

**M E M O R A N D U M
FROM
THE OFFICE OF THE
LEE COUNTY HEARING EXAMINER**

DATE: April 20, 2023

**TO: Board of County Commissioners FROM: Amanda L. Rivera
Lee County Deputy Hearing Examiner**

**RE: TROPICAL FENCE CPD
Hearing Examiner Recommendation**

Deputy Hearing Examiner Amanda L. Rivera has rendered a Recommendation on the following zoning request:

TROPICAL FENCE CPD

DCI2022-00036

HEARD: February 16, 2023

The Zoning Section of the Department of Community Development will schedule a final hearing before the Board in the coming weeks.

cc: Michael Jacob, Esq. / County Attorney's Office
Joseph Adams, Esq. / County Attorney's Office
Anthony Rodriguez, AICP / Zoning Section
Dirk Danley, Jr. / Zoning Section
Warren Baucom / Economic Development
Anura J. Karuna-Muni / Natural Resources
Jamie Princing / Community Development
Applicant(s) & Representative(s)
Other Interested Parties

Summary of Hearing Examiner Recommendation

TROPICAL FENCE CPD

The request seeks to legitimize a fencing business expansion requiring open storage on adjacent lots. Applicant's business operates along Palm Beach Boulevard in the Tice Community.

Detailed recommendation follows

DCI2022-00036

Future Land Use



Subject Property

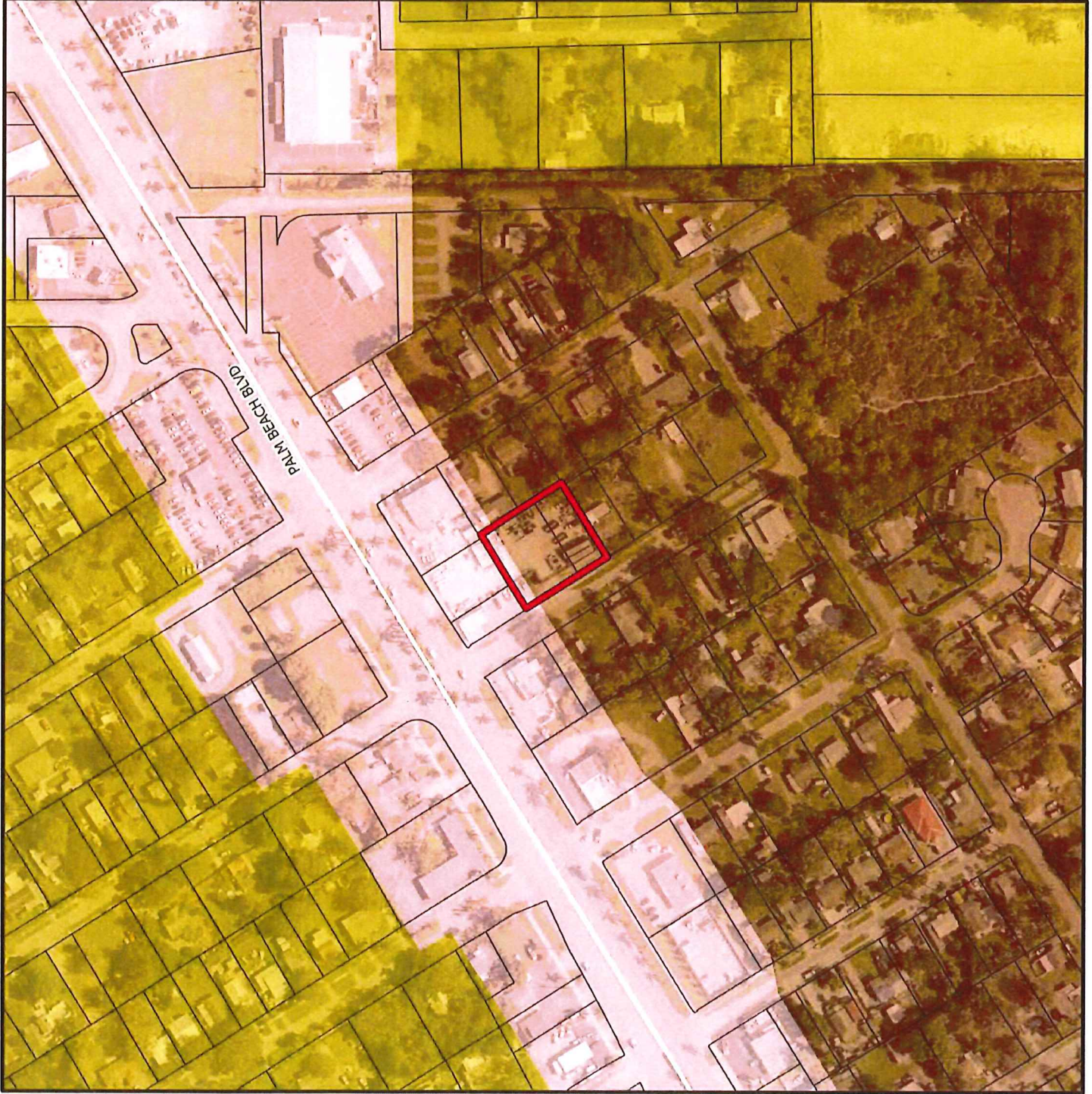
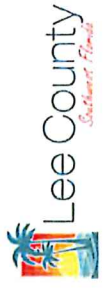
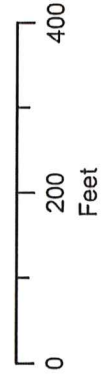
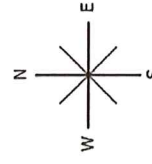
Intensive Development



