



Marion County Board of County Commissioners

Growth Services ▪ Planning & Zoning

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December 12, 2024

Mr. Reggie Bouthillier and Ms. Jessica M. Icerman
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
106 E. College Avenue, Suite 2100
Tallahassee, FL 32301

Mr. Robert W. Batsel, Jr.
Gooding & Batsel, PLLC
1531 Southeast 36th Avenue
Ocala, Florida 34471

Re: Response to Mr. Bull's proposal for new hangars (22) on PID 14105-000-00¹

Dear Mr. Bouthillier, Ms. Icerman, and Mr. Batsel,

This letter revises my prior letter dated August 12, 2024 (hereafter, "prior letter"). The revision is based on the County Attorney's memo (dated December 12, 2024) regarding the application (AR #32136) to construct 22 new hangars at Jumbolair-Greystone Airport (hereafter, "Airport"), further research, and revisiting the historical documents of the Airport (enclosures 3 and 4). Therefore, I agree with the County Attorney's conclusion "that the Site Approval and Registration by the FDOT of the Airport includes the right of the Airport to construct hangars within the Airport site." It should be noted that this interpretation only applies to this airport based on its original development and its unique circumstances. It should not be interpreted as applying to all private airports in the County.

As noted in my prior letter and in the County Attorney's memo, the development of the hangars will still be subject to Development Review approval for an applicable Major Site Plan. The Airport Registration does not exempt airport development from all County regulations. It is subject to the building code, the fire code, stormwater regulations, set backs, and building height restrictions, which the County Attorney also stated in his memo.

If you have any questions, please contact me at Chuck.Varadin@MarionFl.org.

¹ This refers to the historical parcel less what has been sold.

Sincerely,

Chuck A. Varadin

Chuck Varadin
Director
Growth Services

Enclosures:

1. County Attorney's Memorandum dated December 12, 2024.
2. Location map showing subject property, PID# 14105-000-00.
3. Documents sent from Mr. Bull by email on July 10, 2024, labeled "17FL Original documents."
4. Documents sent from FDOT by email on July 17, 2024 (Two PDFs labeled "_1_SKM...9261" and "_2_SKM...9140").
5. Hangar concept plan dated 11/05/24 labeled "PHASE 2 HANGAR SITE PLAN."

Enclosure 1 Starts Here




**Marion County
Board of County Commissioners**

Office of the County Attorney
601 SE 25th Ave.
Ocala, FL 34471
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MEMORANDUM

To: Chuck Varadin, Growth Services Director

From: Matthew G. Minter, County Attorney 

Date: December 12, 2024

Subj: Application (AR#32136) to construct 22 new hangars at Jumbolair-Greystone Airport FAA ID 17FL

INTRODUCTION: The Jumbolair-Greystone Airport (hereafter, “Airport”) is “registered” by, and has “site approval” by the Florida Department of Transportation (“FDOT”) as a “Private Airport,” with a site address of 8851 West Anthony Road, Ocala, FL 34479. (See **attachment A**). The registration of the Airport by FDOT in 1980 and 1982 pre-dates the enactment of land development regulations applicable to the site by Marion County. The Airport is one of 224 private airports in the State of Florida listed in the FDOT 2024 Florida Airport Directory. (See **attachment B**). It is noted that there are a number of other FDOT registered private airports in Marion County also listed in that Directory. While legal issues may arise in numerous contexts related to airports, this memorandum addresses the narrow issue of what permits or approvals are required from Marion County for the construction of 22 new airplane hangars *within the approved Airport site boundary*. There was a comprehensive plan amendment and concurrent PUD rezoning application related to *property adjacent to the airport* that was withdrawn on February 20, 2024. And, in the future, there may be separate proposals related to new development in or around the airport, but those issues are not germane to, and thus not addressed in this memorandum.

RELEVANT HISTORICAL ACTIVITY: An application for construction of five replacement hangars, to replace existing hangars, was submitted to the County in 2021 under Major Site Plan Application (AR # 27450). That Plan was approved by the DRC on December 13, 2021. Permits for four of the five hangars were issued on February 2, 2022, and the fifth hangar permit was issued on February 16, 2022. The Major Site Plan was revised (AR# 29680) to reflect some adjustments made as the site was under construction. That Plan was approved by the DRC on April 3, 2023. The permits for the five hangars were then CO’d on April 11, 2023. No other permits or approvals were required by Marion County for that project.

JURISDICTION: Initial issues involve the questions, “What is an airport?” “What agency has jurisdiction to initially approve a private airport?” “Is the construction of new hangars within an approved airport boundary authorized by the approval of the airport itself?” If the Florida Department of

Transportation (“FDOT”) has authority to approve new airports, does Marion County have any regulatory authority over construction of new buildings on airport property?

