

THE OFFICE OF THE LEE COUNTY

HEARING EXAMINER

CASE NO.: DCI2021-00014

IN RE: WILLIAMS AVENUE CPD

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PROCEEDINGS: SECOND PUBLIC HEARING

BEFORE: Donna Marie Collins
Chief Hearing Examiner

DATE: June 28, 2022

TIME: 9:00 a.m. to 10:17 a.m.

LOCATION: Hearing Examiner's
Hearing Room
1500 Monroe Street
Second Floor
Fort Myers, FL 33901

REPORTER: Deborah M. Bruns
Florida Professional Reporter

ORIGINAL

1 APPEARANCES:

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9

10 ALSO PRESENT:

11 Jillian Scholler, DOT
12
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1
2 HEARING EXAMINER COLLINS: Good morning. My name
3 is Donna Marie Collins. I'm the Hearing Examiner who
4 will preside over this continued hearing. The date is
5 Tuesday, June 28th, 2022, and the purpose of today's
6 hearing is to conclude the presentations on the
7 Williams Avenue CPD.

8 At the close of hearing on June 2nd, we concluded
9 both Applicant and Staff's primary presentations, we
10 heard from and closed public input, and returned to
11 Staff and Applicant to respond to questions raised by
12 the public and the Hearing Examiner.

13 The Applicant requested to leave the record open
14 for a revised master concept plan and possible changes
15 to the list of requested uses.

16 I requested that we have members of Staff from Lee
17 County DOT present to respond to any questions
18 regarding traffic that came up as a consequence of the
19 proposed changes.

20 To members of the public that are present, I want
21 to reiterate that I did close public input, and I don't
22 anticipate taking additional public input at this
23 hearing. We're at the rebuttal phase of the hearing
24 where Staff and Applicant speak to matters raised and
25 questions raised during the last hearing. However,

1 having said that, depending on the changes that are
2 proposed by the Applicant, I may allow limited public
3 input at this hearing; but as of this point, I'm going
4 to say no because we didn't -- we already closed that.
5 But let's see what comes in through the presentations,
6 and my mind is going to be open on the subject.

7 Okay. I'm ready to begin -- oh, let me administer
8 the oath. To all those intending on speaking on the
9 record, please raise your right hand.

10 (Participants sworn en masse.)

11 HEARING EXAMINER COLLINS: Thank you.

12 I understand there's going to be additional
13 exhibits presented?

14 MS. MARTIN: Yes, ma'am. I would like to enter
15 into the record my rebuttal PowerPoint presentation.

16 HEARING EXAMINER COLLINS: Okay. That will be
17 Applicant Exhibit 5.

18 (Applicant's Exhibit 5 presented and marked.)

19 MS. MARTIN: The other exhibits were included with
20 the 48-hour notice letter.

21 HEARING EXAMINER COLLINS: All right, and that is
22 Applicant Exhibit 4.

23 (Applicant's Exhibit 4 presented and marked.)

24 HEARING EXAMINER COLLINS: Thank you.

25 MS. MARTIN: Good morning. Veronica Martin,

1 senior planner with TDM Consulting, representing Alexis
2 Ebra and Yanet Avila, the property owners and
3 Applicants for today's continuance.

4 We did take advantage of the time between the
5 hearings to meet with Lee County Staff to address the
6 Hearing Examiner and the public's concerns.

7 Lee County Parks & Rec did provide additional
8 information and plans for the new pedestrian trail
9 along Able Canal in the Lehigh Acres Park expansion.
10 We also -- excuse me, my PowerPoint --

11 HEARING EXAMINER COLLINS: Could you speak up a
12 little bit?

13 (Members of the public speaking in unison.)

14 HEARING EXAMINER COLLINS: Yeah, can you maybe
15 angle the microphone closer to your mouth?

16 MS. MARTIN: Sure. The clicker is not working.
17 Thank you.

18 MR. MENDEZ: Yeah.

19 MS. MARTIN: I'll just tell you when for the next
20 slide, thank you.

21 MR. MENDEZ: Okay.

22 MS. MARTIN: I'll start at the 48-hour letter. We
23 did take advantage of the time between hearings to meet
24 with Lee County Staff to address the Hearing Examiner
25 and the public's concerns. Lee County Parks & Rec did

1 provide additional information and plans for the new
2 pedestrian trail along Able Canal and the Lehigh Acres
3 Park expansion. We worked with Lee County DOT Staff on
4 traffic concerns and access issues and how the
5 crosswalk for the new pedestrian trail impacts traffic
6 and the site itself. We will be presenting an amended
7 schedule of uses to decrease intensity and amended
8 master concept plans to address traffic concerns on
9 Williams Avenue.

10 The revisions to Master Concept Plan A include a
11 right-in/right-out-only driveway on Williams Avenue
12 instead of a full-access driveway. We did remove the
13 single food truck location and the associated drive
14 aisle from the master concept plan. We removed the
15 extraneous text from the master concept plan as
16 requested.

17 From the schedule of uses, we removed the mobile
18 food vendor with outdoor seating. We did add repair
19 shops, Group III, limited to reupholstering/mattress
20 renovating.

21 Deviation Number 2 was withdrawn. It was to
22 address the drive aisle width for the food truck park,
23 and we did provide an exhibit showing how the
24 pedestrian trail impacts Master Concept Plan A.

25 Next slide, please.

1 MR. MENDEZ: (Complies.)

2 MS. MARTIN: Revisions to Master Concept Plan B
3 include a reduced intensity from a maximum of 30,000
4 square feet to 20,000 square feet.

5 We're proposing a right-in-only driveway on
6 Williams Avenue instead of a right-in/right-out
7 driveway.

8 We removed the proposed drive-through lane near
9 the convenience store.

10 We enhanced the right-of-way buffer between the
11 food truck park and Magnolia Avenue from a 15-foot-wide
12 Type D buffer with 5 trees per 100 linear feet and
13 double staggered hedgerow to a 25-foot-wide Type D
14 buffer with 7 trees per 100 linear feet and a double
15 hedgerow.

16 We also removed the extraneous text from MCP B.

17 We amended the schedule of uses to remove the
18 following uses: Caretaker's residence, car wash,
19 drive-through facility for any permitted use, medical
20 office, pharmacy, post office, fast food restaurants,
21 truck stop, and used merchandise store, Group I.

22 Next slide, please.

23 MR. MENDEZ: (Complies.)

24 MS. MARTIN: We amended Deviation Number 1 to
25 permit a connection separation of 182 feet on Williams

1 Avenue. The distance increased slightly with the
2 change from a right-in/right-out driveway to a
3 right-in-only driveway. The connection separation in
4 Deviation Number 1 was previously 170 feet.

5 Deviation Number 2, which addressed limited
6 building perimeter plantings to accommodate the
7 drive-through lane, has been withdrawn since the
8 drive-through lane is no longer proposed.

9 And Deviation Number 4 was withdrawn at the
10 previous hearing.

11 We also provided an exhibit showing how the new
12 pedestrian trail relates to Master Concept Plan B.

13 Next slide, please.

14 MR. MENDEZ: (Complies.)

15 MS. MARTIN: The additional exhibits we provided
16 with the 48-hour letter, that were provided to us
17 through Adam Mendez and Parks & Rec, included the Able
18 Canal pathway plan, the intersection details and
19 signage for the pathway crossing Williams Avenue, the
20 Lehigh Acres Park master site plan, and the LeeTran
21 civil plan.

22 Next slide.

23 MR. MENDEZ: (Complies.)

24 MS. MARTIN: So the next slide shows the revised
25 master concept plan. I do want to point out -- and I

1 apologize that the -- oh, at least the clicker works,
2 or the pointer.

3 So this area here is not the food truck park
4 location. That's an existing paver patio. So I wanted
5 to make that clear. We did remove the food truck park
6 which was located below that; and as you can see, we
7 have a right-in/right-out-only driveway on Williams
8 Avenue.