Central Urban



Suburban

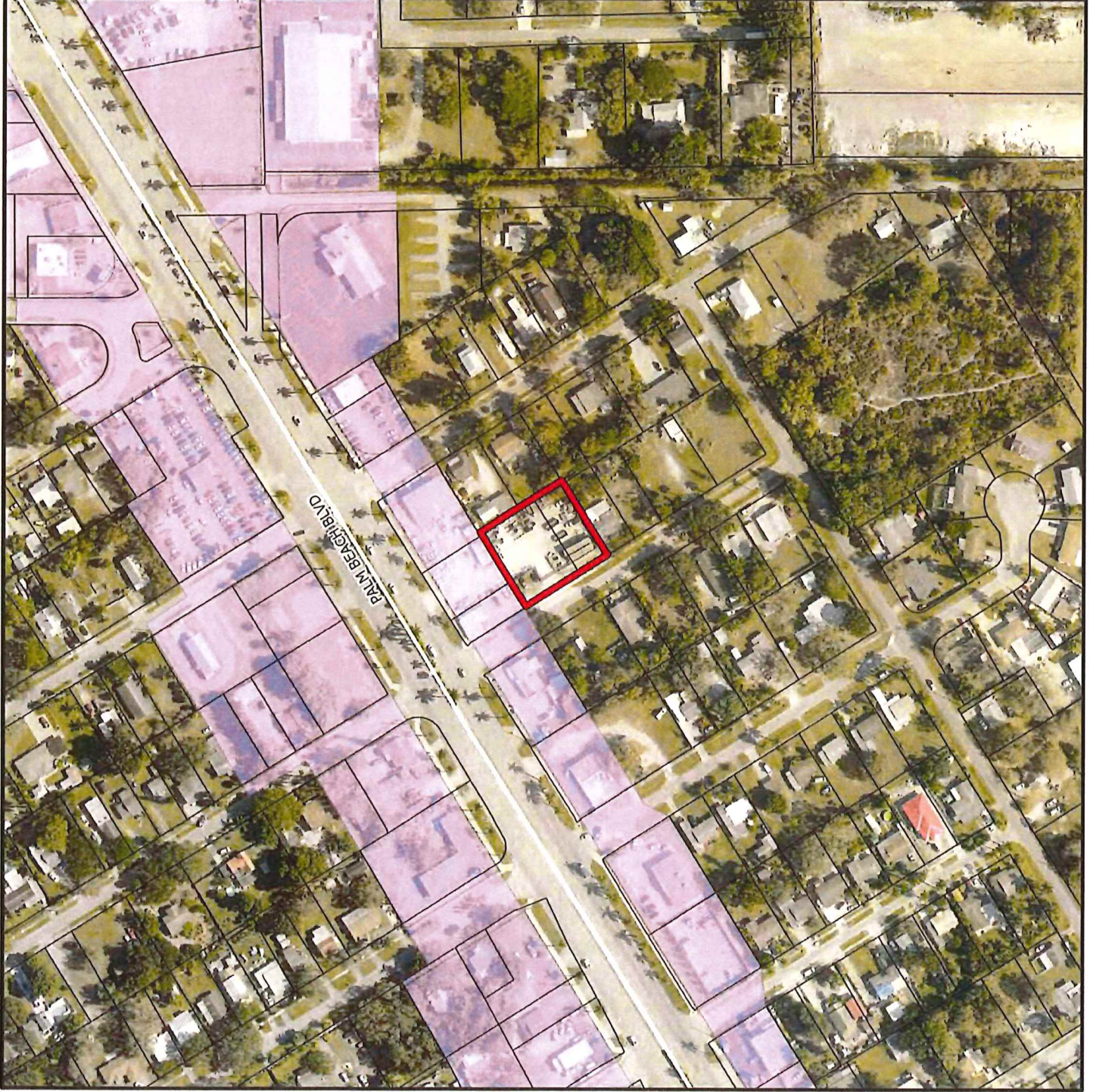
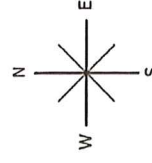


