

THE OFFICE OF THE LEE COUNTY
HEARING EXAMINER

CASE NO.: SEZ2024-00001

IN RE: LEE BOULEVARD CONVENIENCE STORE
SPECIAL EXCEPTION

PROCEEDINGS: PUBLIC HEARING

BEFORE: Amanda Rivera
Hearing Examiner

DATE: February 27, 2025

TIME: 1:00 p.m. to 2:00 p.m.

LOCATION: Lee County Hearing Examiner
Hearing Room, Second Floor
1500 Monroe Street
Fort Myers, FL 33901

REPORTER: Deborah M. Bruns
Florida Professional Reporter

FORT MYERS COURT REPORTING
2271 McGregor Boulevard, Suite 220
Fort Myers, Florida 33901
(239) 334-1411

ORIGINAL

1 APPEARANCES:

2 For the Applicant: Richard B. Akin, II, Esquire
Henderson Franklin Starnes & Holt P.A.
3 1715 Monroe Street
Fort Myers, FL 33901
4 Email: richard.akin@henlaw.com

5 Linda Miller, AICP
Avalon Engineering
6 2503 Del Prado Boulevard S, Suite 200
Cape Coral, FL 33904
7 Email: lmiller@avaloneng.com

8 For the Staff: Peter Blackwell, Planner
William Lange, Planner
9 Department of Community Development
Zoning Division
10 P.O. Box 398
Fort Myers, FL 33902-0398
11 Email: PBlackwell@leegov.com
Email: WLange@leegov.com
12

13
14 ALSO PRESENT:

15 Albert Martes-Rodriguez, Avalon Engineering
Brendan Sloan, Avalon Engineering
16 Paul Owen, Owen Environmental Consulting
Ted Treesh, TR Transportation Consultants
17 David Kulsveen, Landesco PLLC
Bryan Sechrist, MHM Development, LLC
18 Michael Metcalf, MHM Development, LLC
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1 P R O C E E D I N G S

2 HEARING EXAMINER RIVERA: Good afternoon, my name
3 is Amanda Rivera. I'm the Hearing Examiner presiding
4 over today's case. The date is February 27th, 2025,
5 and this is case SEZ2024-00001. It is a special
6 exception request for additional fuel pumps in the
7 Lehigh Acres Planning Community.

8 Because this is a quasi-judicial hearing, all
9 evidence and testimony must be taken under oath; so if
10 you intend to speak, if you could please raise your
11 hand. Do you swear or affirm the testimony you will
12 provide is the truth?

13 (Participants sworn en masse.)

14 HEARING EXAMINER RIVERA: Thank you. I believe we
15 have one member of the public here today, and that's
16 all.

17 MR. FELDER: (Indicating.)

18 HEARING EXAMINER RIVERA: Thank you. He's very
19 familiar with our process so I will dispense with those
20 instructions, and we can begin when the Applicant is
21 ready -- actually, first let me put a pin in that.

22 Do you have the notification of publication?

23 MR. BLACKWELL: Yes, ma'am, right in front of you.

24 HEARING EXAMINER RIVERA: Okay, so that has been
25 provided. Let me check. We had an issue recently that

1 we did not have this at the beginning. Okay, so this
2 will be Staff Exhibit Number 2. Staff Exhibit Number 1
3 is the Staff Report.

4 Now you can begin, if you are ready, thank you.

5 MR. AKIN: All right, thank you. Good afternoon,
6 Madam Hearing Examiner. My name is Richard Akin, I'm
7 an attorney with Henderson Franklin. I am here this
8 afternoon on behalf of the Applicant, which is MHM
9 Development, for SEZ2024-00001.

10 I'll start off by just indicating a couple things
11 for the record. So we did submit a 48-hour letter,
12 which I believe you already have a copy of, but I'll
13 provide you with another copy. And then I have two
14 copies of our PowerPoint presentation for you, as well
15 as a copy of -- a full-size master concept plan and an
16 11-by-17. And I would note for the record, there's no
17 change to this over what you have.

18 HEARING EXAMINER RIVERA: Thank you. You knew my
19 question before I asked it, so thank you.

20 And the 48-hour letter, as well, was pre-labeled
21 Applicant Exhibit A. Do you want to just accept a copy
22 of that, or would you like a separate label for that?

23 MR. AKIN: I don't need a separate label for it if
24 you --

25 HEARING EXAMINER RIVERA: Okay.

1 MR. AKIN: -- already have it in the record.

2 HEARING EXAMINER RIVERA: Yes.

3 MR. AKIN: I just want to make sure.

4 (Applicant Exhibit A submitted.)

5 HEARING EXAMINER RIVERA: Yes, thank you. So that
6 will be Applicant Exhibit A. Applicant Exhibit 1 will
7 be the presentations, if I could take those.

8 (Applicant Exhibits 1 and 2 submitted.)

9 HEARING EXAMINER RIVERA: Thank you.

10 And then Applicant Exhibit 2 will be the master
11 concept plans I'll just accept as a composite in the
12 various sizes. Okay, thank you.

13 MR. AKIN: All right, thank you.

14 So the 48-hour letter noted that there was one
15 disagreement with Staff. It was Condition 2, which had
16 to do with 10-415(b) of the Land Development Code. I
17 would note for the record that it appears we've
18 resolved that issue with Staff at this point in time,
19 and that they are going to withdraw that condition for
20 the special exception. So I'm not going to go into it
21 any further. I assume that Mr. Blackwell will cover
22 that when he gets up there. If we need to cover it for
23 any reason any further, we'll do it at that time, if
24 that's okay with you.

25 HEARING EXAMINER RIVERA: Yes, thank you.

1 MR. AKIN: All right, thank you.

2 We have our project team here with us this
3 morning. We have Linda Miller, who is our AICP,
4 certified planner with Avalon Engineering, you will
5 hear from her. Paul Owen with Owen Environmental
6 Consulting is here, you're going to hear from him. Ted
7 Treesh with TR Transportation is not yet in the room,
8 but I know he had a meeting with Mr. Price upstairs,
9 and so I expect him here any minute, and you'll hear
10 from Ted. Albert Martes-Rodriguez, with Avalon
11 Engineering, he's our professional engineer. You're
12 going to hear from him.

13 I would note that Mr. Martes-Rodriguez has not
14 previously been accepted as an expert, so we did
15 include -- and I do have a copy of his résumé that I'll
16 provide you at the appropriate time.

17 We also have Mike Metcalf and Bryan Sechrist.
18 They're both with the developer. They're here today.
19 They don't have an affirmative presentation; but if you
20 have any questions that they can answer, I'm sure
21 they'd be happy to do so.

22 So the parcel information, you can see the site
23 subject to the special exception indicated there on the
24 aerial in front of you. It's 2.2 acres. It's located
25 at the corner of Lee Boulevard and Alvin Avenue in

1 Lehigh Acres. It's got a C-2, or Commercial 2,
2 designation on it. It's got a future land use of
3 Central Urban.

4 The site is within the Lehigh Acres Planning
5 Community, and it's also within the mixed-use overlay,
6 and so -- because we are in Lehigh Acres, we had to do
7 a public meeting out there, and you'll hear about that
8 a little bit, as well.

