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May 22, 2024

Via Email

Mr. Chuck Varadin
Marion County Growth Services Director
2710 E. Silver Springs Blvd.
Ocala, FL 34470
Chuck.Varadin@marionfl.org

RE: Jumbolair / Bob and Debra Bull
Hangar Site Plan and Related Matters

Dear Mr. Varadin:

On behalf of Bob and Debra Bull and their various entities owning more than 550 acres in Northeast Marion County constituting the community known as “Jumbolair,” I am writing to address the status of our discussions with County staff following our meeting of March 22. Despite frustration with the process endured thus far, we look forward to working with you on obtaining approvals necessary for development of an exceptional, unique, fly-in residential community that will bring to fruition a vision initiated more than forty years ago with construction of the largest private runway in the United States and adjacent airport improvements (the “Airport”).

Background

Jumbolair / Greystone Airport originally consisted of a grass runway (running east and west) prior to construction of the paved runway (running north and south) in the early 1980s. At all times, the Airport has maintained licensure as a private airport through the Federal Aviation Administration (“FAA”). Since inception and pursuant to federal and Florida law, authority to regulate the Airport rests with the FAA and the Florida Department of Transportation (“FDOT”). As confirmed by representatives from these organizations during our call on December 6, 2023, the County’s regulation of airport activities is preempted and limited to matters concerning zoning controls applied to properties adjacent to private airports within designated airport hazard areas pursuant to Chapter 333, Florida Statutes.

After filing our applications for Comprehensive Plan Amendment and Rezoning to PUD last year, we received a positive reception followed by little input from staff. On the afternoon of Friday, November 26, 2023, the Planning and Zoning Commission agenda packet for the Monday, November 29 meeting was posted. We were pleased to see that staff recommended approval of our applications. However, upon arrival and shortly before the beginning of the 5:30 P&Z meeting, we were notified that staff had changed its position and would be recommending denial due to

concern about aircraft activity at the airport. Needless to say, we were caught by surprise.

Following P&Z's recommendation of denial based on staff's recommendation, we immediately engaged with staff in an attempt to address concerns. Since nothing had changed concerning our application except for staff's newfound worry about whether the County should be regulating aircraft activity, the first step was to attend the call referenced above with the FAA and FDOT. The takeaway from this call was that the County has no role in such regulation. However, my client remained open to taking further action to address concerns about the project from staff or the community.

Immediately thereafter, we invited staff and any interested neighbors to attend a voluntary community meeting at the Jumbolair hangar complex to discuss the proposed project in more detail. I encourage clients to do so frequently, in large part to eliminate the "fear of the unknown" that often causes neighbors to dread the worst despite an applicant's good intentions. Mr. Bull agreed to do so, attended the meeting, listened to his neighbors, and subsequently decided to significantly reduce the proposed density of the project by increasing lot sizes, reducing the number of lots, and limiting the intensity and height of the portion of the project lying south of 77th Street.

Despite these efforts, misinformation spread like wildfire on social media and elsewhere, driven primarily by Horse Farms Forever's marketing team. This took us by surprise because, prior to filing our application, we engaged its leadership and were assured that HFF had no concerns and would not oppose the project so long as residential development would be limited to the portions of the property lying within the Urban Growth Boundary and south of the Farmland Preservation Area. We designed the project to accommodate this request, only to later find out later that Horse Farms Forever had a change of heart and would undertake an aggressive campaign in opposition. I mention the foregoing only because it is my impression that this campaign had the desired effect on County staff's analysis of the project.

