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Lee County Hearing Examiner
1500 Monroe Street
Fort Myers, FL 33905
Sent via e-mail

February 24, 2025

**RE: Lee Boulevard Convenience Store
SEZ2024-00001**

Dear Madam Hearing Examiner,

On behalf of MHM Lee Blvd, LLC, the applicant for SEZ2024-00001, I am pleased to submit the information required in the 48-Hour Notice and Exhibit List. The following is a list of applicant witnesses who we expect to be present and/or testify as well as the list of Exhibits that we intend to bring. Please note that the applicant is in agreement with the staff report and proposed Conditions, with the exception of the following:

Condition # 2. Prior to the issuance of a development order, the development order plans must depict half of the required open space as indigenous open space pursuant to 10-415 (b) for the entire 6.44-acre development area.

Section 10-415(b) of the LDC provides:

Indigenous native vegetation and trees. (1) Preservation. a. Large developments, with existing indigenous native vegetation communities must provide 50 percent of their open space percentage requirement through the on-site preservation of existing native vegetation communities. Refer to [Section 10-701](#) for major indigenous plant communities of the County and [Section 10-1](#) for the definition of the term "indigenous open space." b. If the development area does not contain existing indigenous native vegetation communities, but does contain existing indigenous native trees, then 50 percent of their open space percentage requirement must be met through the on-site preservation of existing native trees consistent with Subsections (b)(1)b.1 through 4 of this section. Refer to Appendix E and [Section 34-373\(6\)\(g\)](#).

Large development means a project of ten acres or more in land area or two acres or more in impervious area. The property subject to the special exception meets neither of those thresholds.

Henderson, Franklin, Starnes & Holt, P.A.

The applicant understands that the reason for the inclusion of condition 2 is that the entire 6.44 acres is being developed (with different uses than those subject to the special exception). A landscaping plan with the Development Order has been submitted. The landscape plan has been approved by staff and does not reflect the requirements of condition 2. The entire development site will consist of 5 parcels, none of which will meet the definition of a large development, as each one of the lots will not be over 10 acres nor have more than two acres of impervious area. The special exception request applies to a parcel that is 2.21 acres and has less than 2 acres of impervious area. Condition 2 is tied to the special exception, but imposes restrictions on property not subject to the request ("the entire 6.44-acre development area"). Condition 2 is not a requirement of the Land Development Code and should not be imposed on this special exception request.

A. APPLICANT WITNESSES:

- *Linda Miller, AICP, Land Use Planner, Avalon Engineering*
- *Ted Treesh, Transportation Consultant, TR Transportation*
- *Paul Owen, Ecologist, Owen Environmental*
- *Albert Martes-Rodriguez, Engineer, Avalon Engineering*
- *Brendan Sloan, Engineer, Avalon Engineering*
- *David Kulsveen, PLA, Landesco PLLC*

In addition to the above witnesses, I will also be present.

B. APPLICANT EXHIBITS:

- Applicant's PowerPoint Presentation
- Resume of *Albert Martes-Rodriguez, Engineer, Avalon Engineering*
- Resume of *David Kulsveen, PLA, Landesco PLLC*
- Full size MCP
- 11x17 MCP

Sincerely,

Richard Akin

Richard Akin

Cc: Linda Miller, AICP, Avalon Engineering
Peter Blackwell, Lee County Community Development
Anthony Rodriguez, Lee County Community Development
Joe Adams, Esq., Lee County Attorney's Office