9 And these are the deviations that were requested
10 previously. And, again, Deviation Number 2 has been
11 withdrawn.

12 HEARING EXAMINER COLLINS: So this is the master
13 concept plan where the primary use is the nursery?

14 MS. MARTIN: Yes, ma'am.

15 Next slide, please.

16 MR. MENDEZ: (Complies.)

17 MS. MARTIN: Master Concept Plan B has also been
18 revised. You can see that the drive-through lane is no
19 longer proposed. It's located there. The access on
20 Williams Avenue is a right in only. There is a full
21 access with three lanes back onto W. 5th Street here.
22 And we enhanced the buffer where the food truck park
23 would be located. From the edge of the retail building
24 all the way to Able Canal, there will be a 25-foot-wide
25 buffer.

1 And, again, the deviations we requested, six,
2 three of those have been withdrawn as earlier -- as I
3 said earlier.

4 Next slide, please.

5 MR. MENDEZ: (Complies.)

6 MS. MARTIN: So we incorporated the new pedestrian
7 path along Able Canal into both master concept plans to
8 illustrate how the path and the crosswalk relate to the
9 proposed developments. And as you can see, the path
10 does curve around an existing waterbody on the west
11 side of Williams Avenue. It just extends up from the
12 canal slightly. It then heads back south and crosses
13 Williams Avenue just north of the bridge. So in Master
14 Concept Plan A it's there; in Master Concept Plan B
15 it's there.

16 A signalized crosswalk will be provided at this
17 location allowing pedestrians to safely cross.

18 This leads us back to the traffic concerns along
19 Williams Avenue. The posted speed limit at this
20 location is 35 miles per hour. Lee County DOT Staff
21 has confirmed that the driveway location for MCP A does
22 meet the minimum site distance required with the bridge
23 and the curve. So they are in support of a
24 right-in/right-out driveway on Williams Avenue for
25 MCP A.

1 DOT Staff is also supporting a right-in-only
2 driveway for MCP B. During Dean's presentation at the
3 previous hearing, he testified that a right-in turn
4 lane crossing the bridge into the site for Master
5 Concept Plan B will be required, and this will be
6 proposed and reviewed at time of DO permitting.

7 And, lastly, Miss Jillian did tell us that DOT has
8 future plans to add a roundabout at Williams Avenue and
9 W. 6th Street for the park expansion; and although it's
10 not in the current five-year CIP, the roundabout will
11 act as a traffic-calming device along this section of
12 Williams Avenue.

13 HEARING EXAMINER COLLINS: All right, but 6th
14 Avenue is a good ways north of this.

15 MS. MARTIN: It's one block north, yes, ma'am.

16 HEARING EXAMINER COLLINS: Okay.

17 MS. MARTIN: I don't have an aerial that would
18 include that in my PowerPoint.

19 I wanted to wrap up my rebuttal presentation with
20 Lee Plan Policy 25.6.2 which states that, "Because of
21 the shortage of suitable undivided tracts, commercial
22 uses may also be appropriate on certain other lands
23 that might otherwise be used for residential lots."

24 It further states that other tracts or
25 combinations of platted lots in Lehigh Acres may also

1 be considered for commercial rezoning (even if they are
2 outside any of the three overlays) through the planned
3 development zoning processes or by requesting the CN-3
4 conventional zoning district that was created to
5 address Lehigh Acres conditions. Lands suitable for
6 such rezonings include:

7 Tracts that are assembled from vacant lots at the
8 intersection of future collector or arterial roads in
9 sparsely developed areas where there are very limited
10 or no suitable commercial locations in any other
11 commercial overlays; or

12 Tracts that are separate existing commercial and
13 residential land uses where some commercial uses may be
14 appropriate if they provide a substantial buffer and
15 reasonably protect the privacy of existing dwellings.
16 Landowners seeking commercial zoning under this
17 subsection should expect a minimum level of commercial
18 uses and to provide extra levels of buffering, which we
19 have done.

20 HEARING EXAMINER COLLINS: Okay. Well, that's
21 where I'm hung up because I don't consider Master
22 Concept Plan B to be a minimum -- minimal level of
23 commercial use. I think a convenience store is one of
24 the most intense commercial uses that are authorized
25 under the Land Development Code both in terms of trip

1 generation and just activity in general exterior to the
2 property.

3 MS. MARTIN: Okay. To address that specific
4 comment, we did reduce the general intensity of the
5 site from the 30,000 square feet to 20,000 square feet.
6 The convenience store and fuel pumps are located on
7 Williams Avenue, which is a major collector road that's
8 County maintained. We're providing the additional
9 buffers required for convenience stores adjacent to the
10 rights-of-way and the residential lots that are
11 internal to the site and also to the north of W. 5th
12 Street and east along Magnolia Avenue.

13 HEARING EXAMINER COLLINS: I don't dispute that
14 you've provided the extra levels of buffering.

15 MS. MARTIN: Okay.

16 HEARING EXAMINER COLLINS: My disagreement is in
17 what is a minimal level of commercial use. And my
18 understanding is that the Applicant is asking me to
19 interpret the Lee Plan in a way that would have a
20 convenience food and beverage store with numerous gas
21 pumps to be considered a minimal level of commercial
22 use, in addition to a commercial strip center behind
23 it, and I can't come to that conclusion. I cannot
24 interpret the plan in that way. I'm having a lot of
25 difficulty with that.

1 I'll hear what you have to say, but I feel as
2 though Master Concept Plan B fails on that second prong
3 of the policy.

4 MS. MARTIN: The only thing -- I would just like
5 to say that the two items A and B are an either/or.
6 They don't have to comply with both. They don't have
7 to comply with A and B. It's A or B, if that changes
8 anything about your feelings regarding this request.

9 I do know that we worked with Staff to present a
10 cohesive development that is appropriate at this
11 location in an urban future land use area --

12 UNIDENTIFIED SPEAKER: We can't hear you.

13 MS. MARTIN: -- in a future land use area on a
14 major collector road in an area that is expanding in
15 its public services, and we believe a gas station will
16 be appropriate at this location.

17 UNIDENTIFIED SPEAKER: Could you speak up loud?
18 We can't hear you back here.

19 MS. MARTIN: Yes.

20 UNIDENTIFIED SPEAKER: You're speaking to us as
21 well as she.

22 UNIDENTIFIED SPEAKER: Pull the microphone closer
23 to you.

24 HEARING EXAMINER COLLINS: Can you tilt the
25 microphone closer to your mouth?

1 MS. MARTIN: It's as far as it goes.

2 HEARING EXAMINER COLLINS: Okay. Well, then can
3 you take the whole unit and bring it forward?

4 MS. MARTIN: No.

5 HEARING EXAMINER COLLINS: Okay. Then I'm really
6 going to need you to speak up --

7 MS. MARTIN: Yes, ma'am.

8 HEARING EXAMINER COLLINS: -- because I am also
9 having difficulty hearing you.

10 MS. MARTIN: Okay.

11 (Ms. Perez enters hearing room and adjusts the
12 microphone, had discussion at the lectern.)

13 MS. MARTIN: The CN-3 conventional zoning district
14 permits many of the same uses proposed with this
15 planned development project with the exception of a
16 convenience store with self-service fuel pumps. There
17 is an existing gas station on Lee Boulevard, but the
18 majority are located south on Homestead Road. And,
19 again, as I said, a convenience store with gas station
20 in an urban area along a major collector road in an
21 area that is expanding is appropriate at this location.
22 The site is in proximity to other commercial uses south
23 of Able Canal, along Lee Boulevard, and north at the
24 intersection of Williams and W. 6th Street.

25 This rezoning application, as revised and

1 conditioned, we do believe meets the criteria for a
2 planned development as set forth in Land Development
3 Code 34-145(d) (4) .