9 You can see from this aerial that's in front of
10 you, the project site, again, is indicated with that
11 arrow and the white line. You can see that fronting
12 along Lee Boulevard here you have, on the south side of
13 Lee Boulevard, a lot of commercial -- various
14 commercial things like an AutoZone, Dollar General
15 stores, gas stations, the Zaxbys.

16 Across the -- just across Alvin Avenue, on the
17 corner of Lee Boulevard and Alvin Avenue, there is
18 another gas station that is the subject of a PD. They
19 also requested additional fuel pumps as part of that,
20 and it was approved.

21 So you will also see that to the north, behind the
22 project, there is some residential, which is very
23 consistent with what you see in Lehigh up and down Lee
24 Boulevard, with the commercial zoning on the parcels
25 that front Lee Boulevard, and then residential back

1 behind them. So that's just to orient you -- orient
2 you to the location and what's around it.

3 The request, as you stated before, is to approve a
4 special exception for a total of 14 fuel pumps for a
5 convenience food and beverage store on 2.2 acres. A
6 convenience food and beverage store with gas pumps and
7 a car wash is already a permitted use within the C-2
8 district, as I'm sure you well know, so it's not about
9 the use. It's really about an additional, in this
10 case, 6 fuel pumps, to go from 8 -- which is what would
11 be allowed under Table 34-844, Note 19, in the Land
12 Development Code. So we're allowed 8, we'd like to
13 have 14. That's an additional 6.

14 And we've also included on this slide just a
15 definition in the Land Development Code of what a fuel
16 pump is, which is a vehicle fuel dispensing device. A
17 single pump is a fuel pump that can serve only one
18 vehicle at a time. So we wanted to include that. We
19 also didn't know how many members of the public there
20 would be and wanted to provide that to them.

21 So the special exception criteria -- and, again,
22 I'll run through this pretty quickly, as I'm sure
23 you're well aware of it. But we have to show that
24 special exception request is consistent with the goals,
25 objectives, and policies, as well as the intent of the

1 Lee Plan. So Ms. Miller will address those factors in
2 future slides.

3 We have to show that it will protect, conserve, or
4 preserve environmentally critical and sensitive areas
5 and natural resources, where applicable. We don't have
6 any environmentally critical or sensitive areas
7 on-site. There are some native trees, which was the
8 subject of a prior conversation with Staff; but
9 ultimately I believe, as the Staff Report notes and as
10 Mr. Owen will talk about when he comes up here, there's
11 no wetlands on-site, no environmentally critical things
12 on-site. There was, I believe, one black racer snake
13 noted as part of the environmental assessment. So not
14 any issues there.

15 We've got to show that the special exception will
16 be compatible with existing and planned uses. So,
17 again, the use is already an approved use on-site.
18 There's a fuel station or a gas station with additional
19 pumps right across the street. Really, as we talked
20 about it in going through this application, we've kind
21 of discussed that traffic circulation, without any
22 additional fuel pumps, would be one of the main things
23 we'd want to talk about. Ms. Miller will address that
24 when she gets up here.

25 The site, as well as the infrastructure for the

1 other tracts that are to the -- to the east of this,
2 will provide a minimum of 25-foot green space along
3 Brookfield Street, which is the street to the north
4 that abuts the residential properties, which we think
5 is important to create compatibility with those
6 existing residential homes.

7 We also have to show that the approval would not
8 be injurious to the neighborhood or detrimental to the
9 public welfare. Again, we'll talk about that a little
10 bit more with regard to buffering the traffic flow.
11 Ms. Miller will address those things.

12 And, finally, we have to show that it will be in
13 compliance with the zoning regulations pertaining to
14 the use and other applicable regulations, which it is,
15 and we'll discuss that a little bit further.

16 So unless there are any questions of me, I'm going
17 to turn it over at this time to Linda Miller and let
18 her walk through some of our planning.

19 HEARING EXAMINER RIVERA: Thank you.

20 MR. AKIN: Thank you.

21 HEARING EXAMINER RIVERA: Good afternoon.

22 MS. MILLER: Good afternoon. I'm Linda Miller.
23 I'm the vice president of Avalon Engineering. I'm also
24 the certified planner for this special exception case.
25 I would request to be noted as an expert witness for

1 this case. My credentials -- credentials are on file
2 with the County, and I have been noted as an expert
3 witness in other similar cases.

4 HEARING EXAMINER RIVERA: Thank you.

5 MS. MILLER: So as Mr. Akin mentioned about
6 compatibility, we did want to really point out the fact
7 that the RaceTrac convenience store, which has 24
8 pumps, it was approved in 2019. It's on the northwest
9 corner of Lee Boulevard and Alvin, which is directly
10 across the street from the subject parcel.

11 The land use and zoning of the subject site is
12 Central Urban Future Land Use; and as you can see, a
13 lot of the area to the north and to the south of our
14 site, across from Lee Boulevard, has the same land use
15 category.

16 So the zoning on our site is C-2, and as Mr. Akin
17 said, we do have residential zoning to the north; but,
18 again, most of the property that fronts on Lee
19 Boulevard has the commercial zoning district; and some
20 of them have gone through a PD process, and some have
21 been developed under their traditional zoning
22 districts.

23 About the site plan, we have some good information
24 about the site plan. We have submitted for a DO, and
25 it has gone through a couple of different reviews. So

1 the acres is 2.2. We're going to have a
2 4,875-square-foot convenience food and beverage store;
3 980-square-foot car wash; we are asking for 14 pumps,
4 which is really 7 gas pumps with two -- two ways to
5 fuel, and those are located in front along Lee
6 Boulevard.

7 We have an access point coming in off Lee
8 Boulevard, but that's a right-in only into the site,
9 and two access points off of Brookfield Drive (sic).
10 Those are, you know, full in-and-out access points.

11 We have open space provided on the site, 25-foot
12 minimum along Alvin, along Brookfield, along Lee
13 Boulevard. We do have a small area that we cannot meet
14 that 25 close to the right turn-in area, and I'll
15 explain that a couple slides later. We're providing 42
16 parking spaces. We meet the parking requirements of
17 the site, we meet the open requirements, and the use is
18 a permitted use.

19 We have a landscaping plan that has been provided
20 for this site. The convenience store site has
21 perimeter planting areas from 15 feet in the small
22 corner next to the right turn-in area, to over 51 feet
23 along Alvin Boulevard.

24 A minimum of 25-foot green space is provided along
25 Brookfield Street.

1 The landscaping provided for the convenience store
2 and the future development has been designed to provide
3 unified landscaped areas with similar trees and shrub
4 species around the perimeter of the site. We have 25
5 feet along Brookfield, with 17 canopy trees and 219
6 shrubs; a 25-foot along Alvin, with 134 trees and 110
7 shrubs; and a 25-foot buffer along Lee, with 14 canopy
8 trees and 173 shrubs.

9 HEARING EXAMINER RIVERA: And, do you know, that
10 is consistent with the supplemental design
11 requirements, correct, for the --

12 MS. MILLER: Yes.

13 HEARING EXAMINER RIVERA: -- gas station?

14 And so does that match what the RaceTrac was
15 approved for across the street?

16 MS. MILLER: Yes, ma'am.

17 HEARING EXAMINER RIVERA: Okay, thank you.

18 MS. MILLER: So we did have to ask for a few
19 administrative deviations. There were three
20 administrative deviations requested for this parcel,
21 and one of the deviations is from Section 10-285, which
22 requests driveway separation distances. So the first
23 driveway separation distance is from Alvin, on the
24 corner of the intersection of Lee Boulevard and Alvin,
25 and it comes into the area of where we have the right

1 turn-in lane, which is -- there's only a right in,
2 right there. And our distance right there is 266 feet,
3 and we're supposed to be 440.