Immediately prior to our final hearing, we discovered that we made an honest mistake. Mr. Bull was working with the Marion County Property Appraiser's staff to secure agricultural exemptions for portions of the property lying within the proposed PUD. Because he and Mrs. Bull intended to continue to use these portions of his property for Mrs. Bull's horses and pasture for hay production, they intended to obtain the exemptions until the actual use changed. After being properly advised by the Property Appraiser's staff on the proper procedure, Mr. Bull hired a contractor to clear the property and plant the fields in order to establish the bona fide agricultural use of the land. At the time, he did not understand that, while the clearing is exempt from permitting requirements pursuant to Section 6.7.2. of the Land Development Code, clearing under this exemption prevents application for a land use change within one year unless the proposed development plan provides for tree replacement or payment into the Tree Mitigation Fund pursuant to Section 6.7.2.C.

Because the clearing occurred immediately prior to our scheduled hearing and without sufficient time to address the issue, we decided to withdraw the applications and reapply instantly. In an interesting turn of events, at our scheduled hearing and upon our withdrawal, the County announced its first-ever "zoning in progress," effectively halting any applications concerning land

use or rezoning cases related to fly-in communities. After considering several options, we have decided to partner with the County in this effort despite the resulting delay. We understand that the County has engaged a private consultant to adopt amendments to its Land Development Code, which you explained is expected to conclude in September. In the interim, we look forward to participating in the process and collaborating with Doug Kelly of Hoyle, Tanner & Associates, Inc., following which we will be resubmitting our applications for Comprehensive Plan amendment and rezoning of the subject property in compliance with the then-current Land Development Code.

Concerning Code Enforcement Case No. 944204-LH2 opened in connection with the clearing, we have agreed that the case will be closed and that any application filed by Mr. Bull prior to February 13, 2025 will be required to comply with Section 6.7.2.C. of the LDC concerning tree replacement or payment into the Tree Mitigation Fund.

Following our voluntary withdrawal of pending applications and in preparation for resubmittal, the Bulls plan to construct hangars adjacent to the Airport. Prior to our meeting in March, we submitted a draft site plan proposing 94 new hangars with specifications including sixty 60' x 60' hangars, thirty 70' x 70' hangars, and five 100' x 120' hangars (to complement the existing five 100' x 120' hangars that were previously permitted and constructed). Eventually, the hangar complex will constitute a portion of the forthcoming PUD and serve the community. Following our meeting and in response to your feedback, we have significantly reduced the size and scope of the initial site plan, which we will submit shortly. The plan will be limited to 22 hangars located on Marion County Parcel ID No. 14105-000-00, which is within the original licensed Airport adjacent to the original grass runway.

While my client has been patient and respected the County's "zoning in progress" during development of the revised LDC, site plans and building permits proposing hangars should continue uninterrupted for the Bulls or any other owners of land that is part of a licensed airport and contiguous to an approved fly-in community. My hope is that the reduction in hangars will satisfy the County and allow the site plan to move forward. In support of such process, I am writing to respectfully disagree with your enclosed letter of March 22 and assert that the County has no basis to delay or deny such permits for the reasons set forth below.

Comprehensive Plan

First, you erroneously contend that the proposed hangars are inconsistent with the Rural Land designation as defined in the Comprehensive Plan, which you assert is only intended to accommodate bona fide agricultural uses. As discussed in recent hearings concerning RaceTrac and proposed text revisions to the Rural Commercial zoning district, it is incorrect to interpret Comprehensive Plan language related to the Rural Lands and Farmland Preservation Area in a manner leading to the conclusion that the only permissible use in such areas is bona fide agricultural operations to the exclusion of any other uses. I will not rehash the relevant arguments in this letter (which I acknowledge is already shaping up to be lengthy), but it is clear that the County Commission recognizes the risks and impracticality of stretching the plain language of Policy 2.1.16 beyond its logical, straightforward interpretation. Our proposed hangars are not inconsistent with the foregoing Policies and are incidental and adjacent to a long-established

private airport and fly-in equestrian and aviation community. I am happy to discuss in detail if you are not convinced that your position lacks merit.

