

COMMUNICATIONS BETWEEN SADDLEHORN RANCH, EL PASO COUNTY, DAVE ELLIOTT (MEADOW LAKE AIRPORT BOARD) AND LINDA BRUCE (FAA)

There are new Board members who may be unfamiliar with the history of communications between Saddlehorn Ranch and Meadow Lake Airport over the past 2-1/2 years since the county approved the Rezone Application for Saddlehorn from A-35 to the RR-2.5 zone district. The following email messages are provided to help familiarize everyone with the dialog that has occurred between these parties, and the proactive efforts of the applicant to work with MLAA in addressing its concerns.

From: Nina Ruiz <NinaRuiz@elpasoco.com>

Sent: Tuesday, April 2, 2019 11:47 AM

To: 'Dave Elliott <falcon20flier@msn.com> (falcon20flier@msn.com)' <falcon20flier@msn.com>; 'Bill Guman (bill@guman.net)' <bill@guman.net>; 'Rob Fuller (rob@roipropertygroup.com)' <rob@roipropertygroup.com>; 'Brady Williams (brady@whitmirecapitaladvisors.com)' <brady@whitmirecapitaladvisors.com>

Cc: Cole Emmons <ColeEmmons@elpasoco.com>; Craig Dossey <craigdossey@elpasoco.com>; Mike Hrebenar <MikeHrebenar@elpasoco.com>

Subject: Meeting with Meadow Lake and 824 Acres

Hello,

El Paso County has not adopted any rules or regulations to limit development within proximity of the Meadow Lake Airport. However, we have received some comments/concerns from both Meadow Lake as well as the FAA regarding development in the area- one of them being the proposed 824 acres rezone. The developers wish to go above and beyond the County requirements to attempt to accommodate those concerns. I would like to facilitate a meeting between the applicant and Meadow Lake Airport.

I am going to send a make a meeting request to include Dave Elliot, Bill Guman, Rob Fuller, and Brady Williams so that you may discuss the proposed 824 acres (Saddlehorn) development in relation to the Meadow Lake Airport operations. No other County staff will be present other than myself.

The purpose of the meeting will be to discuss the specific concerns and recommendations of Meadow Lake Airport and what solutions/compromises there may be. I believe the meeting will be more productive if it is somewhat informal in nature so that both sides do not feel as guarded. The applicants have stated they are comfortable not having legal counsel present at this informal meeting. Dave please confirm that you also do not intend to bring legal counsel.

The meeting is scheduled for April 22, 2019 at 9am at our office.

Please let me know if you have any questions or conflicts. Thank you!

Nina Ruiz

Planner II

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From: Nina Ruiz <NinaRuiz@elpasoco.com>

Sent: Tuesday, April 2, 2019 11:31 AM

To: 'Bill Guman' <bill@guman.net>

Cc: Craig Dossey <craigdossey@elpasoco.com>; Cole Emmons <ColeEmmons@elpasoco.com>; Mike Hrebenar <MikeHrebenar@elpasoco.com>; 'Rob Fuller' <rob@roipropertygroup.com>; 'Brady Williams' <brady@whitmirecapitaladvisors.com>; 'bwright@fwflegal.com' <bwright@fwflegal.com>; 'ed@guman.net' <ed@guman.net>

Subject: RE: Saddlehorn Ranch_MLAA and FAA Concerns

Hello Bill,

Thank you for your persistence in reaching out to the FAA and Airport. I actually reached out to Dave yesterday because I had not heard back from him after he and I spoke at the end of last week. He said he does plan to meet but will likely not be able to meet until right before the hearing. However, he has not confirmed a date.

I believe we may not get a meeting unless we just pin down a time and say we are meeting at that time and day. I will send out an email and make a meeting.

I believe the meeting will be more productive if it is somewhat informal in nature so that both sides do not feel as guarded. Are you planning on having your legal counsel at the meeting, or are you comfortable with having an informal conversation without legal counsel?

I will ask Dave the same thing to ensure we do not have one party represented but not the other.

I think your group has gone above and beyond what our regulations require.