4 And the second deviation for separation is from
5 that right in to the full right-in/right-out driveway,
6 which is located on Lot Number 4, and that distance is
7 368.73 feet, and we're supposed to have 440.

8 We also requested a landscape buffer deviation
9 from -- those parcels along Lee Boulevard from 25 feet
10 to 15. Now, the convenience store has 25 feet except
11 right around that corner of where the drive -- the turn
12 lane is into the site. Everything else would have a
13 15-foot buffer along Lee Boulevard.

14 And then our last one is that we're required to do
15 a right-turn lane on Brookfield Street for our first
16 driveway, and we're requesting a deviation to that for
17 circulation purposes.

18 HEARING EXAMINER RIVERA: So just for
19 clarification --

20 MS. MILLER: Sure.

21 HEARING EXAMINER RIVERA: -- if you can go back.
22 That was a question I had going forward. So the
23 intention is it's going to be developed holistically,
24 or is it -- I understand it's individual parcels; so
25 you're not doing a PD that encumbers everything, and

1 the legal description for this is solely for the 2.2
2 acres. But these kind of exhibits, it's -- and the ADD
3 was asking for the two access points, and my very first
4 question was where is the other one, but it looks like
5 it's farther east. So is it being treated as --

6 MS. MILLER: So right --

7 HEARING EXAMINER RIVERA: -- one --

8 MS. MILLER: -- now it currently is one parcel.

9 HEARING EXAMINER RIVERA: Okay.

10 MS. MILLER: It's 6.44 acres, and it's one parcel.
11 And we have submitted for a plat to replat it, and
12 we're going to create the 5 lots that we have right
13 now. This parcel also had a lot split with another
14 parcel to the east. So along this boulevard there
15 would actually be 7 developable areas from the original
16 plat area.

17 So we're -- we're platting that, and we're doing a
18 development order; and when we do the development
19 order, we're including the cross-access roadways -- I
20 don't know if I can show that here, but this is the
21 cross-access roadway that provides access from this one
22 driveway access into all of the lots, and then we'll
23 have a connection for this one, too. Which Lee County
24 requires us to do vehicle and pedestrian access, and
25 that would be the cross-access there.

1 So as part of the development of the convenience
2 store, we were also going to construct the driveways
3 and the cross access, and then put in the -- the
4 stormwater areas.

5 HEARING EXAMINER RIVERA: Okay, thank you.

6 MR. AKIN: And, Linda, could I just ask you to
7 clarify --

8 MS. MILLER: Sure.

9 MR. AKIN: -- one thing?

10 MS. MILLER: Yes.

11 MR. AKIN: So if you go back, you talked about in
12 the DO submittal, the landscape plan submittal, the
13 15-foot -- the 15-foot deviation is just for Lots 2, 3,
14 4, and 5. Lot 1 has 25 feet except in one small
15 location; correct?

16 MS. MILLER: Correct.

17 MR. AKIN: Okay.

18 MS. MILLER: Yes.

19 So we also did a delivery truck circulation. So
20 we wanted to see how the driveways and the access
21 roadways into this would function correctly. So you
22 can see from the right-turn lane in, a tanker fuel
23 truck can come into the site and can exit out of the
24 site. It also can come in off Brookfield and go around
25 and circulate the site and then back out of the site.

1 We looked at it, also, for circulation of the trash
2 pickup.

3 As part of the development order, we provided
4 photometric plans. So we looked at the site completely
5 with the canopies and the fuel tanks, and we provided a
6 photometric plan that met the County requirements from
7 the Land Development Code.

8 And as part of this project, we are located in the
9 Lehigh Acres Review Committee, and we did have a
10 publicly-advertised meeting with them. The minutes of
11 the meeting have been provided as part of the packet,
12 as part of the record.

13 Now I'd like to invite Paul Owen from Owen
14 Environmental to come up. He has a couple of slides.

15 (Mr. Treesh entered the hearing room.)

16 HEARING EXAMINER RIVERA: Good afternoon.

17 MR. OWEN: Good afternoon, Paul Owen with Owen
18 Environmental Consulting. I have been accepted as an
19 expert in this format many times in this field of
20 environmental sciences and listed species, that sort of
21 thing.

22 HEARING EXAMINER RIVERA: Yes, thank you.

23 MR. OWEN: So as the project's environmental
24 consultant, we conducted a protected species survey on
25 the site and worked with the engineer regarding the

1 South Florida Water Management District Environmental
2 Resource Permitting for the overall 6. -- was it 6.4
3 acres --

4 MR. AKIN: (Nods head.)

5 MR. OWEN: -- for the whole site?

6 So then we also obviously worked on the area that
7 is part of the special exception.

8 So during the protected species/listed species
9 survey, we didn't find any listed species listed by the
10 State or by the -- by the Feds or by Lee County, during
11 that survey or any subsequent field visits. We've been
12 on the site two or three times and actually have
13 conducted a tree survey on the site, as well.

14 The site consists of pine flatwoods that have been
15 invaded by exotic vegetation. This site has been --
16 this site has been cleared over the years. You can see
17 it doesn't have much of an understory. There's no
18 shrub species -- well, there's sparse shrub species
19 there, but the site mostly consists of slash pines,
20 you've got laurel oaks, some live oaks, some native
21 vegetation. There's also exotic vegetation in there,
22 as well.

23 So as Richard noted, this site -- the 2.4 --
24 2.2-acre special exception area doesn't have any
25 wetlands on it. The overall site -- let's see if I can

1 point this out. There is a small wetlands on the east
2 portion of the site that the Water Management District
3 claimed as jurisdictional. That was part of the
4 Environmental Resource Permit to be impacted, and there
5 were mitigation credits that were purchased for that.

6 And that concludes my presentation.

7 HEARING EXAMINER RIVERA: So the listed species
8 that was noted by Staff was not noted by the Applicant
9 when you did your observational studies?

10 MR. OWEN: No, I'm not aware of any listed
11 species.

12 Was there?

13 MR. LANGE: (Shakes head.)

14 MR. OWEN: No?

15 HEARING EXAMINER RIVERA: There was note of one
16 in -- I assume that the County prepared the
17 Environmental Staff Report that I received, and it did
18 mention the same snake that Mr. Akins talked about
19 earlier.

20 MR. OWEN: It could be that they noted a black
21 racer, but that's not a listed species.

22 MR. LANGE: It's not.

23 HEARING EXAMINER RIVERA: Okay, so there's nothing
24 of any import.

25 And then the discussion -- I guess we don't need

1 to get into then about any of the indigenous
2 preservation that's happening on-site. It's only
3 trees? Was that ever the concern?

4 MR. OWEN: I believe there was the matter of the
5 trees and possibly trying to relocate or plant instead
6 of -- but as I understand it, that's going to be
7 handled at the development order stage.

