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June 27, 2025

The Honorable Kathy Bryant, Chairman
Marion County Board of County Commissioners
601 SE 25th Avenue
Ocala, Florida 34471
Kathy.Bryant@marionfl.org

Mr. Mounir Bouyounes, County Administrator
Marion County Board of County Commissioners
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Mr. Matthew "Guy" Minter, County Attorney
Marion County Board of County Commissioners
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Dear Chairman Bryant, Mr. Bouyounes, and Mr. Minter,

This is a Request for Relief under the Florida Land Use and Environmental Dispute Resolution Act, section 70.51, Florida Statutes ("FLUEDRA"), on behalf of Lake Louise, LLC, a Florida limited liability company (the "Petitioner"), concerning 9.48 acres of real property referenced as Marion County Parcel ID Nos. 3060-007-004 and 3060-004-001, more particularly described in the attached **Exhibit A** (the "Property"). We hope to utilize FLUEDRA to work with the County to resolve perceived issues in a manner that protects the Petitioners' property rights and results in project that is compatible with adjacent uses in the interior of the Urban Growth Boundary and consistent with the County's Comprehensive Plan and Land Development Code.

As described below, the Marion County Board of County Commissioners ("Commission") has unreasonably denied the Petitioner's application to rezone the Property to Planned Unit Development allowing residential density consistent with the underlying Future Land Use designation (the "Rezoning Application"). See **Exhibit B**, composed of the Marion County Board of County Commissioners Meeting Agenda materials from May 19, 2025, including the Rezoning Application 250507ZC ("Commission Agenda Materials"); See also **Exhibit C** ("Rezoning Development Order"). The instant denial occurred on May 19, 2025 at a public hearing before the County Commission and was later rendered on June 2, 2025 by and through the Rezoning Development Order, which the Petitioner received on June 9. The County's denial of the Rezoning Application constitutes a development order that is both unlawful and unfairly burdens the use of the Property.

Pursuant to section 70.51(6), Florida Statutes, a Request for Relief must contain:

- (a) A brief statement of the owner's proposed use of the property;
- (b) A summary of the development order or description of the enforcement action. A copy of the development order or the documentation of an enforcement action at issue must be attached to the request;

- (c) A brief statement of the impact of the development order or enforcement action on the ability of the owner to achieve the proposed use of the property; and
- (d) A certificate of service showing the parties, including the governmental entity, served.

I. **Statement of Owner's Proposed Use of Property.**

The Future Land Use designation for the Property is Urban Residential, which requires a minimum density of eight (8) units per acre and allows for a maximum density of up to sixteen (16) units per acre. The Commission approved an amendment of the Future Land Use designation to Urban Residential in 2022, finding that the designation was appropriate. Policy 2.1.20 of the Marion County Comprehensive Plan Future Land Use Element describes the Urban Residential Future Land Use designation as follows:

This land use designation is intended to recognize areas suited primarily for multi-family residential units, but allows for single-family residential units to provide for a mix of various housing types to meet the community needs within the UGB or Urban Area. The density range shall be eight (8) dwelling units to sixteen (16) dwelling units per one (1) gross acre and commercial uses shall be permitted as accessory uses within this land use designation, as further defined in the LDC. This land use designation is an Urban Area land use.

At all relevant times, the Property has carried a zoning designation of Single-Family Dwelling (R-1). For a host of reasons, the R-1 zoning designation is incompatible with the underlying Urban Residential Future Land Use designation. For example, even if the Petitioner proposed to develop the Property at the maximum allowable intensity in the R-1 zoning district, which provides for a minimum lot area of 7,700 square feet, it would be impossible to comply with the required minimum density of 8 units per acre in the Urban Residential Future Land Use district set forth in the Comprehensive Plan. Thus, it is not feasible to develop the Property with its current Future Land Use and zoning designations.

The Petitioner took the logical next step following approval of the Comprehensive Plan Amendment by submitting the Rezoning Application seeking rezoning to a Planned Unit Development¹ including a maximum of 151 multifamily units (15.9 units per acre), as more particularly described on the PUD Master Plan and subject to the PUD Unit Development Standards within the Rezoning Application package.