DCI2022-00036

Mixed Use Overlay

 Subject Property

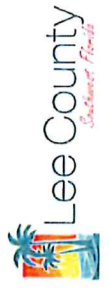
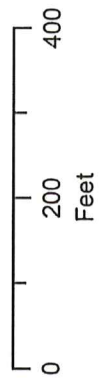
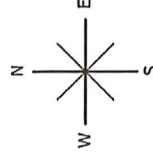
 Mixed Use Overlay



DCI2022-00036

Aerial

Subject Property



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2022-00036

Regarding: TROPICAL FENCE CPD

Location: 393 and 397 Balboa Avenue
Fort Myers Shores Planning Community
(District 5)

Hearing Date: February 16, 2023

I. Request

Rezone 0.46± acres from Two-Family Conservation (TFC-2) to Commercial Planned Development (CPD) to legitimize expansion of an existing Contractor and Builder use to the north, to allow open storage.

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval, subject to the conditions and deviations set forth in Exhibit B.

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.¹ In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone 0.46± acres to the CPD district.

In preparing a recommendation to the Board, the Hearing Examiner applies the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other County regulations to testimony and evidence in the record. The Hearing Examiner may also take judicial notice of previous Board decisions in the context of reviewing zoning requests and preparing recommendations. The record must include competent substantial evidence to support the recommendation.²

¹ LDC §34-145(d)(1)(a); LDC §34-145(d)(4)(a).

² Lee Co. Admin. Code 2-6, §3.3(A)(2); LDC §34-83(a)(4)(a)(1)(a).

The Hearing Examiner recommends approval of the request. Discussion supporting the recommendation follows below.

Synopsis of Request and Zoning History

The request seeks to rezone two parcels in the Tice Community from TFC-2 to CPD.³ The property is located approximately 130 feet south of Palm Beach Boulevard, west of I-75.

Applicant operates a fence contracting business on the property and adjoining lands to the north. The northern lands are zoned Commercial (C-1), which permits the fence contractor use.⁴ Applicant acquired the business and property without knowledge the property's TFC-2 zoning did not permit the existing use.⁵ The record indicates the expansion occurred over 20 years ago.⁶ Applicant seeks CPD zoning to legitimize the use.⁷ There are no outstanding Code violations on the property.⁸

Current site operations serve as ancillary storage for fencing materials and open parking. No structures exist on the site and no intensity is sought, ensuring uses remain as ancillary open storage. Applicant will make improvements to bring the site into greater compliance with LDC requirements as a result of this request.⁹

The site plan utilizes existing access to Balboa Avenue, which intersects Palm Beach Boulevard to the north. No new access points are proposed.

If the request is approved, Applicant will operate its business on adjacent parcels zoned C-1 and CPD.

Department of Community Development staff recommended approval of the request subject to conditions.

³ Lee Plan Map 2-A.

⁴ Contractor and Builders, Group II is permitted in C-1. LDC §34-844. That use is not permitted in TFC-2. LDC §34-694.

⁵ Testimony of Veronica Martin.

⁶ See Applicant's Ex. 1 (slide 3); Testimony of Veronica Martin.

⁷ Applicant does not seek to bring the adjoining lot into the CPD due to various site constraints that render compliance with LDC regulations difficult to meet. Testimony of Veronica Martin and Dirk Danley. Staff confirmed the request was evaluated as a standalone CPD. Physical characteristics of the property and the limited Schedule of Uses provide protection against the parcel intensifying beyond impacts evaluated from the requested open storage use.

⁸ See Staff Report; Testimony of Veronica Martin.

⁹ Testimony of Veronica Martin and Dirk Danley.

Zoning Review Criteria

Before recommending approval for rezoning to the Board, the Hearing Examiner must find the request:

- A. Complies with the Lee Plan;
- B. Meets the LDC 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, defined in the Lee Plan, if located in a Future Urban area category.¹⁰

If the request involves planned development zoning, the Hearing Examiner must also find:

- H. The proposed use or mix of uses is appropriate at the proposed location;
- I. Recommended conditions provide sufficient safeguards to the public interest and reasonably relate to impacts on the public's interest expected from the proposed development; and
- J. Each requested deviation (1) enhances the achievement of the objectives of the planned development, and (2) preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.¹¹

Character of the Area

Surrounding properties lie in the Intensive Development, Central Urban, and Suburban land use categories.¹² Various commercial developments sit along Palm Beach Boulevard with residential uses farther from the road corridor.