8 HEARING EXAMINER RIVERA: That's been worked out.
9 Okay, thank you.

10 MS. MILLER: I'd like to have Ted Treesh come up.

11 MR. AKIN: Just for the record, I don't believe
12 Mr. Treesh was here when you --

13 HEARING EXAMINER RIVERA: Thank you.

14 MS. MILLER: Wasn't sworn in.

15 HEARING EXAMINER RIVERA: Yes, thank you. Do you
16 swear or affirm the testimony you will provide is the
17 truth?

18 MR. TREESH: I do.

19 HEARING EXAMINER RIVERA: Thank you.

20 MR. TREESH: Good afternoon, Ted Treesh with TR
21 Transportation Consultants. We conducted the traffic
22 analysis as part of the special exception application,
23 and we've also conducted the analysis as part of the
24 development order application that's also been
25 submitted to the County.

1 So the analysis for the special exception looked
2 at the difference in terms of the trips that would be
3 generated from the project for the -- for this specific
4 use, in terms of increasing the fueling positions from
5 what would be permitted today based on the permitted 8
6 refueling positions or 8 fuel pumps versus the
7 requested 14 fuel pumps or refueling positions.

8 The trip generation for this type of use is based
9 on the number of refueling positions. That's what we
10 utilized from the ITE Trip Generation Report. Excuse
11 me. This table is what's in the trip generation memo
12 that was submitted as part of the application. This --
13 the top line shows the trip generation based on the --
14 the 14 fueling positions, and then the lower -- the
15 lower line shows the 8 fueling positions, and then the
16 bottom line shows the difference. And you can see that
17 there really is no substantial difference between the
18 number of refueling positions in terms of increasing
19 from the 8 to the 14. And the real reason for that is
20 because this type of use is a convenience-type use in
21 terms of the type of trips that it attracts. It really
22 attracts the traffic from the adjoining roadways; so
23 that increasing the number of fueling positions doesn't
24 have a substantial impact on the number of trips in
25 terms of increasing it from 8 to the 14. So there

1 isn't a substantial increase in going from the 8 to the
2 14, is what our analysis indicated.

3 And, again, also included in there, and shown
4 below at the bottom of the screen, Lee Boulevard right
5 now, in the latest data from Lee County, has about
6 57,000 cars a day traveling along it; and Alvin, which
7 is on our western border, has about 5,000 trips a day
8 traveling along that roadway; so this use will attract
9 from those vehicles that are traveling along those
10 roadways and, again, playing into that -- that this is
11 a convenience-type use that will attract from that
12 volume that is traveling on those adjacent roadways.

13 That's really all I have to offer, and I'd be more
14 than happy to answer any questions.

15 HEARING EXAMINER RIVERA: Thank you, I didn't have
16 any questions.

17 MR. TREESH: All right, thank you.

18 MR. AKIN: And I just -- Mr. Treesh, I'd just like
19 to note for the record that he's testified before and
20 been previously accepted as an expert in front of Lee
21 County.

22 So next we have Albert Martes-Rodriguez, and he's
23 going to come up here. As I mentioned earlier, he has
24 not been accepted as an expert before in front of the
25 Lee County Hearing Examiner. I have a copy of his

1 résumé that I'd like to provide for the record.

2 HEARING EXAMINER RIVERA: Yes, thank you.

3 (Applicant Exhibit 3 submitted.)

4 HEARING EXAMINER RIVERA: Thank you. So this will
5 be Applicant Exhibit 3.

6 Good afternoon.

7 MR. MARTES-RODRIGUEZ: Good afternoon. As Richard
8 mentioned, my name is Albert Martes-Rodriguez, and I am
9 an engineer and project manager with Avalon
10 Engineering. I received my bachelor's in science, of
11 civil engineering, from Florida Gulf Coast University
12 in 2020, and was hired as an engineer intern with
13 Avalon Engineering soon after graduation, and have
14 spent my entire working experience with Avalon thus
15 far.

16 In 2024 I applied for and received my State of
17 Florida professional engineering license; and over my
18 five years of working experience in the Southwest
19 Florida area, I have gained experience and knowledge on
20 how to apply the Land Development Code for Lee County,
21 South Florida Water Management District, and the
22 LA-MSID overlay area district. If you have any
23 questions over my résumé, these are my qualifications.

24 And as some supporting examples for the experience
25 that I'm claiming, I have worked a very similar project

1 a few miles to the east of this one. It was a
2 commercial subdivision that also required DO
3 permitting, South Florida Water Management District ERP
4 permitting, and LA-MSID permitting. That has been
5 constructed and certified and has several outparcels
6 that are very similar to this project so...

7 HEARING EXAMINER RIVERA: And it looks like your
8 experience primarily has been in the jurisdiction of
9 Cape Coral and Lee County.

10 MR. MARTES-RODRIGUEZ: Yes.

11 HEARING EXAMINER RIVERA: So you're familiar with
12 both, with the Lee Plan and the Lee County Land
13 Development Code.

14 MR. MARTES-RODRIGUEZ: Yes, ma'am.

15 HEARING EXAMINER RIVERA: Thank you. Yes, go
16 ahead.

17 MR. MARTES-RODRIGUEZ: Okay. So I am clicking
18 over to the master stormwater management plan for the
19 development, which was submitted to both Lee County
20 under the development order, as well as to South
21 Florida Water Management District for an ERP permit and
22 to LA-MSID for their stormwater review.

23 HEARING EXAMINER RIVERA: And when you're
24 referencing the ERP, is that required, again, looking
25 at the whole development and not just this parcel?

1 MR. MARTES-RODRIGUEZ: Exactly. So the entire
2 overall development is going to be equipped with a
3 master stormwater management plan. This stormwater
4 management plan, as I said, was reviewed for compliance
5 with the stormwater treatment volumes and discharge
6 requirements that the District and LA-MSID requires.
7 These parameters were assessed to ensure that the
8 surrounding area will not be negatively impacted by the
9 proposed development. The site has a proposed control
10 structure, which basically just slowly discharges the
11 captured stormwater into the underground drainage
12 network proposed -- or that exists on Brookfield
13 Street. And there is actually a small view -- it may
14 be hard to see on the screen here -- on the top right
15 that shows the existing drainage network, and how the
16 system outfall drains towards the Alvin Canal, to the
17 west of the project. And this area, in the latest FEMA
18 flood zone maps, has not been intended as a flood zone.
19 It's in the X Zone, which indicates that there is no
20 surrounding flood zone or floodplains.

21 And for these reasons, it's my expert opinion that
22 I do not believe that development of this project, with
23 its accompanying master stormwater system, will
24 negatively impact the surrounding residents or
25 properties.

1 HEARING EXAMINER RIVERA: What's the sheet flow
2 direction now, just for curiosity's sake?

3 MR. MARTES-RODRIGUEZ: I believe -- there is kind
4 of like a high ridge down the center, as you move from
5 east to west, and it kind of splits the flow; and the
6 front half flows towards Lee Boulevard, and it goes
7 into the right-of-way, and the rear half just flows
8 toward and into the swale, the existing swale system on
9 Brookfield Street.

10 HEARING EXAMINER RIVERA: And I think Ms. Miller
11 said that the infrastructure is going to be coming in
12 at the same time as the gas station, since this is the
13 first parcel in; so I assume that the water management
14 system will track along with that?