In conjunction with the foregoing, you also take the position that the proposed number of hangars violates the maximum base density in Rural Lands, which is stated as “one (1) dwelling unit per ten (10) gross acres.” Like a barn, a hangar is not a dwelling unit. Thus, this does not apply to hangars. It is not in anyone’s best interests to interpret the Comprehensive Plan in a manner that considers non-residential barns and hangars to be dwelling units, which will lead to a host of unintended, negative consequences for owners within the Rural Lands and Farmland Preservation Area. Based on the foregoing, it is my hope that we can disregard the argument concerning violation of density limitations.

Similarly to the foregoing, you contend that Policy 3.1.4 requires any project in the Rural Areas to “protect the existing rural and equestrian character of the area...” and “foster the continued operation of agricultural activities, farms and other related uses.” You then state that the proposed hangars “are more of a commercial use, as suggested by the Florida Building Code...” Like language governing Rural Lands, stretching the foregoing language beyond its plain meaning in a way that would unduly burden private property rights carries risks and is impractical. As addressed below, hangars and barns are permitted by the LDC in all agricultural zoning districts. As we discussed in our meeting, treating hangars or barns as commercial structures sets a dangerous precedent that would significantly impact our community, which is known as the Horse Capital of the World.

Later in your letter, you restate this concern. While Mr. and Mrs. Bull have not indicated any intent for third parties to use the proposed hangars for rental by third parties, you assert that “(i)f such hangars would be rental hangers, that would be a commercial use inconsistent with the RL land use.” I suggest we discuss the larger implications of this position. Upon reflection, I do not believe the County will find it appropriate to determine that rental or third-party use of barns, residences, or hangars throughout the Rural Lands renders a commercial use violative of the Comprehensive Plan, which would cripple horse farm owners. This interpretation certainly would not “protect the existing rural and equestrian character of the area...” and “foster the continued operation of agricultural activities, farms and other related uses.”

Finally, one critical reality that your analysis fails to address is the fact that the vast majority of the subject property is within the Urban Growth Boundary. Granted, this may be due to the fact that the instant request concerns hangars straddling the Urban Growth Boundary and Farmland Preservation Area, the boundary of which bisects the subject property. However, accessory uses or structures such as hangars or barns adjacent to principal uses, structures or land are appropriate within the FPA. In fact, we have intentionally directed the residential development to areas within the UGB and the accessory hangars to the FPA to ensure consistency and compatibility (which, as mentioned above, was tentatively agreed upon with Horse Farms Forever prior to application). Finally, I will note that a meaningful conversation is overdue concerning the arbitrary location of the FPA boundary in some areas, and this may be the best example. The historically relevant criteria (such as soils), if applied to this property, would not support the boundary being drawn in this manner.

In addition to the discussion above regarding Comprehensive Plan considerations, it is important to note that the Airport predates the Marion County Comprehensive Plan, as well as the arrival of all nearby property owners who now object to this use, with one ironic exception; one individual's grandfather benefitted financially from his business decision to sell property to Arthur Jones for construction of a portion of the runway, which he now claims to be a nuisance. It also bears mentioning that the Bulls have invested an incredible amount of time and resources into improving Jumbolair, so the notion that they cannot construct additional hangars to complement their investment immediately adjacent to the Airport is as offensive to accepted principles of private property rights protection without unreasonable government interference as it is legally problematic.

Land Development Code

Next, you cite noncompliance with the Land Development Code due to your opinion that portions of the subject property are not part of the platted Jumbolair Aviation Estates Unit 1 and Unit 2 but located on separate "agricultural tracts of record" that are not within the fly-in community and, thus, not an accessory use or structure. I respectfully disagree for the following reasons.

The Bulls' significant investment in the private Airport includes acquisition of lots within the platted subdivisions, Master Developer / Declarant rights to the common areas, ownership of the portions of the runway lying within platted subdivisions, portions of the runway lying outside of the subdivisions, and adjacent lands lying contiguous to the airport and runway. The Bulls intend to use contiguous lands as part and parcel of the private Airport, which will include support facilities such as hangars, notwithstanding the fact that they are currently zoned agricultural.