¹⁰ LDC §34-145(d)(4)(a)(1).

¹¹ LDC §34-145(d)(4)(a)(2).

¹² See Staff Report Attachment B: Maps; Staff Ex. 2 (slide 5).

Lee Plan Consistency and Compatibility

Planned developments must be consistent with the Lee Plan.¹³ Rezoning requests must be compatible with existing/planned uses in the surrounding area.¹⁴ Planned development parcels must be located to minimize negative effects of proposed uses on neighboring properties.¹⁵

The property is within the Fort Myers Shores Planning District, Tice Planning Community, and the Central Urban land use category.¹⁶ The Lee Plan directs the Tice Historic district to facilitate redevelopment into a vibrant community by enhancing the appearance, form, and use of properties within its bounds.¹⁷ The request achieves this objective by legitimizing an existing use while bringing the site into greater compliance with landscape and buffer requirements.

Commercial land uses within the Tice Community are encouraged along Palm Beach Boulevard that feature visually appealing developments with pedestrian connections.¹⁸ Applicant's business operates on Palm Beach Boulevard with the property adjoining to the south. A sidewalk runs along Balboa Avenue and Palm Beach Boulevard next to the property. The requested rezoning provides new buffers, open space, and drainage features that are not currently provided.

Central Urban properties are the county's "urban core."¹⁹ Central Urban areas are heavily settled with high levels of urban services.²⁰ The property's commercial use near a major arterial with a host of urban services is consistent with Central Urban directives.²¹

The request is compatible with the surrounding area and consistent with the Lee Plan.²²

Environmental Features

Planned development design should reflect creative use of open space.²³ Developers must make every effort to protect and preserve natural site features.²⁴

¹³ LDC §34-411(a).

¹⁴ LDC §34-145(d)(4)(a).

¹⁵ LDC §34-411(c) and (i).

¹⁶ Lee Plan Maps 1-A, 1-B & 2-A; Policy 1.1.3. A very small portion may be within the Intensive Development classification, but staff testified that the area is so small it may be a mapping error so did not evaluate it. Testimony of Dirk Danley.

¹⁷ Lee Plan Goal 34.

¹⁸ Lee Plan Objective 34.2, Policy 34.2.2.

¹⁹ Lee Plan Policy 1.1.2.

²⁰ *Id.*

²¹ *Id.*

²² LDC §34-145(d)(4)(a)(1)(c).

²³ LDC §34-411(h).

²⁴ LDC §34-411(g).

The site is cleared with historic use as open storage. Applicant seeks a minor deviation from open space requirements from 20 percent to 19 percent due to site constraints.²⁵

The Master Concept Plan ("MCP") employs alternative landscape standards to provide visual relief for neighboring lands.²⁶ Site design includes a 10-foot-wide vegetative buffer with a six foot tall fence along property boundaries bordering residential areas.²⁷ Vegetation will be on the outside of the wall to enhance site aesthetics.

Applicant seeks a minor deviation from LDC open space requirements.²⁸ Staff supports the deviation, finding site constraints prohibit strict compliance with LDC standards.²⁹

Transportation/Traffic

Planned developments must have access to roads with sufficient capacity to support the proposed intensity.³⁰ Existing regulations or conditions of approval must address the request's expected impacts on transportation facilities.³¹

The project has one access point to Balboa Avenue, which permits access to Palm Beach Boulevard/SR 80. Palm Beach Boulevard is a six-lane arterial roadway.³² Surrounding roads offer sufficient capacity to support the proposed development intensity.³³

Applicant's traffic engineer testified that project traffic will not alter levels of service on affected roadways.³⁴ Applicant must address site related impacts at the development order stage.³⁵

²⁵ Deviation 4.

²⁶ See Staff Report (pg. 5, Attachments J & N).

²⁷ Applicant recounted structural engineering difficulties in meeting the LDC's eight-foot height requirement. Deviation 2 seeks a deviation to allow a six-foot tall fence.

²⁸ The LDC requires 20 percent open space, Applicant is providing 19 percent open space. Deviation 4.

²⁹ See Deviation 4, Staff Report (Attachment J).

³⁰ LDC §34-145(d)(4)(a)(1)(d); §34-411(d)(1).

³¹ LDC §34-145(d)(4)(a)(1)(e); §34-411(d)(2).

³² See Traffic Impact Statement (Staff Report Attachment H).

³³ See Staff Report (pg. 4, Attachments H & I).

³⁴ Testimony of Dean Martin; Staff Report (Attachment H). In evaluating transportation impacts, planners examine projected traffic conditions at build out taking into consideration a combination of historical growth rates for the area and approved development.