At the time of the Planning & Zoning Commission hearing concerning the Rezoning Application, County staff determined that the application package was incomplete due to the Applicant's failure to provide water and sewer concurrency letters from the utility provider, the City of Ocala. Further, staff raised concerns about offsite infrastructure or amenities that would be located within adjacent property located within the municipal boundary of the City of Ocala, which is owned by the Applicant and entitled as a Planned Development subject to Planned Development Standards and a Concurrency Development Agreement Pursuant to Chapter 163, Florida Statutes ("Chapter 163 Concurrency Development Agreement"). The former are included within the Commission Agenda Materials attached as **Exhibit B**, but the 163 Agreement is attached hereto as **Exhibit D**.

The details are beyond the scope of this request, but the central issues for discussion were determined to be the Developer's obligations to provide infrastructure such as stormwater and

¹ The Application was filed prior to the undersigned being involved with the project, but it is my understanding that the PUD was sought at the recommendation of staff together with a warning that the Commission would not look favorably on a "straight" rezoning to a district such as R-3 or R-4.

transportation improvements. Recognizing this reality, the Applicant did everything in its power to ensure the County that such offsite improvements would be constructed and exceed the Applicant's proportionate share contribution.

In summary, the Applicant's team worked with staff² to address the issues identified previously and referenced above. Specifically, concurrency letters were provided and the parties worked on modified conditions of approval. In its Staff Report, the County examined the Applicant's Traffic Study and other components of the Rezoning Application, concluding that the rezoning will not adversely affect the public interest after analyzing transportation impacts³, potable water impacts, sanitary sewer impacts, solid waste impacts, law enforcement, or public schools. Concerning fire rescue and emergency services, it was noted that the rezoning "may" adversely impact such services, but during the hearing it was noted that the Property is adjacent to the City boundary (more appropriately, within an area that akin to an enclave) and would be served by City services pursuant to Interlocal Agreement providing for mutual aid. Prior to the May 19, 2025 Commission meeting, the Staff Report was published. The Staff Summary Recommendation found on Page 5 of the Staff Report stated as follows:

*Staff recommends Approval with conditions of the applicant's request because it is consistent with LDC Section 2.7.3.E.2, which requires that granting a rezoning will not adversely affect the public interest, that the rezoning is consistent with the Marion County Comprehensive Plan (MCCP), and that the rezoning is compatible with land uses in the surrounding area, and with LDC Section 4.2.31 on Planned Unit Development. **The proposed PUD addressed previous issues of missing information crucial to staff analysis and, with the conditions provided, staff believes their concerns have been addressed.***

(Emphasis added).

On May 15, prior to the hearing but after the agenda deadline for the May 19 meeting, the undersigned provided correspondence attached hereto as **Exhibit E**, which included requested revisions to staff's proposed conditions of approval. This correspondence was uploaded and included within the record and referenced as follows:

Robert Batsel with Gooding & Batsel, PLLC. stepped in as agent of this case at the Planning & Zoning public hearing. Following P&Z, Mr. Batsel was provided with a list of missing items by staff and has attempted to address the missing or incomplete items from the initial PUD submittal. Amendment and addition of conditions was discussed via phone call on Friday May 2nd and are provided in this updated version of the report. Staff has concerns regarding timing, however, a condition has been added requiring the City portion of the project to be developed first.

As discussed in Section III, below, the main issue discussed during the subject hearing was traffic. During the hearing, the Commission heard testimony concerning the Applicant's Traffic Study, the Chapter 163 Concurrency Development Agreement, the proposed conditions of approval, and the shared belief of the Applicant and County staff that the proposed mitigation addresses (and I would argue exceeds the Applicant's proportionate share of) any actual or perceived impacts. In short, despite a perception that the

² We would like to thank staff for their time and effort devoted to working together to find mutually agreeable solutions during a very busy season and heavy workload.

³ It is important to note that the Traffic Study contemplated 198 units and found that the project caused no deficiencies in the affected area. Thereafter, the Rezoning Application was reduced to 151 residential units, further reducing any potential impacts. Marion County Senior Engineer, Don Watson, appeared at the hearing and provided testimony that there were no deficiencies identified.

affected transportation infrastructure is failing or deficient, the data demonstrates otherwise but, regardless of any disagreement on this front, all experts agree that the proposed mitigation presents an improvement.⁴

Within the Staff Report and during the hearing, there was no competent, substantial evidence presented supporting a conclusion that the rezoning would adversely impact the public interest.