Section 4.2.2. of the Land Development Code, entitled "General requirements for all agricultural classifications," Subsection D, "Permitted Uses," provides that "accessory use aircraft hangars in approved fly-in communities shall be permitted and include a maximum height of 30 feet." The LDC further defines "Accessory Use" as "a use naturally and normally incidental and subordinate to the principal use of a structure or land and located on the same lot, or parcel or on a parcel contiguous to the principal use to which it relates." "Accessory Building or Structure" is defined as "(a) subordinate building or structure on the same lot, or parcel, or on a contiguous parcel which is occupied by, or devoted to, an accessory use." Thus, like barns on a parcel within or adjacent to a farm, hangars within or adjacent to a fly-in community are permitted by the LDC.

The hangars in question are proposed for the storage and operation of aircraft on agriculturally zoned lands contiguous to the licensed airport and fly-in community. Such use is naturally and normally incidental and subordinate to the use of the contiguous land as an airport and runway, and the hangars structures are located on a parcel devoted to such accessory use. It appears to be clear that this is permitted as an accessory use on the proposed parcel(s). It is worth noting that, presumably based upon the foregoing logic, the County issued permits for five hangars on the subject property, which were completed in 2023.

Point of Personal Privilege

Finally, I would like to defend my client and comment on the sad state of public dialogue. I may disagree with staff at times (although we agree much more than we disagree, despite public perception!), but I sincerely appreciate your effort to thoughtfully examine applications and apply the Comp Plan and Code. If we disagree, you can rest assured that I will never harbor resentment or hold it against you personally. No matter what, I appreciate you and respect your opinion. I also appreciate public discourse and, many times, advise clients to revise and improve proposed projects in response to meaningful feedback from neighbors or third parties. Lately, unfortunately, the tone has changed. Detractors and interest groups believe that it is more effective to engage in personal attacks on social media and email campaigns intended to scare the heck out of everyone, in this case suggesting the possibility of an “Air Raid,” than to engage meaningful and respectful discussion. Mr. and Mrs. Bull have borne the brunt of this misguided style of political warfare delivered under the guise of “preservation” or “minimizing land use conflict” and he doesn’t deserve it. He has been called a greedy developer and criticized for his flying, which are both unfounded.

Concerning the greedy developer allegations, it could not be further from the truth. I have been blessed to represent a lot of wonderful clients with visions of improving our community. The Bulls are, perhaps, the least concerned about return on investment of all. Mr. Bull’s greatest passion is honoring our veterans and active military and his hobby is restoring and flying historic military aircraft. Mrs. Bull loves her horses. As a retired couple, the Bulls invested an untold amount in Marion County through the purchase of Jumbolair with the goal of creating an incredible fly-in community for equine and aviation enthusiasts, with all proceeds to be directed to building homes within the portion of the project lying south of 77th Street for veterans with disabilities to live, free of charge, while they find ways to help with the operation of the Airport. The Bulls did not want me to share the foregoing, or information about the many ways they quietly support those in need in our community, provide honor flights, or introduce flying to local schools, because they are private and do not do it for recognition. However, it upsets me to see them burned down on social media by third parties and interest groups who are ignorant, misguided, and intentionally spreading misinformation in hopes of getting a “W” at the County Commission and sending the next fundraising email to wealthy horse farm owners who recently moved to Mairon County and are seeking acceptance in a social circle.

Secondly, Mr. Bull has been widely criticized for noise generated by aircraft and allegations of disrespectful behavior in the sky. I have spent considerable time since our meeting, and will continue to do so, speaking with the Bulls and independently investigating the complaints of a few neighboring property owners about Mr. Bull’s flying and the effects on the surrounding area. Thus far, this has involved discussions with the FAA, FDOT, and members of the Florida Army National Guard, to better understand the nature and timing of complaints, as well as the frequency and duration of military operations at and around Jumbolair. In short, I have learned the following:

- Mr. Bull never operates helicopters after sundown or prior to sunrise.
- Mr. Bull’s operation of aircraft is limited to an average 2-3 flights per week, which are limited to the licensed approach zone and do not deviate in a way that would

- negatively impact neighbors.
- Despite the foregoing efforts to be a good neighbor, complaints are received by the FAA each time Mr. Bull or the military flies an aircraft at Jumbolair. This was confirmed by flight data and the timing of complaints received by the FAA.
 - Thus, it is not the nature of Mr. Bull's flying, but the simple fact that someone is flying, that generates complaints.
 - Army National Guard and other branches of the military regularly fly through the area and perform low flying or "touch and go's" at Jumbolair, which appear to be wrongfully attributed to Mr. Bull. This conclusion is based on flight data compared to complaints to the FAA and posts on social media. Mr. Bull and I are very appreciative of those who defend our country and the foregoing is not intended to blame anyone, but to clarify that some, if not many, of the complaints are based on activity that does not concern Mr. Bull.

Conclusion

Moving forward, I respectfully request that the parties and involved third parties lay down their swords, recognize and refuse to give credence to misinformation and marketing materials that are misleading or mistaken, and focus on ensuring that Mr. Bull may enjoy his private property rights so long as any proposed improvements comply with the plain language of the Comprehensive Plan, Land Development Code, and applicable state and federal regulations concerning the operation of the private Airport. I am certain you agree and appreciate your anticipated cooperation.

It appears to be clear that Mr. Bull has the right to submit a site plan including hangars for review and approval in keeping with the LDC and standard practice. During site plan consideration and approval, we look forward to working with you and your consultant on the forthcoming LDC amendments, following which we will resubmit our applications for Comprehensive Plan Amendment and Rezoning, which will comply with the new LDC.

I understand that this letter is lengthy and appreciate your consideration. I felt it necessary to provide a thorough response, attempt to set the record straight, and ensure that we are all moving forward together with the common goal of analyzing the project for consistency and compatibility. I am certain that our applications will meet the applicable criteria and look forward to our continued discussions. Please contact me with any questions or concerns.

Sincerely,

/s/ Robert W. Batsel, Jr.

/s/Robert W. Batsel, Jr., Esq.

cc: Matthew "Guy" Minter, County Attorney
Mounir Buoyounes, County Administrator

Tracy Straub, Assistant County Administrator
Ken Weyrauch, Deputy Director, Growth Services
Chris Rison, Senior Planner, Growth Services
Marion County Board of County Commissioners

Bob Bull
Debra Bull
Jumbolair Development, LLC, et al.

David Tillman
Jon Harvey
Tillman & Associates Engineering, LLC

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Marion County Board of County Commissioners

Growth Services ▪ Planning & Zoning

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March 1, 2024

Mr. Jon Harvey
Planning Technician
Tillman and Associates, Engineering
Ocala, FL 34471

Re: Response to your email to Mounir Bouyounes dated February 22, 2024

Dear Mr. Harvey,

Our staff has reviewed the hangar concept plan provided for the lands identified as PID# 14105-000-00 and 14106-000-00 and has the following determination.

First, the starting point for consideration of any application for a development permit requires a determination whether the application is consistent with the designated land use for the property. The comprehensive plan is the land use constitution for Marion County. As such, the comprehensive plan enjoys primacy for any development permits. A local government cannot legally approve development permits that are inconsistent with the comprehensive plan. What you propose is inconsistent with the current Rural Land (RL) designation on the FLUM and therefore cannot be approved. Even if you argued that our current Land Development Code (LDC) would permit the proposed use (which is discussed below) we cannot approve these development permits. Really the analysis ends here. However, since you take the position that our LDC authorizes your proposed hangars, I further conclude that the LDC does not authorize your proposed hangars at that location. Applications and questions like the one you have raised highlight why the county is expeditiously undertaking to develop a set of standards and regulations for private airports, airstrips, fly-in communities, and the like.