I know I have stated it many times before, but I will say it again; we have not adopted any regulations to limit development in proximity to the Meadow Lake Airport. I would not feel comfortable recommending a condition of approval requiring you to design per a part 77 or a potential overlay that has not even been drafted. I would also have concerns with requiring you to plat per the exhibit you have prepared as we have not received an application for the preliminary plan or final plat and I would have concerns with everyone (EPC and applicant) being stuck with a layout that may not meet our standards and requirements.

If the BoCC wishes to go in this direction at the hearing, Cole and I will need to work together to come up with some proposed language as a notation.

Thank you once again for working to accommodate the concerns of Meadow Lake and for being so persistent with them.

Please let me know if anything comes up, and I will do the same.

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From: Bill Guman [<mailto:bill@guman.net>]

Sent: Tuesday, April 02, 2019 10:07 AM

To: Nina Ruiz

Cc: Craig Dossey; Cole Emmons; Mike Hrebenar; Rob Fuller; Brady Williams; bwright@fwflegal.com; ed@guman.net

Subject: Saddlehorn Ranch_MLAA and FAA Concerns

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Good morning, Nina – we assume you have not received a response from MLAA or FAA accepting your offer to facilitate a meeting with them and our team. Aside from MLAA's response to our email, we have not received any reply on our end as to whether they wish to meet (we have offered to meet with them four times, including the personal offer we made to Dave Elliott during and immediately after the 3/19/19 PC hearing.

FYI - ROI Properties will retain attorney Bruce Wright to provide us with legal counsel as needed for our Saddlehorn/824 Acre Curtis Road application. We deferred the decision to have an attorney on board, as we had hoped MLAA/FAA would accept our offers to meet and try to resolve their concerns beforehand. Bruce has been brought up to speed and will attend the BoCC hearing scheduled for 04/23/19. We would certainly like to inform the Board at that time that we have met with and addressed MLAA's primary concerns.

Two particular safety items we want to address are FAA concerns Linda Bruce specifically mentioned in a previous communication: a) alignment of Saddlehorn interior streets and open space locations as they correlate to ML runway departure and landing patterns, and b) "Glide Slope Easement" to demonstrate that our proposed Saddlehorn Preliminary Plan avoids creating physical obstructions above the 30' height limitation for RR-2.5 development, per LDC requirements. We requested yesterday for MLAA/FAA to provide us with Meadow Lake Airport's 'Glide Slope Easement' data to enable us to prepare an exhibit for the BoCC to demonstrate that we do avoid creation of physical obstructions (you and staff were copied on this request).

Lastly, the following item was shared with us yesterday & we're passing it along to you:

<https://pagetwo.completicolorado.com/2019/03/29/meadow-lake-airport-facing-pressure-from-residential-development/>

As staff's Project Manager for Saddlehorn Ranch, we would appreciate any suggestions you may have for us in preparing for the BoCC hearing to ensure every effort is taken to reasonably accommodate MLAA/FAA. An actual meeting with them would certainly facilitate this considerably.

Thank you for all your help!

Regards,
Bill

Bill Guman, RLA, ASLA
Principal

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From: Nina Ruiz <NinaRuiz@elpasoco.com>
Sent: Thursday, March 28, 2019 12:54 PM
To: 'Bill Guman (bill@guman.net)' <bill@guman.net>; 'Brady Williams (brady@whitmirecapitaladvisors.com)' <brady@whitmirecapitaladvisors.com>; 'Rob Fuller (rob@roipropertygroup.com)' <rob@roipropertygroup.com>; 'Dave Elliott <falcon20flier@msn.com> (falcon20flier@msn.com)' <falcon20flier@msn.com>
Cc: 'linda.bruce@faa.gov' <linda.bruce@faa.gov>
Subject: EPC Facilitating a Meeting with 824 Acres and Meadow Lake Airport

Hello Everyone,

As I have stated before, there are no current rules or regulations adopted by EPC that restrict development/uses/densities within proximity of Meadow Lake Airport. That being said, I understand that Meadow Lake has significant concerns about development within the vicinity.

The developers for 824 Acres (Saddlehorn) desire to meet with Meadow Lake to see if their proposed design may already address the concerns, and if not, if there are a few things they can do to amend the plan so that all parties are satisfied.