4 So that concludes my presentation, but Dean and I
5 are both available for questions.

6 HEARING EXAMINER COLLINS: Okay. So the remainder
7 of the PowerPoint presentation highlights the
8 changes --

9 MS. MARTIN: Yes, ma'am.

10 HEARING EXAMINER COLLINS: -- in
11 strike-through/underline? Thank you for that.

12 Okay. I don't have any further questions.

13 Is Staff prepared to make a presentation, as well?

14 MR. MENDEZ: Yes.

15 HEARING EXAMINER COLLINS: Okay, thank you.

16 Were we able to get the clicker working for you?

17 MS. MARTIN: I was not able to get -- get it
18 working.

19 MR. MENDEZ: I'm going to give it a shot and see
20 if I can --

21 HEARING EXAMINER COLLINS: It is temperamental.

22 MS. MARTIN: I was having technological issues
23 with both -- both things this morning.

24 HEARING EXAMINER COLLINS: Well, batteries last a
25 shockingly short period of time on those things.

1 (Discussion at the lectern)

2 MR. MENDEZ: Good morning, Madam Hearing Examiner.
3 For the record, Adam Mendez, a planner at Lee County
4 Zoning.

5 I have a few exhibits I'd like to enter into the
6 record. The first is a copy of Staff's presentation.
7 I brought two copies so you could write on one and --

8 HEARING EXAMINER COLLINS: Thank you.

9 MR. MENDEZ: -- have the other copy for the
10 record. They are numbered.

11 The other exhibit are the revised conditions.
12 Basically, they are in line with Staff's 48-hour
13 letter.

14 Staff is in general agreement with the proposed
15 redactions of the deviations that are no longer
16 necessary. Revision of conditions in order to support
17 the right in associated with Master Concept Plan A
18 would be the second exhibit.

19 And the last exhibit is a memorandum from the
20 Department of Transportation, Lee County, from
21 Ms. Scholler, who is here and is ready to testify
22 regarding background information on the project's
23 association to Williams Avenue and that background
24 traffic.

25 Those are the three exhibits I will be submitting

1 into the record.

2 HEARING EXAMINER COLLINS: Okay. Just give me a
3 minute to mark them --

4 MR. MENDEZ: Yes.

5 HEARING EXAMINER COLLINS: -- and I will be ready
6 to hear from you.

7 Okay. So first a copy of Staff's rebuttal
8 presentation?

9 MR. MENDEZ: Here's one copy.

10 HEARING EXAMINER COLLINS: Oh, it's a PowerPoint?

11 MR. MENDEZ: And then here's another copy
12 identical.

13 HEARING EXAMINER COLLINS: This is mine. I'll
14 mark that. Thank you for that.

15 (Staff Exhibit 5 submitted and marked.)

16 MR. MENDEZ: You're welcome.

17 This is the revised conditions. You'll notice
18 that there's some -- I'll speak on this.

19 HEARING EXAMINER COLLINS: Thank you.

20 MR. MENDEZ: You're welcome.

21 (Staff Exhibit 6 submitted and marked.)

22 MR. MENDEZ: And the memo from DOT.

23 HEARING EXAMINER COLLINS: Okay, thank you for
24 that.

25 (Staff Exhibit 7 submitted and marked.)

1 HEARING EXAMINER COLLINS: The exhibits were
2 marked 5, 6 and 7.

3 MR. MENDEZ: Okay, thank you.

4 HEARING EXAMINER COLLINS: You're welcome. You
5 may begin.

6 MR. MENDEZ: At close of hearing in the last
7 hearing regarding this case, we had some instruction to
8 seek reducing intensity to address potential safety and
9 compatibility concerns; testimony from DOT to speak on
10 traffic conditions on the roadway and planned
11 improvements for the Able Canal and Williams Avenue
12 crossing; and knowledge of Lehigh Acres Park and
13 LeeTran Park & Ride facility improvements; certain
14 revisions to master concept plans, including delivery
15 truck circulation on-site within the parameters of
16 proposed MCP A.

17 Some high points on the revisions for MCP A, we're
18 striking the use of a food truck and providing a
19 delivery area to show how the truck will circulate
20 on-site, essentially from the access point onto the
21 property from Williams.

22 MCP B reduces intensity by 33 percent, from 30,000
23 square feet to 20,000 square feet, and strikes several
24 notable uses, including car washes, fast food
25 restaurants, drive-through facilities, medical offices,

1 and some other listed uses in the Applicant's 48-hour
2 letter.

3 Revised Master Concept Plan A does depict the
4 right in and right out. Staff is in general agreement
5 with that proposed with the reduction of the food truck
6 that was removed from the site and the outdoor seating
7 associated to it. With that reduction, opened up some
8 parking spaces here. So there's a loading area there
9 for a truck to deliver the -- I believe it would be the
10 mattresses that they'd be delivering and other -- other
11 products for the landscape nursery, which is the
12 principal use of the site.

13 Master Concept -- Master Concept Plan B is, again,
14 a general agreement. They have removed the right out,
15 and it is a right in only with the full access on W.
16 5th Street.

17 The other notable change here is the buffer along
18 the eastern part of the site adjacent to Magnolia has
19 now been enhanced through an enhanced Type D buffer, 25
20 feet wide, with additional trees in response to the
21 food truck park and associated parking.

22 HEARING EXAMINER COLLINS: Okay. Explain to me
23 what's going on in the northeast corner -- northwest
24 corner.

25 MR. MENDEZ: Okay. Northwest corner?

1 HEARING EXAMINER COLLINS: Yes.

2 MR. MENDEZ: Okay. So this is your dry detention
3 area. There are buffers around a parcel that was not
4 included in this parcel.

5 HEARING EXAMINER COLLINS: I see, okay. And
6 that's common to both master concept plans?

7 MR. MENDEZ: Yes.

8 HEARING EXAMINER COLLINS: Okay.

9 MR. MENDEZ: Depicted here is the most recent
10 concept for Lehigh Acres Park expansion. From east to
11 west we have the existing Lehigh Acres Park outlined in
12 red, the existing fields and pickleball courts. In
13 this blue area here depicted is going to be the LeeTran
14 Park & Ride, which I'll show some additional details on
15 in some subsequent slides. We have some covered
16 bleachers and some activity fields -- concession
17 stands, parking lot, some covered bleachers, and some
18 additional activity fields. And the majority of the
19 site is going to be for the proposed disc golf course.
20 I'll show just a picture for those who don't know what
21 the disc golf is. It's essentially Frisbee golf.

22 This is the proposed civil plans currently
23 in-house with development order -- for development
24 order review. You see it depicted here in the inset
25 map.

1 This site is showing two things: It's showing
2 interconnectivity between the existing site, the
3 existing park to the south and the proposed park
4 expansion to the north and to the west. It has a
5 connection to both of these existing parks, and it has
6 two driveway aprons onto -- I believe the road is
7 called Village Lakes Boulevard, which transitions from
8 W. 6th Street at the four-way stop.

9 HEARING EXAMINER COLLINS: Okay. Can you go back?
10 Thanks.

11 MR. MENDEZ: Yeah.

12 HEARING EXAMINER COLLINS: No, no, to the --

13 MR. MENDEZ: (Complies.)

14 HEARING EXAMINER COLLINS: Thank you.

15 MR. MENDEZ: So there will not be any guard gates.
16 You will be able to access the park from both roads at
17 that point. From my discussion with LeeTran, there
18 will not be paid parking at either the Parks & Rec site
19 here -- let me go back if you don't mind -- or any of
20 the parking associated to this area here, so it's not
21 like these -- these access points will be restricted.
22 They will be full access. They will be integrated with
23 the park.

24 Here I have it superimposed to kind of show the
25 depiction between the existing and proposed park.

1 HEARING EXAMINER COLLINS: It's unfortunate
2 they're maintaining the parking next to the baseball
3 fields. It would be almost better if they had
4 everybody park to the north, and then they wouldn't
5 need that driveway access into the site there. That
6 would go a long way to alleviating the congestion at
7 that intersection, although it wouldn't do anything to
8 stem the pedestrian traffic entering the site there.