15 MR. MARTES-RODRIGUEZ: Exactly. So the intent was
16 to set up the master stormwater system so that once
17 constructed and certified, the subsequent parcels can
18 be developed and will basically piggyback off the
19 master stormwater system. It's the cleanest way that
20 we can do it without having to open more construction
21 into the right-of-way and impact the surrounding
22 residents.

23 HEARING EXAMINER RIVERA: Thank you.

24 MR. MARTES-RODRIGUEZ: Yeah, thank you. Do you
25 have any questions?

1 HEARING EXAMINER RIVERA: That was all, thank you.

2 MR. MARTES-RODRIGUEZ: All right, thank you so
3 much. I'll turn it over to Linda Miller.

4 MS. MILLER: So I'm going to go through
5 consistency with the Lee Plan.

6 Policy 1.1.3 of the Lee Plan describes the Central
7 Urban Land Use category as the core, the urban core of
8 the county, and we definitely are in the urban core of
9 Lehigh Acres. The project and all along Lee Boulevard
10 really shows that we're in the commercial area within
11 this -- this part of Lee County and -- and in Lehigh.

12 So our subject parcel is within the urban core of
13 Lehigh Acres. The proposed use is located within a
14 commercial subdivision which will support several
15 commercial uses that will front on Lee Boulevard. We
16 will have shared access and drainage facilities. The
17 convenience store use will occupy the vacant parcel on
18 Lee Boulevard, promoting compact development patterns
19 along the roadway, and will provide a necessary service
20 to the nearby residents.

21 Increasing the maximum number of permitted fuel
22 pumps from 8 to 14 confirms to -- conforms to the
23 character of the Central Urban Future Land Use
24 category.

25 We're also consistent with Policy 2.1, which

1 promotes compact growth patterns in Lee County. The
2 proposed commercial development is within the Central
3 Urban Future Land Use, which supports commercial
4 development at the intensity being proposed. The
5 parcel is commercially zoned. Requesting a special
6 exception for additional fuel pumps in this existing
7 commercial corridor is consistent with Policy 2.1.

8 Policy 4.1 and 4.2, requires development at
9 specific intensity and density to connect to service
10 providers for water and wastewater.

11 Existing utilities -- water and wastewater -- are
12 provided through FGUA. We've also gone through some
13 permitting with them already.

14 Policy 5.1.5 is for protecting existing and future
15 residential areas from encroachment of uses that are
16 potentially destructive to the character and integrity
17 of the residential environment. We will not be
18 encroaching on any residential. We're across the
19 street from residential but not encroaching on any
20 residential.

21 Consistent with Policy 6.1.1 for -- all
22 applications for commercial development are reviewed
23 and evaluated by quite a few standards:

24 Traffic and impact (sic). As we said, the
25 increased number of pumps, to 14, will not provide any

1 additional impact on adjacent roadways as a result of
2 that.

3 For landscaping and detailed planning. The
4 project will comply with the rules and regulations of
5 the Land Development Code for site planning
6 requirements and Code landscaping requirements.

7 Screening and buffering. The project will comply
8 with the requirements of screening and buffering for
9 adjacent uses per the Land Development Code, and we
10 already mentioned that we're providing a 25-foot
11 buffer.

12 Availability and adequacy of services and
13 facilities. We have a great roadway connection and
14 availability on roadway areas there, and we also have
15 the utilities. We did provide a utility availability
16 letter.

17 Number 5 is impact on adjacent land uses and
18 surrounding neighborhoods. The subject parcel is in an
19 established community that is residential in nature
20 with limited commercial uses. The extensive
21 residential development has created an uneven balance
22 between the residential uses and availability of
23 commercial products and services needed for these
24 residents. The subject parcel is located at the
25 intersection of two major streets, which is the

1 appropriate location for this type of use, and is
2 separated from residential by a local street. This
3 commercial development would provide a 25-foot-wide
4 buffer along Brookfield Street to screen the
5 development from the residential homes on the north
6 side.

7 6, proximity to other similar centers. The
8 proposed convenience store use will be within a
9 commercial subdivision with other commercial
10 development tracts. The site is also near an existing
11 convenience store with gas pumps, across Alvin Avenue
12 to the west, that has been in operation since 2011 and
13 contains 24 pumps.

14 Number 7, environmental concerns. The site does
15 not contain any protected species. The site will meet
16 the requirements of the South Florida Water Management
17 District and the Lehigh Acres Municipal Services
18 Improvement District for drainage design.

19 Policy 6.1.4, commercial development will be
20 approved only when compatible with existing residential
21 and proposed land uses. The commercial property is in
22 the proper location. It's compatible with adjacent
23 properties to the south, west, and east of the site.
24 They have a commercial zoning. The project has been
25 designed to internalize the impacts by providing open

1 space along the perimeter of the parcel, and providing
2 access and connectability. The north parcel line will
3 provide a greater-than-required buffer to ensure
4 compatibility with the residentially-zoned properties
5 north of Brookfield Street.

6 HEARING EXAMINER RIVERA: I'm sorry to interrupt.
7 For clarification, is it an enhanced buffer along the
8 north? Because up to now it's just been referencing
9 that Type D buffer, but will it be something more than
10 that?

11 MS. MILLER: So, actually, we have -- we're
12 required to have 25 feet. We have 25 feet plus -- we
13 go up to 40 feet, so in some areas we have greater
14 green areas than what's required.

15 Now, for the convenience store use we do -- we do
16 range in depth for that. So in the back there we have
17 25 feet, but we range up to 33 feet. We do have one
18 pinched corner that's exactly 25 feet next to the
19 dumpster area --

20 HEARING EXAMINER RIVERA: Okay.

21 MS. MILLER: -- back there --

22 HEARING EXAMINER RIVERA: So that's why we're
23 referencing --

24 MS. MILLER: -- but greater --

25 HEARING EXAMINER RIVERA: -- the 25 feet --

1 MS. MILLER: Yes.

2 HEARING EXAMINER RIVERA: -- because you do meet
3 the Code --

4 MS. MILLER: Yes.

5 HEARING EXAMINER RIVERA: -- but there are areas
6 where it will be enhanced --

7 MS. MILLER: Yes --

8 HEARING EXAMINER RIVERA: -- beyond that.

9 MS. MILLER: -- we have -- we have a lot of open
10 areas that are wider than the 25-foot.

11 Policy 6.1.5, the Land Development regulations
12 require commercial developments to be designed to
13 protect the traffic-carrying capacity of the roadways,
14 but a unique thing about this project, and why we did
15 it this way, is because we're providing one driveway
16 access that is a right-in/right-out to all five parcels
17 so -- off of Lee Boulevard. We do have the one right
18 in for the convenience store, but we do provide the
19 cross-access for pedestrian and vehicle use.

20 We're sufficient with Policy 6.1.6. The Land
21 Development regulations require that commercial
22 development have adequate and appropriate landscaping,
23 open space, and buffer, and we've kind of gone through
24 this quite a bit. We do meet the overall open space
25 requirement for the development, and we also meet the

1 required buffer linear width.

2 Policy 6.1.7, prohibit commercial developments
3 from locating in such a way that creates new open
4 areas, scattered strip development. They want the
5 commercial to be on infill, even if they're small
6 parcels, and that's kind of what we have here. The
7 subject parcel is located in a major intersection that
8 has utilities available, and it also is developing in
9 infill areas and not opening up new premature,
10 scattered, or strip development.