³⁵ Site related improvements include capital improvements and right-of-way dedications for direct access improvements to the project. These improvements may include site driveways, road, turn lanes, deceleration or acceleration lanes, etc. Lee Plan Objective 39.1, Policy 39.1.1.

Public Services

Urban services are the services, facilities, capital improvements, and infrastructure necessary to support development.³⁶ The Lee Plan requires an evaluation of the availability of urban services during the rezoning process.³⁷

A host of urban services and infrastructure are available to serve the property including roads, potable water, police, fire, and emergency medical services.³⁸

The site sits within one-quarter mile of LeeTran route 100.³⁹ Future development must comply with LDC transit facility regulations.⁴⁰

Deviations

“Deviations” are departures from LDC regulations.⁴¹ The request seeks five deviations to recognize existing site conditions. Deviations relate to buffers, open space, vehicular turnaround, and screening. Staff supports the requested deviations.

The Hearing Examiner's standard of review requires a finding that the deviation:

1. Enhances the achievement of the objectives of the planned development; and
2. Preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.⁴²

Applying LDC standards of review to record testimony and evidence, the Hearing Examiner finds the requested deviations meet approval criteria.⁴³

³⁶ Lee Plan Glossary. Public services include public water/sewer, paved streets/roads, public transit, parks and recreation facilities, urban levels of police, fire and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries and community centers.

³⁷ Lee Plan Policy 2.2.1.

³⁸ See Staff Report (pg. 5, Attachment K). Fire and EMS service station is 1.3± miles from the site with a Lee County Sheriff substation 4.6± miles away.

³⁹ See Staff Report (pg. 5).

⁴⁰ LDC §10-441 and §10-442(b)(1); Lee Plan Policy 34.2.2.

⁴¹ LDC §34-2.

⁴² LDC §34-145(d)(4).

⁴³ LDC §34-377(a)(4); LDC §34-145(d)(4).

Conditions

The county must administer the zoning process so proposed land uses acceptably minimize adverse impacts to adjacent property as specified in the development regulations. Conditions must plausibly relate to the impacts anticipated from proposed development and must be pertinent to mitigation of those impacts on the public health, safety, and welfare.⁴⁴

The CPD will be subject to several conditions of approval. Conditions relate to impacts anticipated from the project.⁴⁵ The Hearing Examiner recommends:

1. Revisions to conditions to improve clarity; and
2. Deletion of conditions that restate LDC standards and criteria applicable to the project pursuant to Condition 1.

Public

No members of the public appeared at the community meeting or the hearing.

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation that the requested rezoning to CPD meets LDC approval criteria.

IV. Findings and Conclusions

The Hearing Examiner makes the following findings and conclusions based on the testimony and evidence in the record:

A. *As conditioned herein*, the proposed rezoning to CPD:

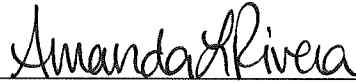
1. Complies with the Lee Plan. See Lee Plan Goals 2, 4, 6, 34, Objectives 1.1, 2.1, 2.2, 4.1, 6.1, 34.1, 34.2, and Policies 1.1.3, 1.7.6, 2.1.1, 2.2.1, 4.1.1, 6.1.1, 6.1.3, 6.1.4, 6.1.7, 34.2.2; Lee Plan Maps 1-A, 2-A, Table 1(b);
2. Complies with the LDC and other County regulations. See, LDC Chapters 10 and 34;

⁴⁴ LDC §34-932(b).

⁴⁵ LDC §34-83(b)(4)a.3.

3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.3, 2.1.1, 2.1.2, 2.2.1, 6.1.1; LDC 34-411(c), (i), and (j);
 4. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goal 77, Objectives 4.1, and LDC 34-411(h);
 5. Provides access sufficient to support the proposed development intensity. Expected impacts on transportation facilities will be addressed by county regulations and conditions of approval. Lee Plan Objective 39.1, Policies 2.2.1, 6.1.5, 39.1.1; and
 6. Will be served by urban services. See, Lee Plan Glossary, Goal 2; Objectives 2.1, 2.2, 4.1; Policies 2.2.1, and Standard 4.1.1; LDC 34-411(d).
- B. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1; LDC 34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.1.3, 2.1.1, 6.1.1.
- D. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See LDC Chapters 10 and 34.
- E. As conditioned herein, the deviations:
1. Enhance the objectives of the planned development; and
 2. Promote the intent of the LDC to protect the public health, safety, and welfare. See, 34-377(b)(4).

Date of Recommendation: April 20, 2023.



