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VIA E-MAIL ONLY

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Re: Jumbolair; Large-Scale Future Land Use Map Series Amendment Application Case No. 23-L03 (the “Comp Plan Application”)

Horse Farms Forever Opposition to the Comp Plan Application

Dear Chair Stone, Vice Chair Bryant, and Honorable County Commissioners,

As you know, my firm has the pleasure of representing Horse Farms Forever, Inc., a Florida not-for-profit corporation (“Horse Farms Forever”), a grass-roots organization committed to preserving horse farms and the equestrian culture and character that defines Marion County (the “County”) and ensuring that this sense of place is protected for future generations. Its Board of Directors and staff are charged with implementing a long-term strategy to conserve and protect horse farms and the Farmland Preservation Area. Horse Farms Forever is ever vigilant and always on the alert for policies, regulations, and proposals that would adversely affect horse farms, the Farmland Preservation Area, and the County’s equestrian culture and character.

The Expansion Project

The Comp Plan Application is the foundation of an extensive residential and commercial development expansion surrounding the Jumbolair private runway (the “Expansion Project”). The Expansion Project would allow for up to an additional 376 residential dwelling units clustered around the runway and 1.3 million square feet of commercial development immediately adjacent to the runway, as well as an additional 198 aircraft hangars. The Expansion Project represents a significant expansion and intensification of a non-conforming use, namely the Jumbolair runway.

While the Comp Plan Amendment does not include any lands within the Farmland Preservation Area, the northern portion of the Jumbolair runway is located within the Farmland Preservation Area, and any increased use of the runway will necessarily result in

increased intensity within the Farmland Preservation Area and residents within the Farmland Preservation Area (including members of Horse Farms Forever) will suffer negative effects inherent to the Expansion Project.

Specifically, Horse Farms Forever objects to the Expansion Project's increased air traffic and flight operations, which will adversely affect and damage members of Horse Farms Forever and landowners and residents within the Farmland Preservation Area. This damage is different in kind from the community generally.

As addressed in detail below, the Expansion Project is (1) incompatible with land uses in the surrounding area; (2) adversely affects the public interest and is detrimental to the public's health, safety, and welfare; (3) is inconsistent with the County's Comprehensive Plan; and (4) is inconsistent with Chapter 163, *Fla. Stat.*

The Expansion Project is Incompatible with Surrounding Land Uses

The County's Land Development Code, Comprehensive Plan, and Chapter 163, *Fla. Stat.*, all require compatibility with existing and future land uses in the surrounding area. Section 163.3164, *Fla. Stat.*, defines "compatibility" as "a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly or negatively impacted directly or indirectly by another use or condition."

Clustering residential development around and next to an active runway and increasing and intensifying air traffic and flight operations in and adjacent to a rural and agricultural setting is the antithesis of compatibility. The Comp Plan Application and the Expansion Project seek to squeeze multiple incompatible uses next to one another and increase and intensify existing incompatibilities.

There is no doubt that noise and pollution from the Expansion Project's increased flight operations and air traffic will unduly, directly, and negatively affect the surrounding residential, rural, and equestrian uses. There has already been significant media coverage of disruptions and negative effects caused by low flying aircraft and erratic flight patterns. These disturbances and intrusions are currently caused the aircraft in a handful of existing hangars and will only increase if the Expansion Project is approved, severely degrading the quality of life of nearby residents and disturbing livestock.

The Expansion Project Adversely Affects the Public Interest

Above all else, the Board is charged with acting in public interest and protecting the public's health, safety, and welfare. This is the Board's polestar and has been the cornerstone of the County's authority to regulate land use, zoning, and development dating back nearly a century to the United States Supreme Court's decision in *Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926).

Jumbolair's private runway is untowered, and uncontrolled. A controlled airport has air traffic control ("ATC") services, which provide instructions and clearances to aircraft operating within the airport's control zone. These services and instructions help ensure the safe and orderly flow of air traffic. Conversely, an uncontrolled airport, like Jumbolair, does not have ATC services, and pilots are responsible for maintaining separation, avoiding conflicts, and coordinating their movements with other aircraft in the vicinity.

As mentioned above, the Expansion Project proposes adding 198 new hangars with access to the runway, for a total of nearly 250 hangars that can accommodate over 300 aircraft. By contract, the Ocala International Airport only has 146 hangars, with approximately 200 aircraft based at the Ocala International Airport. It

should be obvious that the increased air traffic and flight operations from the additional hangars and aircraft may exceed that which can safely be accommodated by Jumbolair's untowered and uncontrolled runway. Expansion Project's increased residential and commercial development clustered in close proximity to the runway greatly increases the safety risks to the public and residents, in light of the significantly increased air traffic and flight operations.