To support the prior conclusion that the proposed use is inconsistent with comprehensive plan, the property is analyzed as an agricultural tract of record with a RL use that is in the farmland preservation area (FPA). The comprehensive plan defines agricultural uses as the following:

"Any generally accepted, reasonable, and prudent method for the operation of a farm, including, but not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, if the land is used principally for the production of tropical fish; aquaculture, including algaculture; sod farming; all forms of farm products as defined in Section 823.14(3), F.S. and farm production. Agricultural Lands are classified as such pursuant to Section 193.461, F.S."

Moreover, comprehensive plan policy 2.1.16 defines rural land (RL) as a “land use designation [...] intended to be used primarily for agricultural uses, associated housing related to farms and agricultural-related commercial and industrial uses. The base density shall be (1) dwelling unit per ten (10) gross acres...” Therefore, since the comprehensive plan does not support the proposed use as an agriculturally related use in the rural lands, and the proposed intensity of 94 hangars on 83.16 acres exceeds the intent of the 1 dwelling per 10 acres, the proposed use is inconsistent with the comprehensive plan.

Second, your email suggests that the site (as detailed by your attached concept plan) is connected to the Jumbolair Aviation Estates Unit 1 and Unit 2 subdivision hamlets (JAE) and that the proposed hangars are accessory uses to JAE’s private airstrip. The JAE is primarily a community where people reside, and the private airstrip is an accessory use to that community. Staff does not have records available that indicate when the Greystone / Jumbolair airstrip was established in the 1980s that a fly-in community was approved or proposed. Further, parcel 14106-000-00 (where you propose to build 80 of the 94 hangars) was acquired in 2001 and was not part of the historical pre-comprehensive plan holdings related to the airstrip. It is simply an agricultural tract of record. Moreover, an accessory use requires a principal use—a principal residence that can have a hangar, like the JAE or the Leeward Air Ranch Airport. The JAE hamlets are their own community with their own runway access and their own allowances for hangars. Currently, there is no other fly-in community or residences for the additional hangars to be part of under your proposed project. If such hangars would be rental hangars, that would be a commercial use inconsistent with the RL land use. The property in question is a wholly different property from the JAE community. The recently proposed but withdrawn PUD, if approved, would have been the proper method to attempt to establish the necessary project wide connections to enable the proposed hangars in a detached but accessory nature (i.e., one house one hanger like in JAE). Since the PUD was withdrawn, these hangars cannot stand alone separate from an approved primary use.

Third, the approved use for the JAE includes hangars for its residences and extends to the accessory contiguous use definition of "ACCESSORY BUILDING OR STRUCTURE (APPURTENANT STRUCTURE), and ACCESSORY USE." However, these lots you are proposing are not contiguous lots to JAE and they were not part of the hamlets as platted and approved. Contiguous parcels are defined by the Land Development Code (LDC) as being “Those parcels of land with at least one common property line.” There are on average at least three properties between JAE and the properties in question. Therefore, the property is not contiguous to the JAE community. Additionally, without going through the Board of County Commissioners, you are trying to accomplish something that would have been accomplished with the PUD that you withdrew. As noted previously, the PUD process and a comprehensive plan amendment are the proper mechanisms for approval of the proposed use.

Finally, comprehensive plan policy 3.1.4 says that development in rural areas shall be guided by principles such as, "[p]rotect[ing] the existing rural and equestrian character of the area..." and "...foster[ing] the continued operation of agricultural activities, farms, and other related uses..." The proposed hangars in the farmland preservation area (FPA) are more of a commercial use, as

suggested by the Florida Building Code (FBC) section 312.1 that puts aircraft hangars under Use Group S-1, requiring full compliance with the commercial provisions of the FBC. Ninety-four separate hangars that are not an accessory to a principal structure like a residence do not support the equestrian character of the area.

Therefore, for the reasons previously noted, these hangars are not a permitted use on the suggested property at this time.

Sincerely,

Chuck Varadin
Director
Growth Services