Amanda L. Rivera
Deputy Hearing Examiner

Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Hearing Examiner's Recommendation

Exhibit A Legal Description and Vicinity Map
Exhibit B Recommended Conditions and Deviations
Exhibit C Exhibits Presented at Hearing
Exhibit D Hearing Participants
Exhibit E Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A

LEGAL DESCRIPTION

LOTS 887, 888 AND 889, BLOCK 28, RUSSEL PARK ANNEX, A SUBDIVISION,
LOCATED IN SECTION 04, TOWNSHIP 44 EAST, RANGE 25 SOUTH, ACCORDING TO
THE PLAT THEREOF IN FILE AND RECORDED IN PLAT BOOK 7, PAGE 8, OF THE
PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

STRAP NOS.

04-44-25-04.00028.8870

04-44-25-04-00028.8890

REVIEWED
DCI2022-00036
Rick Burris, Principal
Planner
Lee County DCD/Planning
7/5/2022

DCI2022-00036

Zoning

 Subject Property

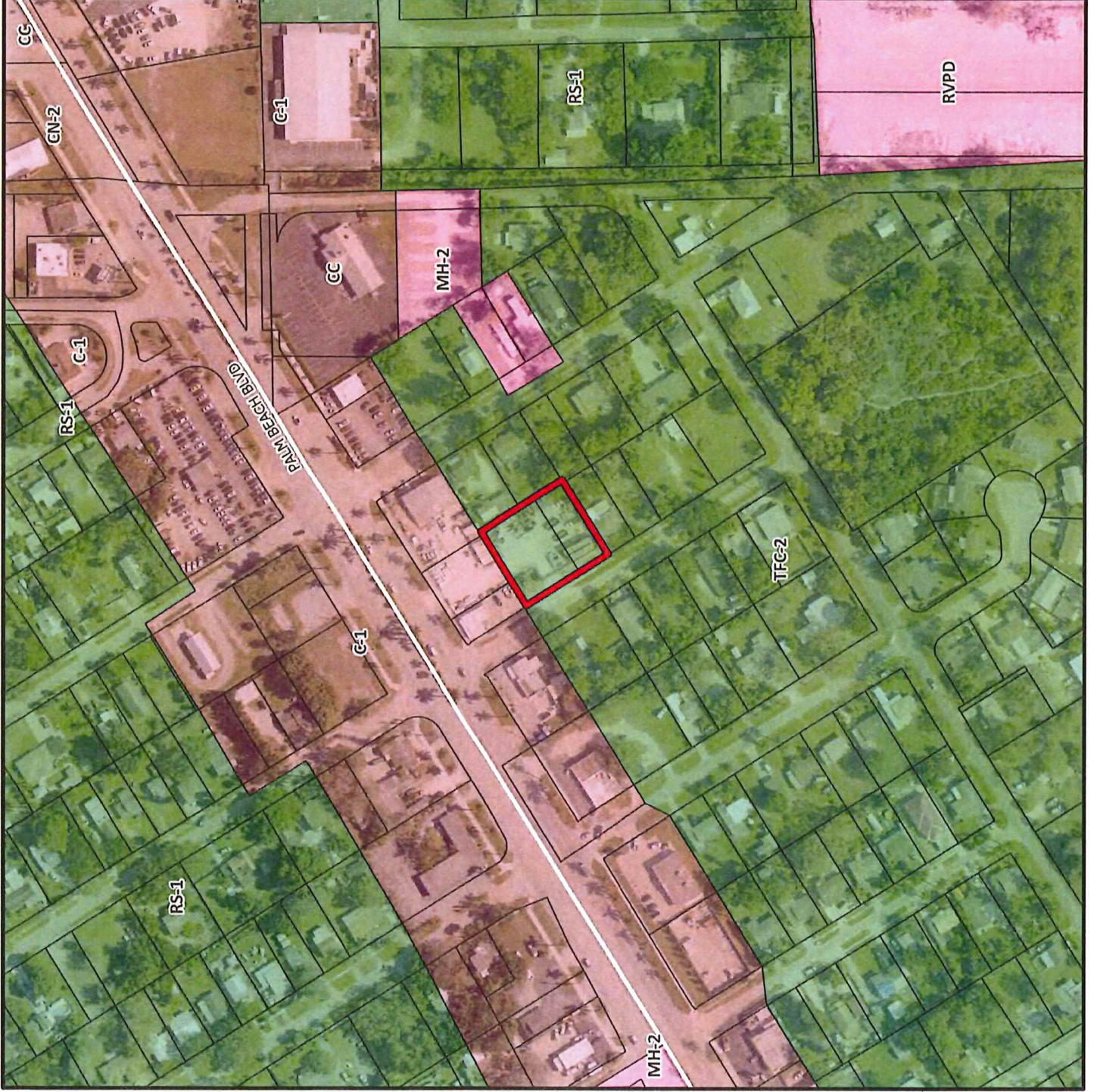
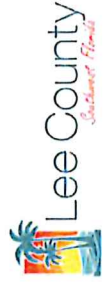
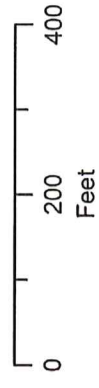
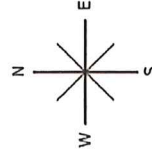


Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Master Concept Plan (MCP) and Development Parameters

- a. MCP. Development must be substantially consistent with the one-page MCP entitled "393 and 397 Balboa Avenue" prepared by TDM Consulting, Inc, last revised 11/2022 (Exhibit B1), except as modified by the conditions below.
- b. LDC and Lee Plan. Development must comply with the LDC and Lee Plan at time of development order approval except where granted by deviation herein. Subsequent amendments to this resolution or MCP may be subject to further development approvals.
- c. Development Parameters. The CPD is approved for a maximum of 16,250 square feet of open storage in conjunction with the Contractor and Builders, Groups I and II use.

2. Schedule of Uses and Property Development Regulations

a. Schedule of Uses

Accessory Uses and Structures
Administrative Offices
Contractor and Builder, Groups I and II
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention
Fences, Walls
Parking Lot, Accessory
Signs
Storage, Indoor, Open

b. Site Development Regulations

Lot Size

Minimum Lot Area:	20,000 square feet
Minimum Lot Width:	100 feet
Minimum Lot Depth:	100 feet

Setbacks

Development Perimeter	15 feet
Street	25 feet – public roadway
Side	15 feet
Rear	15 feet

<u>Maximum Lot Coverage</u>	60 percent
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<u>Maximum Height</u>	35 feet
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3. County Permit Issuance

Issuance of a county development permit does not establish a right to obtain a permit from state or federal agencies. Further, it does not establish liability on the part of the county if the developer: (a) does not obtain requisite approvals or fulfill the obligations imposed by state or federal agencies; or (b) undertakes actions that result in a violation of state or federal law.

DEVIATIONS

1. Deviation (1) Withdrawn.
2. Type C Buffer. Deviation (2) seeks relief from the LDC §10-416(d)(4) requirement for a Type C buffer to be 15-foot-wide with 5 trees and 18 shrubs per 100 linear feet with a solid wall, berm, or wall/berm combination, not less than 8 feet in height as measured from the finished grade, to allow the Type C buffer to be 10-foot-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/berm combination to be 6 feet in height.

HEX Recommendation: Approval, subject to the following condition:

Landscape plans must depict a ten-foot-wide buffer with six-foot-high solid opaque fence setback ten feet from the east and south property lines abutting residential uses. The buffer must include five trees and 18 shrubs per 100 linear feet. Trees must be 12-feet-in-height with a three-inch

caliper, and six-foot-wide canopy spread. Shrubs must be 24-inches-in-height. Buffer vegetation must be 100 percent native species.

3. Type D Buffer. 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, to allow the buffer adjacent to Balboa Avenue to be 10-feet-wide with 5 trees per 100 linear feet, a double-staggered hedge row, for vegetation to be native species, for trees to be a minimum of 12 feet in height at time of planting, and for plant materials to meet the standards for Florida No. 1 or better.

HEX Recommendation: Approval, subject to the following condition:

Landscape plans must depict a ten-foot-wide right-of-way buffer with a six-foot-high solid, opaque setback ten feet and abutting Balboa Avenue. The buffer must include five trees per 100 linear feet and a double staggered hedge. Trees must be 12-feet-in-height with a three-inch caliper, and six-foot-wide canopy spread. Shrubs must be 24-inches-in-height. Buffer vegetation must be 100 percent native species.

4. Open Space. Deviation (4) seeks relief from the LDC §10-415 requirement for small commercial developments to provide a minimum of 20% open space, to allow a minimum of 19% open space.

HEX Recommendation: Approval

5. Storage Facilities. Deviation (5) seeks relief from the LDC §34-3005(b) requirement that commercial/industrial outdoor storage be shielded behind a continuous visual screening at least 8 feet in height when visible from a residential use/zoning district and 6 feet in height when visible from any street right-of-way or street easement, to allow the continuous visual screen to be 6 feet in height when visible from a residential use/zoning district.

HEX Recommendation: Approval, subject to the following condition:

Landscape plans must depict a ten-foot-wide buffer with a six-foot-high solid opaque fence setback ten feet from the east and south property lines abutting residential uses. The buffer must include five trees and 18 shrubs per 100 linear feet. Trees must be 12-feet-in-height with a three-inch caliper, and six-foot-wide canopy spread. Shrubs must be 24-inches-in-height. Buffer vegetation must be 100 percent native species.