11 Policy 11.2.2, development in the mixed-use
12 overlay should accommodate connections to adjacent
13 parcels. We've provided cross-access parcels with
14 cross-access for sidewalk areas and for vehicles.

15 Goal Number 25, the Lehigh Acres Planning
16 Community. Ensure that continued growth and
17 redevelopment converts this largely single use in this
18 pre-platted community to provide for commercial,
19 vibrant commercial and employment centers,
20 pedestrian-friendly mixed-use activity centers and
21 neighborhood nodes. The proposed development will
22 support commercial businesses that will provide
23 employment opportunities, and will provide services and
24 products needed for residents within this area.

25 Objective 25.6, commercial overlay zones. To

1 designate on the future land use map a commercial
2 overlay for properties in Lehigh Acres Community Plan.
3 And we're actually located in the commercial overlay
4 zone within the Lehigh Acres Community Plan. This
5 policy supports the development of the parcel with
6 commercial uses, including the permitted convenience
7 food and beverage store with gas pumps and a car wash
8 use.

9 Policy 25.8.1. Whenever possible, all new
10 commercial development adjacent to Lee Boulevard
11 right-of-way must provide access to either 5th Street
12 West -- and collectors. So we've worked with the
13 County Staff, and we're actually -- we didn't mention
14 this earlier, but we're doing improvements to the
15 intersection on Alvin and Lee Boulevard, as directed by
16 Lee County Staff, to obtain the additional driveway
17 access.

18 Policy 25.8.4, all new commercial developments
19 must provide parking lot interconnections, and we've
20 provided that.

21 Policy 25.9.1 and 25.9.2, the availability of
22 water and sewer is required. We do have water and
23 sewer services from FGUA.

24 Policy 60.11 requires the design of surface water
25 management systems to protect and enhance the

1 groundwater. We've already received a permit from
2 South Florida Water Management and a permit from Lehigh
3 Acres Mutual Services Improvement District for our
4 surface water management facilities on our project.

5 Goal Number 77, to require new development to
6 provide adequate open space for improved aesthetic
7 appearance, visual relief, environmental quality,
8 preservation of existing native trees. The proposed
9 commercial use will provide 36 percent open space, with
10 a minimum planting area of 25 feet along the perimeter
11 of the site. The development complies with Goal 77
12 through the submission of the environmental analysis
13 and the protected species survey. The proposed
14 commercial use --

15 THE REPORTER: Okay, you've got to slow down here.

16 MS. MILLER: I'm sorry.

17 The proposed commercial use will address all
18 applicable Land Development regulations and other
19 permit requirements as the project proceeds through the
20 development order process.

21 Policy 125.1.2, new development and additions to
22 existing development must not degrade surface and
23 groundwater quality. As a result of the proposed
24 development, no negative effects or impacts are
25 anticipated to the surrounding surface or groundwater

1 water quality.

2 And that concludes my presentation on consistency
3 with the Lee Plan, and I turn it back over to Richard.

4 MR. AKIN: All right. So, Madam Hearing Examiner,
5 again for the record, Richard Akin. I think we've
6 demonstrated that the request complies with the Lee
7 Plan and Land Development Code. I'd also like to point
8 out that Staff is recommending approval in the Staff
9 Report. We would request that we receive an approval
10 from the Hearing Examiner in this case instead of a
11 recommendation. I believe we've also demonstrated that
12 we've met the requirements for a special exception
13 contained in the Land Development Code.

14 If you have any questions, we'll be happy to
15 answer them.

16 HEARING EXAMINER RIVERA: The only question I
17 had -- if we can go back to the circulation slide -- I
18 don't know which one that was.

19 MR. AKIN: (Complies.)

20 HEARING EXAMINER RIVERA: I did take a look --
21 because you referenced the zoning resolution for the
22 RaceTrac in your materials, but it wasn't in my
23 materials so I did -- I took a look at that for
24 judicial notice just to see what was in there for
25 consistency's sake, and they do have an hour of

1 delivery limitation, I think, for this very reason,
2 because we've got the access on the northern
3 properties. Was there any discussion of that? It's
4 not an hours of operation limitation -- I don't know if
5 they're open 24 hours or not -- but their deliveries
6 are limited just from 6 a.m. to midnight.

7 So in terms of the circulation, does that seem
8 like something that would be appropriate here, as well?
9 I mean, I'm assuming that they -- it's almost an
10 identical size site, and they've got more pumps than
11 what you're asking for.

12 MR. AKIN: So, you know, it's not something that
13 came up in discussion with Staff. As I stand here
14 right now -- what I can do is maybe I can speak with
15 everyone and get back to you when we come back up for
16 rebuttal and kind of answer that question, if we need
17 to get into it further, but I don't -- it hasn't been
18 suggested to date that we needed to do that in order to
19 ensure compatibility.

20 As indicated, all the -- you know, the fuel trucks
21 would be up here on Lee Boulevard. The fueling, that's
22 where they would go pursuant to the design, so it
23 wouldn't be an issue back here where the -- the
24 residential is to the north.

25 HEARING EXAMINER RIVERA: And the only concern I

1 had back there was the dumpster, but the RaceTrac
2 actually has the dumpster in almost the same position,
3 and I think with the site constraints that you've got,
4 that's essentially where it's gotta go. So obviously
5 we'll hear if there's any public concern about that,
6 but I would be interested to know, since they do have
7 that condition, what would distinguish this because it
8 is so similar in nearly every other way, but we can
9 come back to that later.

10 MR. AKIN: Okay, thank you.

11 HEARING EXAMINER RIVERA: I'm ready for the Staff,
12 whenever you're ready.

13 MR. BLACKWELL: Good morning. For the record,
14 Pete Blackwell with the Lee County Zoning section.

15 HEARING EXAMINER RIVERA: Good afternoon. You've
16 provided me a copy -- just for the record, you provided
17 me a copy of your presentation. So the Staff Report is
18 pre-labeled as Staff Exhibit 1, and then I accepted the
19 publication affidavit as Staff Exhibit 2.

20 MR. BLACKWELL: Yes.

21 HEARING EXAMINER RIVERA: So Staff Exhibit 3 will
22 be this presentation.

23 MR. BLACKWELL: Yes, ma'am.

24 HEARING EXAMINER RIVERA: Thank you.

25 MR. BLACKWELL: Okay. First I wish to mention

1 that the Applicant's presentation was both thorough and
2 comprehensive, and Staff found it accurate. So for
3 the -- Staff will not belabor the points that were
4 already mentioned by the Applicant. We will go over
5 the -- the criteria for approval or for evaluation.

6 And the review criteria:

7 Consistency with the Lee Plan. As the Applicant
8 mentioned, the -- the proposed increase in pumps is
9 appropriate for this location because it's already
10 existing, the Central Urban area -- that conforms to
11 the nature of the Central Urban. It conforms to the
12 Lee Plan policies governing commercial activity.

13 It is neither premature nor leapfrogging any
14 sites.

15 The -- it's considered well planned under Goal 6.

16 Under -- it is not considered an encroaching use
17 because it's at the edge of a residential area, not
18 within it, and it's located within a commercial
19 corridor that already exists both in terms of zoning
20 and development.