I would like to facilitate this meeting and simply act as moderator, with the understanding that there are no regulations in place to require such a meeting or compromise. There will be no other staff present (including attorneys), or other representatives of EPC. I believe all parties involved are reasonable and willing to work with one another. I am optimistic that the group can come to some agreement for this development, as it is rural in nature and is not dense suburban development.

Dave, in our conversation you had mentioned that you were not an expert in the recommended land uses surrounding the airport. I would request that you find out this information in advance of the meeting so that it may be productive. If you plan to bring anyone else to the meeting to provide that information please let me know so that I may book a larger room.

Ideally this meeting would take place prior to the BoCC hearing so that we may prevent having these types of conversations at the hearing where it may be difficult to properly communicate with one another in such a formal setting.

Here are a few meeting times that may work:

04/02: 10

04/04: 8-10, 1-3

04/10: 1, 2

04/11: 8, 9

Please let me know what may work for each group. Thank you in advance for being open and willing to talk with one another.

Nina Ruiz

Planner II

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From: Nina Ruiz <NinaRuiz@elpasoco.com>

Sent: Friday, March 15, 2019 11:22 AM

To: 'linda.bruce@faa.gov' <linda.bruce@faa.gov>

Cc: 'John.Bauer@faa.gov' <John.Bauer@faa.gov>; 'todd.green@state.co.us' <todd.green@state.co.us>; 'falcon20flier@msn.com' <falcon20flier@msn.com>; 'Delilah.Colin@faa.gov' <Delilah.Colin@faa.gov>; Craig Dossey <craigdossey@elpasoco.com>; Mike Hrebenar <MikeHrebenar@elpasoco.com>; Cole Emmons <ColeEmmons@elpasoco.com>; 'Bill Guman (bill@guman.net)' <bill@guman.net>; 'Brady Williams (brady@whitmirecapitaladvisors.com)' <brady@whitmirecapitaladvisors.com>; 'Rob Fuller (rob@roipropertygroup.com)' <rob@roipropertygroup.com>

Subject: RE: 824 Acres Rezone/ File #P-18-008

Hello Linda,

Thank you for these comments and for the conversation we just had over the phone.

Can you please submit the comments via EDARP so that they are a part of the official record for this project?

As we discussed we are just at the zoning stage at the moment so the subdivision design is unknown. We will send referrals to your department if the rezone is approved and the preliminary plan and final plat are been submitted. We will look forward to any comments you may have in relation to the actual layout of the subdivision.

We also discussed the County process in order for the BoCC to adopt the Part 77 surfaces and an overlay to legally restrict land uses and densities. I have attached a copy of the letter that was sent to Meadow

Lake last year outlining the required process in great detail. To date no complete submission has been made by Meadow Lake.

Thank you again for providing your comments and for taking time out of your day to talk with me. Have a wonderful weekend!

Nina Ruiz

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From: linda.bruce@faa.gov [<mailto:linda.bruce@faa.gov>]

Sent: Thursday, March 14, 2019 4:06 PM

To: Nina Ruiz

Cc: John.Bauer@faa.gov; todd.green@state.co.us; falcon20flier@msn.com; Delilah.Colin@faa.gov

Subject: RE: 824 Acres Rezone/ File #P-18-008

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Ms. Ruiz,

Thank you for requesting the FAA's comments on the proposed 824 Acres Rezone project (File #P-18-008).

The FAA is opposed to rezoning the subject parcel to allow residential use. Due to the close proximity to Meadow Lake Airport's Runway 8/26 and Runway 15/33, residential use of this land could potentially have negative impacts on persons and property on the ground and the safety and utility of the National Airspace System.

Meadow Lake Airport is a busy General Aviation airport, with approx. 383 based aircraft and 65,000 annual operations (a take-off or landing). It is utilized by a variety of aircraft, ranging from small, single-engine propeller airplanes up to jet aircraft that operate during the day and night. The airport is a Federally-funded, public use airport that is required by Federal law to remain open to all types of aircraft 24 hours a day, 7 days a week.