9 MR. MENDEZ: Yeah.

10 As you can see, there are several pedestrian
11 walkways connecting both parks from the -- this would
12 be the larger park area. There's 102 spaces here,
13 there's 250 spaces proposed here, and additional
14 parking for the Park & Ride.

15 HEARING EXAMINER COLLINS: Okay. So lower
16 southeast is primarily baseball, to the north will be
17 the LeeTran facility, northeast is going to be soccer
18 fields or playing fields of some kind, and then this
19 Frisbee golf course.

20 MR. MENDEZ: Yeah, some concessions and locker
21 rooms here, some park -- looks like some park
22 schematics here, a large park, and, yeah, soccer or
23 football fields for --

24 HEARING EXAMINER COLLINS: You mean a playground
25 up there?

1 MR. MENDEZ: Yeah, right --

2 HEARING EXAMINER COLLINS: Yeah, okay.

3 MR. MENDEZ: -- here.

4 As far as the Able Canal pathway goes, this is an
5 overview of the entire path. As you see, the project
6 begins at Lehigh Acres Trailhead Park just west of Joel
7 Boulevard, and it goes all the way to Harn's Marsh just
8 west of Sunshine Boulevard North. It's quite a trail,
9 quite a project, and Lehigh Acres Park and the proposed
10 property identified here, just about in the center of
11 it in relationship.

12 The Applicant did superimpose the proposed pathway
13 plans on their master concept plan, which are helpful,
14 and kind of showing the relationship between the two
15 projects.

16 As part of your -- part of the 48-hour letter, the
17 Applicant provided an intersection detail that is
18 planned for the Williams Avenue crossing here. And
19 I'll go back real quick just to show you the spot
20 from a -- from a larger view, so before it curves up
21 over the canal.

22 And so as part of this detail, you'll see there
23 are two what are called RRFBs associated to this
24 crossing. So an RRFB is a rectangular rapid-flashing
25 beacon proposed on both sides of the street. I have a

1 depiction here showing exactly what that is.
2 Essentially the flashing pattern, once you go up and
3 hit the button, resembles that of emergency flashers on
4 a police vehicle, and it will continue to light up as
5 you walk inside the crosswalk. So that is the
6 mechanism that is in place for this crossing. So any
7 attractors that are provided here, there will be a safe
8 pedestrian crossing across this intersection for both
9 the park and for any sort of attractors that are
10 developed on this site from those that are located on
11 the park -- the adjacent property.

12 I do have Ms. Scholler here to speak on the
13 background information. I think it might be an
14 appropriate time to have her come up and speak while I
15 have this intersection detail up.

16 HEARING EXAMINER COLLINS: Good morning. Please
17 state your name for the record.

18 MS. SCHOLLER: Good morning. My name is Jillian
19 Scholler. I'm the County traffic engineer. I was
20 previously approved, and I'd like to speak again.

21 HEARING EXAMINER COLLINS: Yes, you've been
22 accepted as an expert in transportation engineering in
23 a previous hearing, so you may proceed.

24 MS. SCHOLLER: Thank you.

25 HEARING EXAMINER COLLINS: Please speak up.

1 MS. SCHOLLER: Okay.

2 Okay. So as part of the review requested for this
3 project, I had staff -- my staff collect 24-hour
4 traffic counts at the intersection. The counts were
5 collected on June 8th for a 24-hour period from 12 p.m.
6 to 12 p.m. on June 9th and then compiled. Based on
7 those counts, the volumes coming off of 5th Street are
8 heavy but not heavy to the point that it would be
9 something that would be on my radar for improvements at
10 this time.

11 I did conduct field review during the p.m. peak
12 hour depicted from my traffic counts, and did observe
13 that traffic coming off of 5th Street is primarily
14 making left turns, and that during times when the
15 traffic on Williams Avenue -- there were pretty defined
16 platoons from the signal at Lee Street. During those
17 times when that traffic on Williams Avenue was flowing,
18 there was delay experienced by the traffic on 5th
19 Street.

20 I did count the delay for a set of vehicles, and
21 vehicles that were in the end of the queue on 5th
22 Street experienced up to two minutes in delay trying to
23 complete their left turn movement, which is a notable
24 delay at an unsignalized intersection; but if at a
25 signalized intersection, a lot of the intersections in

1 the county have 120-second cycle lengths so they could
2 experience that same two-minute delay. So it's not
3 anything of great concern, again, based on existing
4 traffic.

5 In addition to the traffic review that I
6 conducted, I pulled crash data from Signal Four
7 Analytics, which is a third-party software that the
8 County uses to review crash data throughout the county.
9 It is -- the data is managed by that third party and is
10 not managed by the County, so I have to give the caveat
11 that is not -- I have not reviewed it for accuracy, but
12 it is our best tool that we have. It's used statewide,
13 including by FDOT, the system.

14 Based on that, for the last three years, 2019 to
15 2021, there was a total of 13 crashes, most of which
16 included no injuries so they would be considered minor
17 crashes. Two of those 13 crashes would be considered
18 injury crashes. One of them was a non-incapacitating
19 injury, and one of them was stated as possible injury.
20 So no severe or fatal crashes occurred in the last
21 three years at this intersection. Of those 13 crashes,
22 10 of them were angle crashes, and most of those angle
23 crashes involved northbound through vehicles and
24 westbound left turn vehicles.

25 Looking at this from an average perspective,

1 that's about three angle crashes per year, which, in
2 the grand scheme of intersections that we manage in Lee
3 County, is not at a point where we would be concerned,
4 especially considering they are primarily what we
5 consider property-damage-only crashes. There were no
6 severe injuries, there were no fatalities, so they are
7 crashes considered to be minor.

8 The -- most of them occurred during the day, and
9 all of them occurred on a dry roadway, just as stats.
10 So there's not a wet road issue, and it doesn't appear
11 to be a nighttime issue that would be exaggerating
12 this.

13 So based on my assessment under the current
14 conditions, this intersection would not be of concern
15 for me, again, in the grand scheme of things. We have
16 almost 1,300 centerline miles of local streets in
17 Lehigh Acres, and we have to prioritize improvements
18 where they are most needed. So this intersection would
19 not fall high on the ranking of immediate need for my
20 perspective. That could change with an increase in
21 traffic and an increase of, you know, just traffic in
22 the area.

23 HEARING EXAMINER COLLINS: Well, you have three
24 things that are potentially going to change that
25 dramatically in a very --

1 MS. SCHOLLER: Yes.

2 HEARING EXAMINER COLLINS: -- short period of
3 time: a park expansion, a LeeTran facility, and
4 potentially a convenience store with a gas station and
5 a commercial center behind it.

6 MS. SCHOLLER: Yes. So the -- looking for the
7 plans for the park, I do -- I do not feel that the
8 entrance at 5th would be very negatively impacted
9 because all of the new uses, they are given ample
10 access on 6th street, or whatever it's called on the
11 east, Village Lakes. It's 6th east of there. So I do
12 not -- I do not feel very strongly that it would
13 increase the entrance -- entrances at that 5th Street
14 entrance. It will increase traffic on Williams Avenue
15 for sure though, people going up to those entrances
16 but -- because if you're -- you know, if you're going
17 to the disc golf, you're not going to park way down
18 here. You're going to go up and park near the amenity
19 that you're going to.

20 HEARING EXAMINER COLLINS: But there will be
21 heavier traffic on Williams --

22 MS. SCHOLLER: It will be --

23 HEARING EXAMINER COLLINS: -- in both directions.

24 MS. SCHOLLER: -- heavy -- yes, it will be heavier
25 traffic on Williams.

1 HEARING EXAMINER COLLINS: And then the addition
2 of the proposed traffic from this request?

3 MS. SCHOLLER: Would also increase the traffic on
4 Williams.

5 UNIDENTIFIED SPEAKER: On 5th.

6 MS. SCHOLLER: I'm sorry, yes, on 5th. So there
7 could be --

8 (Members of the public speaking in unison.)