The Expansion Project is Inconsistent with the County's Comprehensive Plan

The Expansion Project fundamentally conflicts with and violates multiple goals, objectives, and policies of the County's Comprehensive Plan, including those listed below (which is not intended to be a comprehensive and all-inclusive list):

- FLU Goal 1 – Requires the County to support and protect agricultural uses and protect and enhance the public health, safety, and welfare.
- FLU Policy 1.1.1 – Require the County to recognize and protect the rural equestrian and agricultural character as an asset of the County's character and economy.
- FLU Policy 2.1.6 – Requires the County to protect rural and agricultural areas from premature urbanization and to direct urban uses incompatible with agricultural uses toward areas appropriate for urban development.
- FLU Policy 2.1.13 – Requires the County to recognize "rural neighborhoods" both inside and outside of the Urban Growth Boundary (the "UGB") as deserving of special protection from the intrusion of urban uses and intensities from development in the immediate vicinity.
- FLU Policy 3.1.4 – Requires the County to protect the existing rural and equestrian character of the Rural Area outside of the UGB, acknowledge that a certain portion of the County's population will desire to live in a rural setting, and promote and foster the continued operation of agricultural activities, farms, and other related uses.
- FLU Policy 3.3.1 - Requires the County to preserve and protect rural and equestrian/agricultural character within the Rural Lands and the Farmland Preservation Area.
- FLU Policy 5.1.2 – Requires the County to determine that a proposed amendment to the Comprehensive Plan is compatible with existing and planned development in the immediate vicinity and evaluate its overall consistency the Comprehensive Plan, market demand and necessity for the change, and potential impacts on agricultural activities and rural character of the area and current uses and land uses in the surrounding area.

Of the 37 lots platted for Jumbolair in the early 2000s (Unit 1 was replatted in 2003 and Unit 2 was platted in 2007), 27 lots are vacant and undeveloped, and 24 lots are owned by entities or trusts controlled by Mr. and Mrs. Bull. Given the number of undeveloped and unsold lots, some of which remain undeveloped and unsold after 20 years, there is a clear absence of market demand for residences in this community.

The Comp Plan Application underpinning the Expansion Project represents an intrusion of intense urban and commercial uses, the effects of which are far reaching, extending beyond the lands included in the Comp Plan Application an intruding into the Rural Area and Farmland Preservation Area. In fact, the Expansion Project

is an affront to smart growth principles (which form the basis of the County's planning principles and activities) and contradicting the numerous Comprehensive Plan goals, objectives, and policies that mandate protection rural, agricultural, equestrian, and farmland uses and character.

The Expansion Project is Inconsistent with Chapter 163, Fla. Stat.

Section 163.3177, Fla. Stat. requires that all comprehensive plan amendments must be internally consistent with all other elements, goals, objectives, and policies of the comprehensive plan. As outlined above the Expansion Project envisioned by the Comp Plan Amendment is inconsistent with, disregards, and violates numerous goals, objectives, and policies of the County's Comprehensive Plan. Further, Section 163.3177(6)(a)9, Fla. Stat., requires that any amendment to the future land use element of comprehensive plans, including map amendments, discourage the proliferation of urban sprawl. Primary indicators that a plan amendment fails to discourage urban sprawl include the following:

1. Failing to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils; and
2. Failing to provide a clear separation between rural and urban uses.

These two key indicators clearly evidence the failure of the Comp Plan Application and the Expansion Project to discourage urban sprawl. The Comp Plan Application and Expansion Project would significantly expand and intensify a non-conforming use straddling the boundary of the Farmland Preservation Area and propose additional residential development and intense, commercial, and urban uses at the outer fringe of the Urban Growth Boundary among rural and agricultural land uses. As a result, the Comp Plan Application and its Expansion Project promote and are the embodiment of urban sprawl in violation of Chapter 163, Fla. Stat.

Requested Action

For the reasons detailed above, Horse Farms Forever respectfully requests that the Board deny transmittal of the Comp Plan Application and make specific findings in support of such denial:

1. The Comp Plan Application is incompatible with land uses in the surrounding area;
2. The Comp Plan Application adversely affects the public interest and is detrimental to the public's health, safety, and welfare;
3. The Comp Plan Application is inconsistent with the County's Comprehensive Plan; and
4. The Comp Plan Application is inconsistent with Chapter 163, Fla. Stat.

In the seminal case of *Martin County v. Yusem*, 690 So.2d (Fla 1997), the Florida Supreme Court ruled that all comprehensive plan amendments are legislative in nature. Therefore, the Board has broad discretion (*i.e.*, "legislative discretion") to consider a wide array of factors deemed relevant to its action. Accordingly, if the Board denies transmittal of the Comp Plan Application, such denial is a legislative act, and will be upheld so long as it meets the "fairly debatable" standard. *Martin County v. Section 28 Partnership, Ltd.*, 676 So. 532 (Fla. 4th DCA 1996) (holding that legislative actions are reviewable under the fairly debatable standard).

We look forward to discussing these issues in greater detail during the public hearing. Thank you for your time and consideration.

Sincerely,

ICARD MERRILL



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