21 And to continue with that, it is located at a
22 significant intersection, which is a traditional
23 location for a standard convenience store with fuel
24 pumps.

25 And the mixed-use overlay also encourages this

1 kind of use within the area.

2 It is not considered encroaching into the
3 residential area, as mentioned before. It would not
4 be -- although access is partially along Brookfield
5 Street, this is not going through the residential area.
6 it's about as low an impact as possible.

7 And any required buffering, screening, and site
8 design issues are being handled through the development
9 order process.

10 And the Applicant is seeking concurrent
11 administrative relief, ADD2024-74, which is seeking
12 relief for a buffering along that one small portion of
13 the -- Lee Boulevard where they cannot meet the
14 buffering.

15 HEARING EXAMINER RIVERA: Do you know the posture
16 of that right now? Is it being held until this is
17 determined?

18 MR. BLACKWELL: Yes, ma'am.

19 HEARING EXAMINER RIVERA: Okay, thank you.

20 MR. BLACKWELL: There's -- also they've mentioned
21 the development order, DOS2024-51, which will address
22 some of Staff's issues.

23 The Applicant is following proper procedure for --
24 for extra fuel pumps. An SEZ is required under 34-844,
25 Note 19, for anything above eight fueling stations.

1 They are seeking the administrative relief for
2 that one nonconforming area, and we are asking for
3 conditions, which we'll get to.

4 Now, the environmental conditions, Mr. Lange will
5 talk about that; but for my section, the conclusion is
6 that based on the above presentation, and based on the
7 Applicant's testimony, Staff recommends approval of the
8 special exception to allow 14 fueling stations on the
9 subject property, subject to conditions by Staff. And
10 we are recommending Conditions 1 and 3 that you find on
11 the Staff Report, confining the development to the
12 appropriate site plan and to a total of 14 fueling
13 stations.

14 But for the environmental section -- going the
15 wrong way -- I'd like to introduce William Lange.

16 HEARING EXAMINER RIVERA: Thank you.

17 Good afternoon.

18 MR. LANGE: Good afternoon, Madam Hearing
19 Examiner. I have previously been accepted as an expert
20 in environmental sciences and wish to do so again.

21 HEARING EXAMINER RIVERA: Yes, thank you.

22 MR. LANGE: Okay. When Staff was reviewing the
23 second submission for this, we noticed some
24 inconsistencies between the ADD and SEZ, mainly the
25 site plan showing the larger versus just Lot 1. And

1 then during review, we looked at the Development
2 Services one, saw this -- saw that -- you can't see it
3 in here, I wasn't sure that you'd be able to pick them
4 out on there, that the building areas were labeled as
5 zero square feet. And so Staff then reviewed the ERP
6 application and noticed that those are quantified, and
7 feel like the project is meeting the criteria for a
8 large development. And based off of that information,
9 we feel that the Applicant would need to modify the ADD
10 request under 10-415, to reduce the amount of
11 indigenous vegetation to a lower amount, or amend the
12 site plan during DO.

13 HEARING EXAMINER RIVERA: So is that determination
14 based on the acreage or on the commercial square
15 footage?

16 MR. LANGE: It's -- for this site it's going to be
17 off of the impervious. So with the current -- right
18 now I think they're at 1.75, plus or minus; and with
19 the development on the lots, it will put them over.

20 HEARING EXAMINER RIVERA: So is the -- would you
21 be looking for a condition of some sort that requires
22 them to modify? Because the ADD is obviously being
23 considered separate, outside the scope of the special
24 exception. So is there anything --

25 MR. LANGE: Yeah.

1 HEARING EXAMINER RIVERA: -- within here that
2 needs to be addressed to rectify this?

3 MR. LANGE: No. I mean, we're going to have them
4 tell -- you know, provide us, in that ADD request, what
5 that reduction needs to be to meet the site design, and
6 then review that from there.

7 HEARING EXAMINER RIVERA: Okay. So the addition
8 of the six pumps that they're talking about doesn't
9 necessarily correlate to any of the concerns --

10 MR. LANGE: No.

11 HEARING EXAMINER RIVERA: -- that were raised. It
12 was just discrepancies that you noticed in the filing.

13 MR. LANGE: Yeah, I just wanted continuity between
14 those, yes.

15 HEARING EXAMINER RIVERA: Okay, thank you. But
16 you also support removal of the second
17 condition that's --

18 MR. LANGE: Absolutely, yes.

19 HEARING EXAMINER RIVERA: Okay, thank you.

20 MR. LANGE: Thank you, yeah.

21 HEARING EXAMINER RIVERA: Did Staff have anything
22 further?

23 MR. BLACKWELL: No, ma'am.

24 HEARING EXAMINER RIVERA: Okay, thank you.

25 With that then, we will open public comment.

1 Mr. Felder, if you'd like to come forward. Good
2 afternoon.

3 MR. FELDER: Hi, Derek Felder for the record. I
4 am a -- one of the members of the Lehigh Acres ARB
5 committee board group.

6 First I'd like to first establish what it is your
7 role on this one -- what are you actually reviewing,
8 and what you are approving? My understanding is the
9 fuel pumps and the deviations for the entrances?

10 HEARING EXAMINER RIVERA: It's solely -- and thank
11 you for clarifying because it does get a little
12 confusing. They're already approved under C-2 for a
13 convenience store with gas station. So all that they
14 are seeking from this process is the additional 6
15 pumps, so from 8 to 14 is all that they're talking
16 about. So anything that has to do with holistically
17 putting a gas station on a site -- because I did read
18 the minutes from it, and I know that there were some
19 concerns about that. That's already a given. They're
20 permitted to do that by right; so it's just the
21 additional fueling stations. And it sounds like
22 they're doing 7 islands, for lack of a better word,
23 that would have two fueling positions on either side.
24 So that's the scope of what I can review.

25 MR. FELDER: What about the -- the DOT entrance

1 deviations? Is that you?

2 HEARING EXAMINER RIVERA: The site plan that
3 they've provided for this 2.2 acres -- because the
4 legal description, again, is only tied to that western
5 2.2 acres. So they're talking about the one to the
6 east, but that's outside the purview of what they're
7 seeking today. So it's solely that right-in/right-out
8 that's shown right at the edge, will be the only thing
9 that would be subject to this site plan and this
10 special exception. But, again, it's got to be
11 connected to the additional pumps that they're looking
12 for.

13 MR. BLACKWELL: Condition 1 of the Staff Report
14 specifies only the 2.2-acre is the adopted plan that
15 they have to conform to --

16 HEARING EXAMINER RIVERA: Right, so a site plan
17 that they've provided.

18 MR. BLACKWELL: Right.

19 HEARING EXAMINER RIVERA: But this that I have,
20 their site plan, doesn't show that. That was included,
21 but this actual --

22 MR. FELDER: So when they reference one of the
23 deviations for the right-in/right-out on the far east
24 area --

25 HEARING EXAMINER RIVERA: Those are for the ADD.

1 That's why it gets con -- so there's an administrative
2 deviation process that they're going through outside
3 the scope of this, which was the nature of the
4 questions I was asking just now of Staff, because
5 anything that's being raised relevant to that is
6 outside of --

7 MR. FELDER: I'm going to comment on -- on a
8 couple other things just in case it ties back.

9 HEARING EXAMINER RIVERA: Yes, thank you.

10 MR. FELDER: So the ARB group itself was against
11 the project in a general means, which is what it is.
12 So from here forward I'm going to comment as my
13 personal comments outside of the group comments.