9 HEARING EXAMINER COLLINS: Public -- I have to ask
10 the public to please be silent.

11 MS. SCHOLLER: Considering the potential increases
12 in traffic, I looked at and discussed with Staff
13 improvements that would be considered by DOT in the
14 future at this intersection and looking at the roadway
15 network and the planned improvements, namely the
16 roundabout at 6th Street. We would be more likely to
17 restrict this access to right in/right out only,
18 effectively eliminating the left turn and through
19 movements, than we would be to signalize or put a
20 four-way stop at this location.

21 HEARING EXAMINER COLLINS: You're speaking of the
22 park entrance now?

23 MS. SCHOLLER: The park entrance, yes, at 5th.

24 The -- there's ample connection, and especially
25 with the park -- the park expansion, there's access

1 from another point, so we would be more likely to
2 restrict access at this location than provide any other
3 improvement.

4 HEARING EXAMINER COLLINS: And what are your
5 thoughts on the addition of this pedestrian and bicycle
6 crossing in proximity to the entrance to the site, in
7 proximity to the intersection of 5th, in addition to
8 all the planned improvements in the area?

9 MS. SCHOLLER: The crossing, while I can't
10 disagree that it's -- it is necessary, and RREBs are
11 the best option at least in the initial, you know,
12 installation of it, and those would be reassessed after
13 it's installed; and if they need to be changed, you
14 know, we can obviously do that.

15 The placement of the crossing is such that it
16 is -- you can see it's kind of before that curve
17 starts, so at least there would not be sight distance
18 issues there for the safety of that crossing. And the
19 pedestrians or the bicyclists on the trail are
20 instructed to stop and yield for the vehicles.

21 So the existing propose -- you know, the proposed
22 concept is the best that it can be at this point, but
23 it is not going to make anything better at the
24 location. It is -- but it is what it is. We can't
25 have an unmarked -- you know, an uncontrolled crosswalk

1 at that location, and that's the way that they're -- I
2 was not involved in this project so I don't know their
3 decision-making, but I imagine they did explore other
4 options for this crossing, but I can't speak directly
5 to that.

6 HEARING EXAMINER COLLINS: What other
7 traffic-calming measures would be helpful? I mean, I
8 have to tell you, I've been to the site twice -- once
9 when there was nothing going on at the park, and once
10 when there was activity going on at the park -- and
11 driving across that bridge brought everything into
12 sharp focus of already what's going on there and then
13 the prospect of what is proposed here today.

14 MS. SCHOLLER: Yes.

15 HEARING EXAMINER COLLINS: Adding on a pedestrian
16 crossing and more traffic and people seeking to make a
17 turning movement, which right now is minimal,
18 negligible, right, and the speed at which the cars were
19 actually driving -- never mind the posted speed
20 limit -- it brought the situation there into sharp
21 focus for me.

22 MS. SCHOLLER: Yes.

23 HEARING EXAMINER COLLINS: And I am very
24 concerned, and I have to rely on your testimony and
25 evidence because I don't have any other transportation

1 experts here --

2 MS. SCHOLLER: Yes.

3 HEARING EXAMINER COLLINS: -- saying the contrary,
4 but there's common sense and then it's what I hear you
5 telling me, and I'm concerned. I mean, I'm thinking
6 traffic bumps or something.

7 MS. SCHOLLER: Well, traffic bumps are restricted
8 on collectors. They're only allowed on local streets
9 per Administrative Code. That is not a viable
10 traffic-calming for this. Because it is a major
11 collector, the traffic-calming tools that we have are
12 fairly limited.

13 The -- Williams Avenue will at a point get to
14 where it needs to be widened from the existing two
15 lanes to four lanes. This is not on DOT's current
16 schedule for widening, but that would be the next step
17 to improve this because it is a major collector, and
18 it's -- it's a -- it's a through road. It's intended
19 to move traffic through Lehigh. We need to provide --
20 you know, you have to provide the good collectors so
21 that traffic isn't using those local streets. We want
22 them to use the collectors for their -- you know, their
23 through -- they're traversing the area, not the local
24 streets where, you know, residents are and kids are
25 playing and things like that.

1 So the next step for Williams would be to widen
2 it; and at that point, you know, we would determine if
3 it needs to be divided with a median or, you know, what
4 the typical section of the roadway would be. But we
5 don't -- that, again, is not on any plans in DOT
6 currently. It is a tricky -- this is the blight of my
7 job.

8 HEARING EXAMINER COLLINS: Anything further?

9 MS. SCHOLLER: No, I don't think so.

10 HEARING EXAMINER COLLINS: Thank you very much --

11 MS. SCHOLLER: You're welcome.

12 HEARING EXAMINER COLLINS: -- for your testimony
13 today.

14 MR. MENDEZ: Again, Adam Mendez, a planner with
15 Lee County Zoning, for the record.

16 So the exhibit I handed you that depicts the
17 revised conditions as part of the Applicant's 48-hour
18 response, it removed the uses in Master Concept Plan A
19 and included the mattress reupholstering and
20 renovating, it removed uses in Master Concept Plan B
21 that were listed in the Applicant's 48-hour letter, and
22 it revised some of the conditions and deviations.
23 Notably, on page 5 of 8, the food truck condition is
24 now limited to Master Concept Plan B as Master Concept
25 Plan A no longer has a food truck proposed. Again,

1 page 5 of 8.

2 HEARING EXAMINER COLLINS: Okay.

3 MR. MENDEZ: And there is a 25-foot-wide enhanced
4 Type D buffer that is now required or recommended as a
5 requirement of the food truck park that has been
6 proposed and offered by the Applicant. So that's been
7 codified in Staff's condition for the food trucks.

8 HEARING EXAMINER COLLINS: And this is in addition
9 to the convenience store and the gas pumps?

10 MR. MENDEZ: Yes. I don't know what the Applicant
11 would barter in -- I believe that convenience food and
12 beverage store is their intended goal. I don't know if
13 it came down to it, the plaza or the food truck park,
14 those would be nixed in a favorable determination that
15 a minor level of commercial would be just limited to
16 the food -- the convenience food and beverage store. I
17 can't make that determination for them, but I certainly
18 understand that that was their primary goal for Master
19 Concept Plan B, was the convenience food and beverage
20 store.

21 Deviation 1 in Master Concept Plan A has been
22 revised to allow that right out. You just heard
23 testimony from Ms. Scholler. Staff is in support of
24 the right out now for Master Concept Plan A, which
25 would remove the requirement of having to connect to

1 5th Street on Master Concept Plan A, which currently
2 there's no connection to W. 5th Street.

3 HEARING EXAMINER COLLINS: But there would be for
4 Master Concept Plan B --

5 MR. MENDEZ: There would be for Master Concept
6 Plan B --

7 HEARING EXAMINER COLLINS: -- which is a much more
8 intense traffic generator.

9 MR. MENDEZ: Yes, yes.

10 HEARING EXAMINER COLLINS: I'm having difficulty
11 understanding the symmetry of that, you know, minor
12 traffic generator, you're asking for a right out rather
13 than accessing 5th, a local road, where we know traffic
14 is going to be minimal, yet on this huge, intense
15 Master Concept Plan B you're, of course, restricting it
16 to right in only, and you're going to pump all that
17 traffic onto 5th, which I don't dispute because a right
18 out is totally unworkable for that site plan.

19 MS. MARTIN: Would you like me to address that?

20 HEARING EXAMINER COLLINS: When he's finished.

21 MR. MENDEZ: That concludes my presentation. If
22 you have any additional questions regarding those three
23 exhibits or Staff's position on the matter, I'm happy
24 to answer those questions.

