@leegov.com or 239-533-8793

1. The response letter indicated that the Schedule of Deviations was revised to add an open space deviation and add more specificity to Deviation #2 and #3. The resubmittal documents did not include the revised Schedule of Deviations. Please provide.

   Response: Please see the revised Schedule of Deviations as requested.

This should allow for continued review and a finding of sufficiency of this rezoning request. Your time and attention to this matter is appreciated. Should County staff require additional information or have any questions regarding this submittal, feel free to call this office.

Sincerely,

TDM CONSULTING, INC.

Veronica Martin

Veronica Martin
Senior Planner

CIVIL ENGINEERING
TDM
CONSULTING, INC.

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
Schedule of Deviations
Revised 8-2-2022

DEVIATION #1:

WITHDRAWN

DEVIATION #2:

Seeks relief from the **LDC §10-416(d)(4)** requirement for a Type C buffer to be 15 feet wide with 5 trees and 18 shrubs per 100 linear feet with a solid wall, berm, or wall and berm combination, not less than 8 feet in height as measured from the finished grade of the project site. Request to permit the Type C buffer to be 10 feet wide with 5 trees and 18 shrubs per 100 linear feet, for all vegetation to be native species, for all plant materials to meet the standards for Florida No. 1 or better, for all trees to be a minimum of 12 feet in height at time of planting, for all shrubs to be 24 inches in height at time of planting, and for the wall, berm, or wall and berm combination to be 6 feet in height.

JUSTIFICATION:

This rezoning request is to legitimize the previous expansion of the commercial business (fence contractor) located along Palm Beach Boulevard onto the subject property. The expansion by the previous owners occurred between 1998 and 2002 as shown on the Lee Spins Aerial Photography. The site has been used as open storage since that time and has been fenced and gated since around 2007. The property owners/applicants intend to rezone the TFC-2 property to CPD and acquire a Development Order to bring the site into compliance to the maximum extent possible.

LDC Section 10-416(d)(3) requires either a 15-foot wide Type C buffer with 8-foot high wall or a 30' Type F buffer when commercial developments abut single-family developments. The site is only 150 feet wide by 135 feet in depth. In addition, the main delivery truck access is through the subject property. The gated access to the property on Balboa Avenue is set back 21 feet from the right-of-way, further limiting the developable area of the site. The applicant is proposing to provide a 10-foot wide Type C buffer with a 6-foot high opaque wall/fence, provide only native vegetation, and increase the height of the trees at time of planting from 10 feet to 12 feet. This is an improvement over what is currently provided between the open storage yard and abutting residential lots, which is a chain link fence with slats right on the property line. No buffer vegetation is currently provided.

The proposed 10-foot wide Type C buffer permits the drainage swale to overlap the buffer by 50% and still provide a 5-foot wide planting shelf, which is wide enough to accommodate the 5 trees

and 18 shrubs per 100 linear feet. The northeast buffer will require 8 trees and 27 shrubs while the southeast buffer will require 7 trees and 25 shrubs. Note 4 of LDC Section 10-416(d)(4) also states that "*shrubs required in this section are intended to provide visual screening and my not be pruned to reduce height."*

Providing a 10-foot wide buffer abutting the residential uses reduces the open storage area by 2,850 square feet; however, the applicant wants to comply with the LDC to the maximum extent possible without losing the ability for continued use of the property. The 10-foot wide buffer and enhanced vegetation meets the intent of the LDC to buffer and screen abutting properties from the proposed commercial use. This deviation enhances the achievement of the objective of this planned development and will not cause a detriment to the public interest.

DEVIATION #3:
Seeks relief from the **LDC §10-416(d)(4)** requirement for a Type D buffer to be 15-feet wide with 5 trees per 100 linear feet and double staggered hedge row. Request to permit the buffer adjacent to Balboa Avenue to be 10 feet wide with 5 trees per 100 linear feet, a double-staggered hedge row, for all vegetation to be native species, for all trees to be a minimum of 12 feet in height at time of planting, and for all plant materials to meet the standards for Florida No. 1 or better.