The Federal Government has made a significant investment of public funds in the Meadow Lake Airport. Under the current Federal airport aid program, the FAA has provided over \$7.5 million in development and planning grants to this airport. This investment requires the MLAA, as the airport sponsor, to comply with specific Federal obligations, known as Federal grant assurances. Among many other requirements, Federal grant assurances require MLAA to preserve and operate Meadow Lake Airport in accordance with FAA regulations and standards and to protect the airport from non-compatible land uses.

Incompatible land use at or near airports may result in the creation of hazards to air navigation and reductions in airport utility due to obstructions to flight paths or noise-related incompatible land use caused by residential construction development too close to the airport. FAA considers residential development adjacent an airport to be a non-compatible land use (see FAA Order 5190.6B, Airport Compliance Manual, Chapter 20, Compatible Land Use and Airspace Protection).

The western boundary of the subject 824 acres is approx. 5,280 feet from Runway 15/33 and approx. 2,000 feet from the end of Runway 8/26, along the extended centerline of this runway. This means residences built on the 824 acres would be subject to regular aircraft overflights at low altitudes as they approach and depart the airport. Due to the close proximity to Runway 8/26, individuals living on the subject acreage could experience an average of 70 weekly overflights of aircraft arriving and departing Runway 8/26, as well as overflights of aircraft entering or departing traffic patterns for the airport's other two runways. In accordance with standard operating procedures, aircraft approaching and departing the airport could be altitudes lower than 400 feet above the subject property.

As a consequence of aircraft overflights, residents would be subjected to considerable "single-event" noise impacts from aircraft overflights, which residents are particularly sensitive to during nighttime hours. In addition, there could be visual (perceptual) impacts from aircraft operating into and out of the airport. While these types of operations represent safe and typical flight procedures, it may be disconcerting to many people due to a perceived hazard of low flying aircraft.

Further, there is no guarantee that noise levels at the proposed development will remain the same. The proposed development is so close to Meadow Lake Airport that any change to aircraft operations, and the type of aircraft that use the airport, could readily increase the amount of aircraft noise and overflight over the proposed development. Please be aware FAA would not support any Federal assistance to mitigate aircraft noise or incompatible land uses associated with this proposed development, including soundproofing, the acquisition of houses and relocation of residents. Per FAA policy, remedial noise mitigation measures for new non-compatible development constructed after October 1, 1998 are not eligible for Federal funding (see FAA Final Policy on Part 150 Approval of Noise Mitigation Measures: Effect on the Use of Federal Grants for Noise Mitigation Projects, dated April 3, 1998).

Although the frequency of aircraft accidents is comparatively very low, the numbers of aircraft using the concentrated airspace of airport approach and departure areas, together with the complexities of takeoff and landing operations, does mean that accidents are proportionately higher in those areas than in other locations farther away from airports. MLAA reports that aircraft annually make emergency landings on the subject 824 acres, as a large portion of this land is within the approach and departure areas for Runway 8/26. This is why the FAA strongly discourages the congregation of people under airport traffic patterns and approach and departure areas.

The FAA works with airport sponsors and their surrounding communities to keep approach and departures areas near an airport as clear as possible in order to protect people and property on the ground. In particular, land uses involving large congregations of people, including schools, churches and hospitals are strongly discouraged under approach and departures paths. The State of Colorado also has enacted similar requirements to protect persons and property near airports (see Colorado Revised Statute 24-65.1-202, Criteria for Administration of Areas of State Interest, and 43-10-133, Safe Operating Areas Around Airports).

In accordance with Title 14 of the Code of Federal Regulations (14 CFR) Part 77, *Safe, Efficient Use, and Preservation of the Navigable Airspace*, and Colorado state law, the developer of the subject 824 acres must request an airspace analysis of the proposed developed to determine potential aeronautical hazards in advance of construction to prevent or minimize the adverse impacts to the safe and efficient use of navigable airspace. In particular, multi-storied buildings must be analyzed to determine if they need to be lowered and/or lighted with obstruction lights.

FAA reviews construction proposals through the submittal of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*. If any portion of the proposal is located within 20,000 feet of a public use runway (and breaks a 100:1 plane coming off the nearest point of the nearest runway); or, is more than 200 feet above ground level at any location, the FAA requires the project's proponent to file a Form 7460-1. This includes temporary cranes used during construction. If the proposal does not meet any of the criteria above, it may still be necessary to file a Form 7460-1 if the structure requires an FCC license or there is a potential for navigational equipment interference. Information provided on Form 7460 must include top elevations and latitude/longitude coordinates of proposed buildings and structures. Plot sketches without this information will not be evaluated.