25 HEARING EXAMINER COLLINS: Okay. So the last page

1 of the --

2 MR. MENDEZ: Yeah, the last page of the slide is
3 just a --

4 HEARING EXAMINER COLLINS: Aerial view?

5 MR. MENDEZ: Yeah, aerial view.

6 HEARING EXAMINER COLLINS: I see.

7 MR. MENDEZ: These are existing conditions as of
8 April of -- I believe -- I'm sorry, January of 2022.

9 HEARING EXAMINER COLLINS: Thank you.
10 Veronica?

11 MR. MENDEZ: Do you want me to put your PowerPoint
12 up?

13 MS. MARTIN: No, I'll use yours.
14 Give me just a second, please.

15 HEARING EXAMINER COLLINS: Am I going back to your
16 PowerPoint?

17 MS. MARTIN: I'm actually going to use Staff's
18 PowerPoint --

19 HEARING EXAMINER COLLINS: Okay.

20 MS. MARTIN: -- because I just wanted to have
21 Master Concept Plan A and B available for viewing.

22 So Master Concept Plan A is legitimizing existing
23 conditions. It shows the proposed buffers, and it
24 shows the proposed detention areas and the indigenous
25 preserves that are proposed in the northeast corner and

1 then the southeast corner.

2 So to address existing conditions, there is a --
3 an existing two-story structure here. In order to
4 provide the Code-required buffer here, it limits any
5 kind of access going this direction up to W. 5th
6 Street.

7 HEARING EXAMINER COLLINS: Okay.

8 MS. MARTIN: Going this direction there's the
9 septic and drain field, which again limits access to W.
10 5th Street. That is why we intended to retain the
11 existing driveway, make it Code compliant, but reduce
12 it to a right in/right out only on Williams.

13 And then on Master Concept Plan B, we do know that
14 the majority of traffic will be traveling north on
15 Williams Avenue so we have the right in, and we will be
16 required to provide a separate right turn lane that
17 will start, I would imagine -- and we haven't drawn the
18 civil construction plans yet, but beyond the proposed
19 crosswalk. So we will have a separate right turn lane
20 into the site, a right turn only, no right out onto
21 Williams.

22 We also talked to DOT Staff about not providing
23 any kind of access at all to Magnolia, which is the
24 local street which actually dead ends at the canal, and
25 we're providing a -- three lanes onto Williams. We'll

1 have a right in, a right out, and then a left out. So
2 people can go -- and I apologize, the master concept
3 plan is not as large as I would like it. So --

4 HEARING EXAMINER COLLINS: Where is there going to
5 be a left out?

6 MS. MARTIN: So this will be a right in here that
7 comes down this way, a left out, and then a right out.
8 So --

9 HEARING EXAMINER COLLINS: So you meant 5th Street
10 not Williams.

11 MS. MARTIN: Oh, I do apologize, yes, I meant W.
12 5th Street. Sorry about that. Sorry for the
13 confusion.

14 UNIDENTIFIED SPEAKER: Yeah, right.

15 MS. MARTIN: When I met with Lehigh Acres
16 community, they did tell me that a lot of times
17 residents will go up Magnolia to W. 6th Street because
18 there's a stop sign there; and in the future, of
19 course, they're proposing the roundabout. That is why
20 we propose a separate right-out turn lane here on the
21 master concept plan. So there will be actually three
22 travel lanes at this driveway entrance on W. 5th
23 Street. I hope that answered your question.

24 HEARING EXAMINER COLLINS: Yes, thank you.

25 MS. MARTIN: Okay, thank you.

1 HEARING EXAMINER COLLINS: Anything further?

2 MS. MARTIN: No, ma'am.

3 HEARING EXAMINER COLLINS: Okay. Members of the
4 public, what is proposed today is less intense than
5 what was originally proposed at the first day of
6 hearing. I am not inclined to allow people to speak
7 more than once. If there's somebody here today that
8 did not attend the first hearing that would like to
9 speak, I will allow you to speak. You will get one
10 opportunity to speak, and then we will close the
11 secondary public input, and we will return to the
12 parties.

13 So I'm going to rely upon these sheets that have
14 been completed. If you testified at the first hearing,
15 I'm going to ask you to please state that, and I'm
16 going to ask that you please remain in your seat. If
17 you were not present or did not speak at that hearing
18 and wish to speak today, I will permit that. Okay.

19 UNIDENTIFIED SPEAKER: We have to fill out that
20 form? A lot of these ones were latecomers.

21 HEARING EXAMINER COLLINS: All right. Well, I'll
22 still -- I'll still invite people to speak that haven't
23 spoken before, but I will urge you to fill out one of
24 those public participation forms, and the reason for
25 that is if you provide your email address, you will

1 receive a copy of my recommendation when I issue it,
2 and you will also receive notice of the final Board
3 hearing via email if you complete one of those forms.

4 UNIDENTIFIED SPEAKER: (Raises hand.)

5 HEARING EXAMINER COLLINS: Yes?

6 UNIDENTIFIED SPEAKER: I didn't receive any
7 emails, just to let you know, from the last hearing.

8 HEARING EXAMINER COLLINS: Well, you wouldn't
9 because I continued it on the record.

10 UNIDENTIFIED SPEAKER: Okay.

11 HEARING EXAMINER COLLINS: Kelly Graham, did you
12 speak at the first hearing?

13 MS. GRAHAM: No, I did not.

14 HEARING EXAMINER COLLINS: Okay. I'm going to
15 administer the oath to members of the public en masse
16 right now.

17 (Members of the public sworn en masse.)

18 HEARING EXAMINER COLLINS: Thank you.

19 Kelly Graham? You don't want to speak?

20 MS. GRAHAM: No.

21 HEARING EXAMINER COLLINS: Okay. Understand you
22 will not be able to address the Board of County
23 Commissioners unless you speak on the record here
24 today.

25 John Graham?

1 MR. GRAHAM: Yes, ma'am.

2 HEARING EXAMINER COLLINS: Good morning. Thank
3 you for coming.

4 MR. GRAHAM: Thank you very much for having me,
5 and thank you for -- everybody.

6 I have a few concerns. Number one, I don't think
7 a fair representation of the traffic off of W. 5th onto
8 Williams is fair for a 24-hour period of time on any
9 given day. There are a lot of times that I do -- I
10 live down at the other end of 5th, and I go up to 6th
11 to the four-way stop because getting out on Williams
12 off of 5th is almost impossible certain times of day
13 several days a week, both because of the traffic coming
14 in and out of the park, as well as the traffic that
15 comes across that bridge, plus it backs up there
16 because of Radiology Regional. And a lot of times
17 people coming off of Lee Boulevard onto Williams going
18 to make a left in Radiology Regional backs traffic up
19 at the traffic light, that can't get through the
20 traffic light, that are stuck there, as well.

21 And the other fact is that we already have
22 seven -- call it a convenience store and beverage with
23 gas pumps, but it's a gas station, and we have seven
24 gas stations in a two-mile radius of that area
25 currently. And for Lehigh Acres -- we have a lot of

1 traffic and a lot of growth in Lehigh Acres at
2 different ends, but to have another gas station right
3 there is -- makes no logical sense whatsoever to me.
4 So those are my comments.

5 HEARING EXAMINER COLLINS: Thank you.

6 MR. GRAHAM: Sure.

7 HEARING EXAMINER COLLINS: Now, these -- these
8 people spoke at the last hearing, I think; right?

9 (Sotto voce between Hearing Examiner and reporter)

10 HEARING EXAMINER COLLINS: I'm still going to call
11 people's names if you didn't have a chance -- okay.
12 Piper -- Carroll Piper, Sr.?

13 MR. PIPER: Yes.

14 HEARING EXAMINER COLLINS: Good morning, thank you
15 for coming.

16 MR. PIPER: Good morning. No problem, thank you
17 for having me speak.

18 I'm a retired person living in Lehigh Acres off of
19 Magnolia Avenue. I, too, have witnessed many, many
20 delays in accessing Williams from 5th during many, many
21 different times of day, particularly during the peak
22 times of traffic for children getting to school and
23 from school and so on and so forth.