JUSTIFICATION:
This rezoning request is to legitimize the expansion of the commercial business (fence contractor) located along Palm Beach Boulevard onto the subject property. The expansion by the previous owners occurred between 1998 and 2002 as shown on the Lee Spins Aerial Photography. The site has been used as open storage since that time and has been fenced and gated since around 2007. The property owners/applicants intend to rezone the TFC-2 property to CPD and acquire a Development Order to bring the site into compliance to the maximum extent possible.

LDC Sec. 10-416(d)(3) requires a Type D buffer when commercial developments abut a right-of-way. LDC Sec. 10-416(d)(4) requires a Type D buffer to be 15-feet wide; however, the site is small at only 135 feet in depth by 150 feet wide. In addition, the main delivery truck access is through the subject property. Adding buffers to 3 sides of the property reduces the developable area, or in this case, the available storage area of the property. LDC Sec. 34-3005(b) requires open storage to be shielded behind a continuous visual screening at least 6-feet in height when visible from any street right-of-way or easement. The applicant is proposing to reduce the buffer width to 10 feet, provide a 6-foot high opaque wall/fence, provide only native vegetation, and increase the height of the trees at time of planting from 10 feet to 12 feet. This is an improvement over what is currently provided between the open storage yard and right-of-way, which is a chain link fence with slats right on the property line. No buffer vegetation is currently provided.

The proposed 10-foot wide Type D buffer permits the drainage swale to overlap the buffer by 50% and still provide a 5-foot wide planting shelf, which is wide enough to accommodate the 5 trees per 100 linear feet and double-staggered hedgerow. Providing a 10-foot wide buffer abutting the right-of-way reduces the open storage area by 1,260 square feet; however, the applicant wants to comply with the LDC to the maximum extent possible without losing the ability for continued use of the property. The 10-foot wide buffer and enhanced vegetation meets the intent of the LDC to buffer and screen the right-of-way from the proposed commercial use. This deviation enhances the

achievement of the objective of this planned development and will not cause a detriment to the public interest.

DEVIATION #4:

Seeks relief from the **LDC §10-415** requirement for small commercial developments to provide a minimum of 20% open space. Request to permit a minimum of 19% open space.

JUSTIFICATION:

If this rezoning application is approved, the applicant will be required to bring the site into current code compliance to the maximum extent possible via a local development order. The site as it currently exists doesn't provide buffers, landscaping, open space, or drainage. Because the subject property is so small in size, the buffers have been reduced from 15 feet wide to 10 feet wide. This allows the applicant to have reasonable use of the property. However, that also means that only 3,908 square feet of open space is provided instead of the 4,050 square feet required. This is a deficit of only 142 square feet. That small amount of open space is negligible compared to the improvements the applicant is making to the site overall. This deviation enhances the achievement of this planned development and will not cause a detriment to the public interest.

DEVIATION #5:

Seeks relief from the **LDC §34-3005(b)** requirement that all commercial or industrial outdoor storage be shielded behind a continuous visual screening at least 8 feet in height when visible from a residential use or residential zoning district and 6 feet in height when visible from any street right-of-way or street easement. Request to permit the continuous visual screen to be 6 feet in height when visible from a residential use or residential zoning district.

JUSTIFICATION:

The applicant is proposing to provide a 10-foot wide Type C buffer with a 6-foot high wall to the northeast and southeast abutting existing single-family uses and a 10-foot wide Type D buffer with a 6-foot high wall abutting the right-of-way. This lot is small in size. Normally commercial developments that require a wall choose a berm and wall combination to equal the 8-foot height. However, due to the limited size of the property, the applicant is unable to use that alternative and must provide a solid opaque wall to buffer and screen the open storage area from residentially zoned lots and rights-of-way. As noted in Deviation #2, the northeast buffer will require 8 trees and 27 shrubs while the southeast buffer will require 7 trees and 25 shrubs and the shrubs may not be pruned to reduce height. Permitting the wall to be 6 feet in height instead of 8 feet allows for consistency in the fencing proposed and meets the intent of the LDC to shield the abutting residential property owners from the open storage area needed for the fence contracting business. This deviation enhances the achievement of this planned development and will not cause a detriment to the public interest.

The proposed deviations enhance the achievement of the objectives of the planned development and will not cause a detriment to the public interests. The location of each deviation is shown on the Master Concept Plan as required.