II. **Summary of the Development Order.**

On May 19, 2025, the Marion County Board of County Commissioners voted 3-2 to deny the Rezoning Application, citing concerns that the rezoning would adversely affect the public interest. On June 2, 2025, Deputy Director of Marion County Growth Services, Ken Weyrauch, mailed the Rezoning Development Order notifying the Applicant of such denial, a copy of which is attached hereto as **Exhibit C**. Petitioner received the Rezoning Development Order on June 9. The County's denial of the Rezoning Application constitutes denial of a "Development Order" as defined in Section 70.51(2)(a) of the Florida Statutes. Petitioner is entitled to alternative dispute resolution under the provisions of FLUEDRA.

III. **Case-Specific Considerations.**

Within a typical request of this nature, the Applicant would set forth legal arguments asserting that the Rezoning Development Order will not survive certiorari review, that it creates a claim pursuant to the Bert J. Harris Private Property Rights Protection Act, and that it creates a claim pursuant to 42 U.S.C. Section 1983, Equal Protection, or other causes of action. While reserving these legal arguments, we would like to first address the unique nature of this case, which we believe is uniquely well-positioned for a FLUEDRA dispute resolution process yielding a win for the County, the City, the Applicant, and the public in the form of a settlement agreement that solidifies a global solution to the perceived issues.

As referenced above, the primary issue discussed at the hearing concerned traffic impacts. While I cannot speak for the County Engineer or Planning & Zoning staff, I believe we are all prepared to agree upon solutions that can be easily reduced to a written agreement. It seemed to me that confusion about the process and substance of the transportation improvements, rather than the Petitioner's willingness to perform, was the primary basis for denial. As evidenced by the existing Chapter 163 Concurrency Development Agreement and the Petitioner's willingness to accept the conditions presented by the Office of the County Engineer upon review of the Traffic Study, this Petitioner is working in good faith to go above and beyond, partnering with the County. I remain confident that we can overcome the outstanding issues and find a reasonable solution.

IV. **Statement of the Impact of the Development Order.**

- A. The denial of the Rezoning Application prevents the Owner from developing the Property in any way that would be consistent with the Comprehensive Plan or as multi-family units as proposed in the PUD Master Plan.
- B. By virtue of the denial of the Rezoning Application, Petitioner is unable to achieve its proposed use of the Property.
- C. The denial of the Rezoning Application was unreasonable and unfairly burdens the use of the Property.

⁴ Please note that the Applicant agreed to accept staff's proposed condition #12 concerning construction of the southbound left turn lane into the northern full access driveway during the course of the hearing, which deviated from the request in the Petitioner's proposed conditions of approval.

V. Petitioner's Request. Petitioner respectfully requests:

- A. County afford petitioner the opportunity for dispute resolution pursuant to FLUEDRA.
- B. County forward this request to a Special Magistrate who is mutually agreed upon by County and Petitioner, within ten (10) days after County's receipt of this Request.⁵
- C. County provide Petitioner a hearing under the provisions of Section 70.51(17), Florida Statutes.
- D. If the parties are unable to resolve their dispute, the Special Magistrate enter his findings that the denial of the Rezoning Application was unreasonable and unfairly burdens the use of the Property, and recommend that the County approve the PUD rezoning as requested by the Rezoning Application.

VI. Certificate of Service.

I hereby certify that the original of the foregoing was served by email (with the consent of the County Attorney to accept electronic service) to Kathy Bryant, Chairman of the Board of Commissioners of Marion County, Florida, 601 S.E. 25th Ave., Ocala, Florida 34471, (Kathy.Bryant@marionfl.org) and that a copy of the foregoing has been served by email to Mounir Bouyounes, PE, Marion County Administrator, 601 S.E. 25th Ave., Ocala, Florida 34471 (Mounir.Bouyounes@marionfl.org), and to Matthew "Guy" Minter, Esquire, Marion County Attorney, 601 S.E. 25th Ave., Ocala, Florida 34471 (Matthew.Minter@marionfl.org), this June 27, 2025.

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cc: **Marion County Board of County Commissioners**
The Honorable Craig Curry, craig.curry@marionfl.org
The Honorable Matthew McClain, matthew.mcclain@marionfl.org
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⁵ Upon delivery of this request, I have emailed Mr. Minter to begin correspondence to identify Special Magistrate candidates.

Mr. Don Watson, donald.watson@marionfl.org

Applicant

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