24 But I have a couple concerns about the
25 presentation. Number one, the DOT, Jillian Scholler,

1 specified a two-minute delay from 5th to Williams.
2 Multiply that times 15 cars behind each other trying to
3 access Williams. Two minutes per car, that's 30
4 minutes almost. Yes, it is available to go up to the
5 next -- 6th Street and turn right or left, that's
6 great; but when you're trying to access something from
7 my residence and waiting 15, 20 minutes is -- is
8 undesirable.

9 The other concern I have is what is a Type B (sic)
10 buffer? I mean, what is -- more specific, what type of
11 tree? Is it going to be a dense foliage? Is it going
12 to be a little shrub that's going to grow 15 feet high?
13 Is it going to block the traffic noise, which we
14 already know is going to increase? Is it going to help
15 anything at all in our Lehigh Acres community?

16 The other thing I have concern is what is the
17 environmental concerns? There's a park right across
18 Williams, and we've already addressed that there's
19 going to be a LeeTran station there now, additions to
20 the park, a walkway coming into the area, as well.
21 It's all growing into an area where -- yeah, I've heard
22 the term today "under present conditions." We're not
23 speaking of present conditions here today. We're
24 speakings of future conditions, things that's going to
25 happen, not what's going on today. There's plenty of

1 presentations that said today that gives me the idea
2 that it's going to get worse. It has to get worse. It
3 cannot get better.

4 The environmental concerns to the air quality,
5 additional traffic, the carbon footprint, so on and so
6 forth, these things that affect our children's lungs in
7 the future, playing in the park across the street,
8 going to a pool or the ballpark and so on and so forth,
9 it's going to be very devastating as far as I'm
10 concerned.

11 I live on the street now which, when I wake up in
12 the middle of the night, and I see starlit skies, and I
13 have no concerns of crime, increased traffic noise, and
14 so on and so forth. When this proposal -- if it should
15 take place, I'm going to wake up to blaring neon lights
16 and traffic and horns and -- and sirens, and people
17 yelling and cursing, and maybe even more -- increased
18 gunfire, which we've had in Lehigh Acres increased in
19 the last couple years. I really am sad to say that I
20 don't think this is a good proposal. There's so many
21 other commercial areas available in the Lehigh corridor
22 that can take on this possibility, so why not just go
23 ahead and utilize those already zoned commercial,
24 rather than rezoning something that's pristine now.

25 I have a little something I'd like to read here.

1 The handful of people representing the many affected by
2 this ruling are dead against the rezoning, as are the
3 ones in the next door -- I'm sorry, next door at Lehigh
4 common commercial ball road (sic). If, in fact, the
5 Applicants are only interested in the nursery and their
6 retail garden store and the mattress recondition,
7 that's fine. Limit it to that, and let's put
8 exclusions in place that there won't be a gas station
9 or ten food trucks and a carwash, which we've already,
10 I've heard, addressed this today off and on about Plan
11 A, Plan B, and it's kind of hard for me to bounce back
12 and forth with what I've heard today. But maybe
13 consider a better use of the land, something cultural
14 like an art gallery, dance studios, performing arts. I
15 would even be up for a nice high-end restaurant, which
16 we don't have in Lehigh Acres.

17 (Members of the public applauding.)

18 UNIDENTIFIED SPEAKER: Preach that, Brother.

19 MR. PIPER: So basically I'm saying, as far as I'm
20 concerned, this has no benefit to the few here in this
21 community. I mean, it's going to benefit -- it's going
22 to line the pockets of a few who propose this thing,
23 but we're concerned about the multitudes of people that
24 have to use this area day in and day out.

25 HEARING EXAMINER COLLINS: Thank you.

1 MR. PIPER: Thank you for --

2 (Members of the public applauding.)

3 MR. GRAHAM: Madam Examiner, may I -- since I
4 already spoke, may I add one more comment?

5 HEARING EXAMINER COLLINS: No, I'm sorry.
6 Everybody gets one chance to speak.

7 MR. GRAHAM: Okay.

8 HEARING EXAMINER COLLINS: I have to maintain
9 order. Please organize your thoughts.

10 Reverend Dr. --

11 DR. STAPLES: Barrion.

12 HEARING EXAMINER COLLINS: -- Barrion Staples.

13 DR. STAPLES: Yes, ma'am.

14 HEARING EXAMINER COLLINS: Thank you for coming,
15 sir.

16 DR. STAPLES: Good morning, madam and neighbors.
17 I don't know a lot of the people here. My wife and I,
18 we moved here three years ago. I grew up in Chicago,
19 Illinois, and we were just -- just in awe of the
20 potential and the splendor in Lehigh Acres, so much
21 land. And we did a lot of video searching, and when we
22 got here, we were living on Dellwood, which was -- when
23 we would come out of Dellwood sometimes off of Argyle
24 and cross Williams, we were just fascinated by the
25 potential.

1 When we heard about this proposal for a gas
2 station, that was the first thing that hit my mind. I
3 kept thinking about the children. I'm going to just
4 reiterate some of the things he said, are very
5 accurate. I'm very impressed with some of the
6 beautification that I heard about, putting in a trail,
7 increasing the park. He mentioned the thing about
8 golf. Where we lived at, we had that kind of Frisbee
9 golf set up in the big park that we used to train in.

10 I'm totally against this gas station. I think
11 Madam Commissioner is very accurate in terms of traffic
12 increasing. We have children over there that are -- I
13 don't care how many crosswalks you put in, how many
14 signals you put in, we live there. I see how people
15 drive. You know, we -- we can have a left turn -- a
16 lot of people don't understand two-way, three-way,
17 four-way stops. People pull out in traffic. The
18 traffic is -- is not very well surveyed in terms of the
19 danger.

20 But putting a gas station and all these other
21 stores, they're going to increase traffic, increase
22 more accidents. She gave an example about the
23 accidents, but she did not mention the near misses.
24 There's a lot of things that aren't reported where you
25 almost get hit, and you don't get hit. There's also

1 accidents where people don't report. Some people get
2 in an accident, and they make a settlement, and they
3 move on, and it never gets reported to DOT. So there's
4 a lot of issues there that I'm very concerned about.
5 We don't need another gas station there.

6 And what bothers me is this is a very residential
7 area, a very recreational area, and people need to be
8 able to live. I'm just very sad that this is being
9 proposed. I'm totally against it. We don't need
10 another gas station in a residential area, all those
11 other types of things.

12 Beautify the park, do all those extra things, put
13 in the trailways so people can live in a very
14 comfortable manner, but not with all this extra
15 congestion and traffic.

16 And I don't have a lot to say. My brother that
17 spoke before me said it quite eloquently, and I very
18 much appreciate it, and I appreciate you, Madam
19 Commissioner, and the insight that you put forth.

20 HEARING EXAMINER COLLINS: Thank you.

21 DR. STAPLES: Okay.

22 (Members of the public applauding.)

23 HEARING EXAMINER COLLINS: Jennifer Staples?

24 DR. STAPLES: That's my wife.

25 HEARING EXAMINER COLLINS: Good morning. Thank

1 you for coming.

2 MS. STAPLES: Good morning. Thank you, Madam
3 Commissioner.

4 I am, too, against the proposed convenience
5 store -- I almost said inconvenience because in my
6 opinion it is inconvenient for the residents of Lehigh
7 Acres. This area is a very congested already, as
8 speakers before me had already spoke about.

9 My main concern is that it is right across the
10 street from this park where children play, where
11 children will be running across the street to get
12 something to eat or something to drink because they're
13 not playing at the park. I'm very concerned putting in
14 a crosswalk is not going to prevent children from being
15 hit.

16 So that is my main concern of having that area be
17 a convenience store, as well as building all those
18 other businesses in that area. It's a safety hazard,
19 not to mention the noise, the pollution, and it's
20 taking away the peace of the residents who live in that
21 area, as well.