Florida statutes provide for approvals of new public airports and private and personal airports. *The Airport has for some time held a current valid registration and site approval for a private airport by the FDOT.* A private airport can be used by the owners of the airport, and the invitees of those owners. A private airport is not open to use by the general public, as is the case for the Ocala Airport or the Marion County Airport. Private airport site approvals and registrations are administered by FDOT pursuant to Ch. 330, Florida Statutes, and Florida Administrative Code Ch. 14-60. Fla. Stat. § 330.30(1)(a)2. provides that “the proposed airport will conform to licensing and registration requirements and will comply with applicable local government land development regulations or zoning requirements. As stated above, the registration of the Airport pre-dates the adoption of the Marion County Land Development Code. The question whether Marion County has any authority to limit the number of hangars at the Airport requires a review of the definition of an “airport.”

Definitions of “Airport”

A. U.S. Code

- Per 49 USC § 47102(2), an **airport** is:
 - a. An area of land or water used or intended to be used for the landing and taking off of aircraft;
 - b. *An appurtenant area used or intended to be used for airport buildings and other airport facilities or rights of way;*
 - c *Airport buildings and facilities located in any of those areas;*
- Per 49 USC § 102(2)(B), this specifically includes heliports.

B. Florida Statutes

Fla. Stat. Ch. 330 REGULATION OF AIRCRAFT, PILOTS, AND AIRPORTS

Fla. Stat. §330.27

(2) “**Airport**” means an area of land or water used for, or intended to be used for, landing and takeoff of aircraft, *including appurtenant areas, buildings, facilities, or rights -of-way necessary to facilitate such use or intended use.*

[Note, the federal and Florida definitions of “airport” above appear to be “industry standard,” – for instance, the definition of “airport” in **Oregon Admin. Code, Rule 738-005-0010 (18)** contains substantially the same definition.

(5) “**Private airport**” means an airport, publicly or privately owned, which is *not open or available for use by the public, but may be made available to others by invitation of the owner or manager.*

Fla. Stat. Ch. 332 AIRPORTS AND OTHER AIR NAVIGATION FACILITIES

Fla. Stat. § 332.01. Airport law; definitions

(3) “**Airport**” means any area, of land or water, except a restricted landing area, which is designed for the landing and takeoff of aircraft; *whether or not facilities are provided for the shelter, servicing, or repair of aircraft*, or for receiving and discharging of passengers or cargo, and *all appurtenant areas used or suitable*, for access to airport facilities, *airport buildings, or other airport facilities*, and all appurtenant rights-of-way, whether heretofore or hereafter established.

The definitions of “airport” in both the federal and Florida statutes above are broad enough to include hangars, although not expressly using the word “hangar.” A hangar is a building or facility for the shelter, servicing or repair of aircraft.

Other Authorities

- In *Gordon v. Bd. Of Civil Authority for Town of Morristown*, 910 A.2d 836, 839 (Vt. 2006), in a tax case, the Vermont Supreme Court ruled that a “hangar,” as a structure designed to enclose an area for sheltering airplanes, is a “building.”
- In the definitions of the **Oregon Admin. Code** referenced above, **Rule 738-005-0010 (67)** “hangar” or “hangar structure” is defined as a covered, usually enclosed, area for housing and repairing aircraft.”
- In another tax case, the Supreme Court of Illinois, in *Harrisburg-Raleigh Airport Authority v. The Dep’t of Revenue*, 533 N.E.2d 1072, 1074-75 (1989), referring to an applicable Illinois statute, the court noted that the Act defines an “Airport” as “any locality . . . used or designed for the landing and taking off of aircraft, or for the location of . . . *hangars, buildings structures, . . .* and other facilities.” The court also observed that “[w]ithout some provision for storage of private aircraft, private aircraft owners would be forced to construct their own storage facilities at a distance from the airport, or use public storage facilities which might not be available on short notice. The goal of assuring regular users of the airport that they will be able to store their craft in secure facilities bears a real and substantial relation to a *public* airport’s function of serving as a terminus for private aircraft.” Although that statement relates to hangars at public airports, the description of a hangar’s function demonstrates that a hangar is a normal appurtenant building or facility for both private and public airports.

In consideration of the foregoing, I conclude that the Site Approval and Registration by FDOT of the Airport includes the right of the Airport owner to construct hangars within the Airport site. No other zoning or land use approvals from the County are necessary for the construction of these hangars. The Airport Registration does not exempt airport development from all County regulations, including those related to the building code; fire code, stormwater regulations, set-backs and building height restrictions. Therefore, I conclude that the application for site plan approval and building permits will go through the DRC review in the same manner as the five replacement hangars referenced above, in 2023.

I am providing this memorandum in support of a revision of your August 12, 2024 letter to Attorney Robert W. Batsel, Jr., related to the proposal for the 22 new hangars.

Please let me know if you need additional guidance in this regard.

MGM/lz

Attachments A and B