



December 8, 2023

VIA E-MAIL ONLY

**G. Matthew Brockway**

Board Certified  
Real Estate Attorney



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Ms. Eryn Mertens  
Planner  
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Re: Case No. 231206ZC; Requested Rezoning of a Portion of Marion County PID No. 07263-000-00 from General Agriculture (A-1) to Rural Commercial (RC-1) for a Gas Station, Truck Stop, and Convenience Store (collectively, the “Rezoning Application”)

Opposition to Applicant’s Request for Continuance

Dear Ken and Eryn,

As you know, my firm represents 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.

We were notified this afternoon by Mr. Robert Batsel that he will seek to postpone the public hearing on the Rezoning Application before the Board of County Commissioners (the “BOCC”) from December 19, 2024, to March 19, 2024. We have also received a copy of Mr. Batsel’s e-mail to you requesting the same, which is attached as Exhibit “A” for convenience of reference. Horse Farms Forever fundamentally opposes this request for a continuance.

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Mr. Batsel's request is a request for continuance, and therefore governed by Section 2.7.4.D of the Land Development Code (the "LDC"), which states as follows, in relevant part (*emphasis added*):

Applicant's request for continuance. At the request of an applicant and for good cause shown, the P&Z or the Board may continue the public hearing on an application for rezoning. The applicant shall be required to pay an additional application fee to cover the cost of re-advertising and re-notifying the adjacent property owners.

This request for continuance cannot be granted by staff. Rather, it can only be granted by the BOCC at the public hearing scheduled for December 19, 2023. Horse Farms Forever and many Marion County residents have already made arrangements to be present at this public hearing. Horse Farms Forever requests an opportunity to speak in opposition to the requested continuance (separate from and in addition to speaking in opposition to the Rezoning Application).

As stated in his e-mail, the reason for Mr. Batsel's request is to prepare a development agreement pursuant to Chapter 163, *Florida Statutes*, and "to meet to understand whether staff has any additional thoughts about restrictions we can include in the Agreement to make the project compatible."

For a host of reasons, this is an improper use of a development agreement and an inappropriate tool to use in an attempt to restrict property. It was stated on the record at the Planning & Zoning Commission public hearing that a development agreement as proposed in the context of the Rezoning Application would be illegal and temporary in nature.

More importantly, Mr. Batsel's request for continuance is a clear and unambiguous admission that the Rezoning Application is fundamentally incompatible with land uses in the surrounding area. Therefore, the Rezoning Application cannot meet the requirements of the LDC and the Comprehensive Plan for approval. Denial of the Rezoning Application is the only possible outcome. Why delay the inevitable?

For the reasons detailed above, Horse Farms Forever stridently objects to and opposes Applicant's request for continuance. We would request that this letter be incorporated into the Rezoning Application file and made a part of the record of the BOCC public hearing. Again, we would request an opportunity to speak in opposition of the continuance at the December 19, 2023, public hearing.

Do not hesitate to contact me with any questions or if you would like to discuss these or any other issues in further detail. I am available to do so at anyone's convenience.

Sincerely,

ICARD MERRILL



G. Matthew Brockway

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Copy to: The Honorable Craig Curry (via e-mail only)  
The Honorable Kathy Bryant (via e-mail only)  
The Honorable Matt McClain (via e-mail only)  
The Honorable Carl Zalak, III (via e-mail only)  
The Honorable Michelle Stone (via e-mail only)  
Guy Minter (via e-mail only)  
Mounir Bouyouunes (via e-mail only)  
Tracy Straub (via e-mail only)  
Chuck Varadin (via e-mail only)  
Bernie Little (via e-mail only)  
Busy Shires (via e-mail only)

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### EXHIBIT "A"

**From:** [Robert Batsel](#)  
**To:** [Weyrauch, Kenneth; Mertens, Eryn](#)  
**Cc:** [Heidi Carman; Soucey, Stephanie; Varadin, Chuck](#)  
**Subject:** RE: RaceTrac  
**Date:** Monday, December 4, 2023 10:50:21 AM  
**Attachments:** [image001.png](#)

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Ken,

Good morning. Please consider this to be our formal request to postpone the RaceTrac rezoning to March 19 to be heard together with our Developer's Agreement.

Concerning the meeting, I think it will be brief but would still like to meet to understand whether staff has any additional thoughts about restrictions we can include in the Agreement to make the project compatible.

Thanks,

Rob

*Robert W. Batsel, Jr.*  
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