14 Start with the -- just to clarify, at the meeting
15 they mentioned about improving Brookfield Street,
16 widening it, repaving that entire frontage basically in
17 front of their property. I just wanted to get
18 clarification if they're still doing that.

19 Concern was the traffic on Brookfield. There is a
20 bus stop, I think, at the location right where the turn
21 lane into the gas station is, I believe, if there would
22 be any kind of improvement for a bus stop at that
23 location.

24 Since the traffic report said about that the
25 traffic generation like basically does not change with

1 the pumps, and, personally, it is what it is. I don't
2 see a reason to deny more pumps if it doesn't actually
3 change anything.

4 The right-turn lane on Brookfield, I don't see a
5 reason to really need a right-turn lane itself. So
6 that deviation, I don't have an issue with having no
7 turn lane into the -- into the project on Brookfield.

8 The -- the right-in/right-out, which is farther
9 down on the east that you may or may not be able to do
10 anything about, the concern with that location of that
11 turn lane is if you turn right out of there, jump
12 across three lanes to get into that left-turn lane to
13 make a left on Alvin, that's a concern. And the other
14 concern is the right-turn lane into the -- into the gas
15 station, whether there would be confusion of people
16 thinking it's a right-turn lane onto Alvin,
17 potentially.

18 If you can pull up a Google Map aerial view or --
19 or any aerial view where you can pan around? It can be
20 like the leegov webpage or whatever.

21 MR. BLACKWELL: Do a GIS --

22 MR. FELDER: I asked for that due to the fact of
23 the -- kitty-corner from this is the Zaxbys and the
24 Dollar General, I believe -- Dollar Store, whatever it
25 is, and then next to that is another five-parcel strip

1 mall, let's call it, of more commercial. And so if we
2 look at LEEPA here in the area I'm talking about there,
3 so there is a right-turn lane to turn right onto
4 Westgate, you know, which is the road across from
5 Alvin. And if you zoom in right there where you are
6 right now, there is a right-in only into the Dollar
7 General. You cannot turn -- you cannot go out there.
8 And then that lane continues to make the right turn
9 onto Westgate. So my comment is why not do something
10 similar to that where you are by the gas station? And
11 then down further, further -- further east where that
12 strip mall is the other direction, there is no access
13 for those three buildings there on Lee Boulevard at
14 all.

15 So, you know, like so if we correlate this area
16 here to the opposite side of the road, I would not be
17 in favor of the right-in/right-out so that we don't
18 have the conflict with traffic trying to jump across
19 three lanes to make that left-hand-turn lane onto
20 Westgate; and then the other right-turn lane, why not
21 do something similar to what's across the street with
22 the right-turn lane continuing on to the actual
23 intersection with -- still having that right only.

24 MR. AKIN: It's not right-in/right-out. It's
25 right-in only.

1 MR. FELDER: The one at the gas station, yeah.
2 The one farther down is the right-in/right-out. That's
3 the one that we're also against and -- not having that
4 one.

5 As far as the right-turn lane, since that's the
6 only thing that we're talking about today, why not
7 continue it on and do just like they did across the
8 street? Even just for -- for a consistency standpoint,
9 it would look the exact same as what's already there.

10 And I think that's all I really have.

11 HEARING EXAMINER RIVERA: Thank you. Thank you
12 for coming today.

13 Okay. We'll come back to the Applicant and the
14 Staff. Does anyone need a break before we get to
15 closing or rebuttal?

16 MR. AKIN: (Shakes head.)

17 HEARING EXAMINER RIVERA: Okay.

18 MR. AKIN: All right. So thank you again, Madam
19 Hearing Examiner. Richard Akin for the record.

20 So just to kind of reiterate, you know, from the
21 public comment, so the only turn that is the subject
22 of -- and I was asking him to make sure that he
23 understood. I wanted to make sure he got it, as he was
24 talking, to give him the opportunity to pare down his
25 comments accordingly.

1 But for the purpose of the 2.2-acre parcel, it is
2 a right-in only, and it allows for circulation to go
3 back out -- and we don't have our circulation slide
4 up -- to go back out to Brookfield Street and allow for
5 cars to then go take a left on Alvin and go -- use the
6 red light instead of having traffic going back out and
7 then turning onto -- to Lee Boulevard, which might
8 create conflict. So we believe that, as we
9 demonstrated during our affirmative presentation,
10 traffic circulation is taken care of and is addressed
11 in that manner.

12 And also just to kind of point out, I know there
13 was some discussion about -- by both Staff and the
14 public a little bit about the difference between the
15 ADD and some of the DOs and things, and I understand it
16 can be a little bit confusing. We wanted to present
17 all of that as part of this, as a cohesive plan so that
18 everyone could understand exactly what was going on to
19 give context. Because if you don't add that in,
20 there's a little -- maybe a lack of context for
21 everyone.

22 So, yes, we are just here on the special exception
23 today, but these other things that are going on on-site
24 at the same time give context to what we're trying to
25 develop.

1 And Mr. Lange came up and talked a little bit
2 about the issue with the Condition Number 2 that's now
3 removed. I don't really want to go down that road too
4 much because Staff's agreed that it's been removed.
5 There were discussions about why it was or wasn't
6 appropriate for the special exception.

7 As far as whether it applies at some later time to
8 the ADD, to a development order, to a landscape plan,
9 we'll have to address that at that time with Staff.
10 We've already had some discussions there so -- but I
11 don't think it applies here today. So I think
12 withdrawal of it is appropriate, and we all agree on
13 that.

14 So the only other thing -- if you give me just one
15 brief second to talk to Linda Miller, and then I'll be
16 back.

17 HEARING EXAMINER RIVERA: Certainly.

18 (Brief pause in proceedings)

19 MR. AKIN: Thank you for the ability to take the
20 brief pause.

21 You asked a question at the end of our
22 presentation about the delivery hours specifically
23 for -- between -- I believe it's 6 a.m. and midnight,
24 and there's a condition on the property across Alvin
25 Avenue from us, the RaceTrac, for that.

1 So in speaking with everyone here, I can't see a
2 reason to make a distinction between the two
3 properties. And so if in your -- if in your wisdom you
4 think it's appropriate to impose the condition for
5 delivery hours, then so be it. That will be fine.

6 HEARING EXAMINER RIVERA: Thank you. Thank you
7 very much.

8 Did Staff have anything final --

9 MR. BLACKWELL: No.

10 HEARING EXAMINER RIVERA: -- for closing or
11 rebuttal? Okay, thank you.

12 Thank you, everyone, for coming today. I will be
13 issuing a decision in this case, and I don't expect it
14 will take too terribly long to get that out, and it
15 sounds like you've got several other approvals that
16 might be waiting for this. So hopefully that will
17 allow everything to continue forward.

18 Thank you for your time, thank you for your
19 thoroughness, I really do appreciate it, and please
20 stay well.

21 (Proceedings concluded at 2:00 p.m.)

22

23

24

25

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF LEE)

I, Deborah M. 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 53, is a true and correct record of my stenographic notes.

Dated this 6th day of March, 2025.



Deborah M. Bruns, FPR

(This transcript was electronically signed.)

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