22 That is pretty much all I needed to say.

23 HEARING EXAMINER COLLINS: Thank you.

24 MS. STAPLES: Thank you so much.

25 HEARING EXAMINER COLLINS: That's it for the

1 sheets I have. Is there anyone present that did not
2 have an opportunity to fill out one of the public
3 participation forms that would like to speak? No?

4 Okay. I'm going to close public input. I'm going
5 to go back to the parties.

6 Veronica, would you take a minute and explain the
7 buffer?

8 MS. MARTIN: Yes, ma'am.

9 So the Land Development Code requires -- has
10 several different sections requiring buffers. There's
11 the section of buffers required for a convenience store
12 and gas station, the buffers required by the Lehigh
13 Acres Community Plan in Chapter 33, and then the
14 standard buffers in Chapter 10.

15 So the normal standard buffer, a Type D, as in
16 dog, that type of buffer is required to most
17 rights-of-way. The trees are required to be 10 feet
18 tall at time of planting. They're required to be
19 canopy trees. A Type D buffer also requires a double
20 staggered hedgerow that is to be maintained at 36
21 inches high.

22 I wanted to point out on Master Concept Plan B,
23 again, that there is an indigenous preserve in the
24 northeast corner and the southeast corner that will
25 also protect and preserve and act as partial buffers to

1 the right-of-way along Magnolia.

2 The other buffers that were proposed, Chapter 33
3 against the residential parcel in the -- the north part
4 along W. 5th, that buffer is required to be 25 feet
5 wide with 7 trees, a double staggered hedgerow, and 33
6 ground covers per 100 linear feet. For that particular
7 buffer, the hedge must be installed at 48 inches high
8 and then maintained at 72 inches high. So there will
9 be a thick vegetative buffer between the commercial
10 uses and that vacant single-family lot.

11 The convenience store buffer for the right-of-way
12 is also required to be 25 feet wide with 5 trees per
13 100 linear feet and a double staggered hedgerow. In
14 this instance, the trees must be a minimum of 14 feet
15 in height, and shrubs must be 24 inches in height at
16 time of planting. So the vegetation will be a little
17 more mature along Williams Avenue as part of the
18 development.

19 A Type F buffer is 30 feet wide with 10 trees per
20 100 linear feet and a double staggered hedgerow to be
21 maintained at 60 inches high.

22 And lastly, the buffer -- and I believe this is
23 the Master Concept Plan A.

24 MR. MENDEZ: No, this is B.

25 MS. MARTIN: I'm sorry, if you could go back to A?

1 MR. MENDEZ: Yeah.

2 MS. MARTIN: Land Development Code 34-1353 also
3 for convenience stores does require either an
4 8-foot-high wall 25 feet from the property line with 5
5 trees and 18 shrubs per 100 linear feet, or that
6 30-foot-wide Type F buffer that I just spoke about.

7 That encompasses the variety of buffers proposed
8 on Master Concept Plans A and B, and these were all
9 verified with Environmental Sciences.

10 HEARING EXAMINER COLLINS: Okay, thank you.

11 Adam or Veronica, I'm not sure which, can we bring
12 up the site plan for the planned park expansion that
13 includes the existing and proposed?

14 MR. MENDEZ: (Complies.)

15 HEARING EXAMINER COLLINS: Where is the concession
16 area for the park?

17 MR. MENDEZ: It's right here where my cursor is.
18 It says, concessions and locker rooms -- I think that
19 says 5,000 square feet, concessions and locker rooms.

20 HEARING EXAMINER COLLINS: And where are the
21 concession stands now under existing conditions?

22 MR. MENDEZ: Under existing conditions -- someone
23 may have to correct me, but I believe they're here,
24 central to the fields right here in this location where
25 the fields all converge upon --

1 (Members of the public speaking in unison.)

2 MR. MENDEZ: I've got some acknowledgment from the
3 public saying that that is accurate.

4 HEARING EXAMINER COLLINS: Okay, thank you.

5 MR. MENDEZ: You're welcome.

6 HEARING EXAMINER COLLINS: Is there anything,
7 other testimony and evidence, you'd like to put in the
8 record?

9 MR. MENDEZ: Yes, Madam Hearing Examiner, just --
10 just to touch on Staff's review of Policy 25.6.2, the
11 shortage of commercial lands in Lehigh Acres, and how
12 the Staff read the specific prong B. I don't know if
13 this was referenced verbatim in the Applicant's
14 presentation, but the language currently in the Lee
15 Plan states, and I'll just state it (as read), "Tracts
16 that separate existing commercial and residential land
17 uses where some commercial uses may be appropriate if
18 they provide a substantial buffer and reasonably
19 protect the privacy of existing dwellings. Landowners
20 seeking commercial zoning under this subsection should
21 expect minimal levels of commercial uses" -- and then
22 it says -- "and/or to provide extra levels of
23 buffering."

24 So in the event that a determination that
25 minimal -- a minimal commercial use may be present with

1 Master Concept Plan B, I think I see an interpretation
2 here that it's and/or provide extra level of buffers,
3 so you can do both. You can provide minimal levels of
4 commercial uses and extra levels of buffer; or if
5 you're going beyond minimal levels of commercial, you
6 have to provide extra levels of buffering to -- to
7 extinguish adverse impacts and create a compatible
8 development scheme.

9 HEARING EXAMINER COLLINS: And is that your
10 interpretation?

11 MR. MENDEZ: That is my interpretation, yes,
12 ma'am. It's the "and/or" specific in B that I don't
13 believe was in their slide.

14 HEARING EXAMINER COLLINS: All right. And can you
15 bring up the aerial again?

16 MR. MENDEZ: Absolutely.

17 HEARING EXAMINER COLLINS: The wide-angle aerial.

18 MR. MENDEZ: The birdseye aerial --

19 HEARING EXAMINER COLLINS: Yeah.

20 MR. MENDEZ: -- here? Okay.

21 HEARING EXAMINER COLLINS: No, not this one.

22 MR. MENDEZ: Okay.

23 HEARING EXAMINER COLLINS: No -- yeah.

24 MR. MENDEZ: This one?

25 HEARING EXAMINER COLLINS: Yes.

1 MR. MENDEZ: Okay.

2 HEARING EXAMINER COLLINS: Okay, thank you.

3 MR. MENDEZ: Thank you.

4 HEARING EXAMINER COLLINS: If there isn't anything
5 further, I'm going to close the hearing.

6 MS. MARTIN: Yes, ma'am.

7 HEARING EXAMINER COLLINS: Thank you, everyone,
8 for coming. I've closed public input. If you have
9 questions at this point, you may ask the Applicant
10 directly after the hearing.

11 This closes the hearing. I have a court reporter
12 here. I'm going to wait for her to transcribe, and
13 then I'll prepare my recommendation to the Board in
14 this case. As you know, the Board is on break during
15 the month of July, and then they'll resume zoning
16 hearings thereafter. They have quite a queue, so even
17 if I'm able to get this out within the next three or
18 four weeks, it's likely this case would not be
19 scheduled before the Board until the fall, maybe
20 September, just to give you an idea of when the final
21 hearing will be before the Board of County
22 Commissioners.

23 Again, if you didn't fill out one of those forms,
24 and you'd like to receive notice of my recommendation
25 and also the final Board hearing, please fill out one

1 of those forms and leave it in this tray, and we'll
2 make sure you get the information.

3 Adam, thank you very much for a complete Staff
4 Report.

5 Veronica and Dean, excellent presentation and
6 submittal materials. I appreciate the supplementation
7 to the record. Thank you.

8 MR. MENDEZ: Thank you.

9 MS. MARTIN: Thank you.

10 (Proceedings concluded at 10:17 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF LEE)

I, Deborah Bruns, Florida Professional Reporter, do hereby certify that I was authorized to and did report the foregoing proceedings, and that the transcript, pages 1 through 58, is a true and correct record of my stenographic notes.

Dated this 11th day of July, 2022.



Deborah M. Bruns, FPR

(This transcript was electronically signed.)

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