6. Entrance Gate. Deviation (6) seeks relief from the LDC §34-1748(5) requirement that a paved turn-around having a turning radius sufficient to accommodate a U-turn for a single unit truck must be provided on the ingress side of the gate, to allow a T-turnaround for passenger cars as shown on the MCP.

HEX Recommendation: Approval, subject to the following condition:

Developer must provide signage indicating no parking in the area shown on the MCP for the T-turnaround.

Exhibits to Conditions:

B1 Master Concept Plan dated 11/2022

STREET ADDRESS

393 AND 397 BALBOA AVENUE
FORT MYERS, FL 33905

STRAP NUMBERS

04-44-25-04-00028.8870
04-44-25-04-00028.8890

PROJECT INFORMATION

CURRENT ZONING = TFC-2 (RESIDENTIAL TWO-FAMILY CONSERVATION)
PROPOSED ZONING = CPD (COMMERCIAL PLANNED DEVELOPMENT)
FUTURE LAND USE = CENTRAL URBAN
PROPOSED USE = OPEN STORAGE
LOT SIZE = 20,250 SF (0.46 AC)

OPEN SPACE REQUIREMENTS

PER LDC SECTION 10-415 (SMALL PROJECTS)

REQUIRED OPEN SPACE = 20%
= 0.20 X 20,250 SF
= 4,050 SF REQUIRED

PROVIDED OPEN SPACE = 1,500 SF (EAST BUFFER) + 1,250 SF (SOUTH BUFFER)
+ 1,158 SF (WEST BUFFER) = 3,908 SF / 19.3% 

(UNLESS OTHERWISE NOTED)

WAY
AVENUE

SET
ST
AVENUE
LITY EASEMENT
EASEMENT

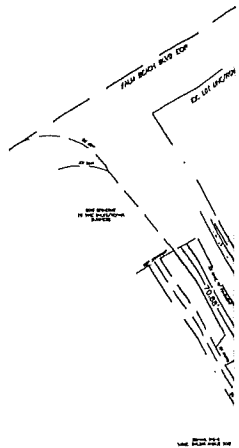
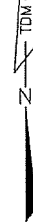
Y
OPMENT CODE

ULE

AD
PARKING SPACES IN LOT

PAVEMENT

1" = 20'



NOT VALID WITHOUT EMBOSSED SEAL, SIGNATURE AND DATE.

DATE	REVISIONS	DATE	REVISIONS
05/20/22		05/20/22	
DESIGNED BY:	REVISED PER LEE COUNTY COMMENTS	1	REVISED PER LEE COUNTY COMMENTS
DRAWN BY:	REVISED PER LEE COUNTY COMMENTS	2	REVISED PER LEE COUNTY COMMENTS
CHECKED BY:			
TDM			
APPROVED BY:			
TDM			

393 AND 397 BALBOA AVENUE
MASTER CONCEPT PLAN

Civil Engineering and Planning



dean@tmdconsulting.com
www.tmdconsulting.com



43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone: (239) 433-4231
Fax: (239) 433-9632
Cert. of Authorization # 29086

Dean Martin, P.E.
Florida #52022

DATE: 05/20/22

Signature of Dean Martin, P.E.

SHEET # 1 of 1

SCALE: AS NOTED

EXHIBIT B-1

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Dirk Danley, Jr., Principal Planner, date received 2023 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *PowerPoint Presentation:* Prepared by Lee County Staff, for Tropical Fence, DCI2022-00036, Planned Development Rezoning Request (multiple pages – 8.5"x11")[color]

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Veronica Martin, with TDM Consulting, to Maria Perez, Dirk Danley, Jr., with copies to Deborah Carpenter, Rebecca Sweigert, Tracy Toussaint, Jamie Princing, Elizabeth Workman, Tina Boone, Lauren Schaefer, Audra Ennis, Shawn McNulty, Nicholas DeFilippo, Ohdet Kleinmann, Abby Henderson, Lee Werst, Warren Baucom, Mikki Rozdolski, Jessica Sulzer, Amanda Swindle, Anthony Rodriguez, Joseph Adam, Esq., Michael Jacob, Esq., dated Tuesday, February 14, 2023 8:09 AM (3 pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for Tropical Fence CPD, DCI2022-00036, Hearing Examiner, February 16, 2023 (multiple pages – 8.5"x11")[color]

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Dirk Danley, Jr.

Applicant Representatives:

1. Dean Martin
2. Veronica Martin

Public Participants:

None

Exhibit E
INFORMATION

UNAUTHORIZED COMMUNICATIONS

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.
- B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS

- A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.
- B. A verbatim transcript may also be available for purchase from the court reporting service.