FAA Form 7460-1 can be filed electronically at www.oiaa.faa.gov. The FAA uses information provided on this form to conduct an aeronautical review to determine if proposed development will pose an aeronautical hazard and to minimize the adverse effects to aviation. Please note a FAA determination of no hazard to air navigation does not release the Meadow Lake Airport Association or El Paso County from obligations under Federal grant assurances and state law to ensure compatible land use and public safety near the Meadow Lake Airport.

For the reasons discussed above, the FAA cannot support the rezoning of the subject 824 acres for residential use due to the close proximity to Meadow Lake Airport. We recommend El Paso County explore alternative uses of this land that better conform with Federal, state and industry recommendations for compatible land uses near airports.

If you have questions regarding the above comments, please contact me at (303) 342-1264.

Linda Bruce
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Federal Aviation Administration
Denver Airports District Office
26805 E. 68th Ave., Suite 224
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(303) 342-1264

From: Bill Guman <bill@guman.net>
Sent: Wednesday, March 27, 2019 11:29 AM
To: falcon20flier@msn.com; Linda (FAA <linda.bruce@faa.gov>
Cc: NinaRuiz@elpasoco.com; rob@roipropertygroup.com; brady@whitmirecapitaladvisors.com; craigdossey@elpasoco.com; MikeHrebenar@elpasoco.com; ColeEmmons@elpasoco.com; John.Bauer@faa.gov; ed@guman.net; bill@guman.net; tom@meadowlakeairport.com
Subject: FW: 824 Acre Curtis Road Subdivision_Meadow Lake Airport

Dave, thank you for your email in response to our 3/22/19 communication to you and Linda Bruce/FAA. MLAA/FAA remain opposed to our 'Saddlehorn Ranch' development applications because "safety and noise impact to persons and property on the ground" could be compromised.

Ms. Bruce had written in her email to you of 03/22:

"Due to the close proximity to Meadow Lake Airport's Runway 8/26 and Runway 15/33, residential use of this land could potentially have negative impacts on persons and property on the ground and the safety and utility of the National Airspace System."

No distinction is made between "persons and property on the ground," and whether that residential use of land occurs with "residences within the immediate vicinity of the Airport," as permitted [and actually encouraged] by MLAA for 'Meadow Lake Estates,' or the residential use occurs on Saddlehorn Ranch. Residents with homes in the Airport's Meadow Lake Estates are no less susceptible to aircraft noise nor are they any less immune from aircraft incidents as "persons on the ground" simply because they are required to be members of the MLAA, supposedly have a higher tolerance to aircraft noise, or have ownership of personal aircraft. The same can be said when MLAA previously permitted commercial development in the 'Meadow Lake Industrial Park' (application approved 09/02/14, which remains in effect) at the Airport's southeastern boundary; 'negative impacts' would likely be far greater to numerous employees working within an Industrial Park versus persons and property in the sparsely populated proposed rural residential Saddlehorn Ranch neighborhood.

We are unable to comment on your allegation that the county was negligent on following through on the "C.R.S. requirement for El Paso County to develop appropriate land use zoning around the airport," or on MLAA's unresolved 1041 application status. We must defer to the county to address these items as they had previously done at the 3/19 Planning Commission hearing. But we are certain that previous development applications prepared by Guman for 'Santa Fe Springs,' 'Meadow Lake Industrial Park,' and 'Meadow Lake Commons' (including the currently proposed Judge Orr Road RV Park and Judge Orr Road-PUD) all had been properly routed by the county for review and comment by MLAA as an adjacent property owner as required by ordinance; we assume MLAA would have shared this with the FAA. If county planning codes and ordinances conflict with MLAA/FAA requirements and the county failed to "develop appropriate land use zoning around the airport" resulting in "unrestrained development" as you also suggested, we must again defer to the county. We maintain that our development application for Saddlehorn Ranch complies with all prevailing county planning codes for RR-2.5 zoning districts, and especially as these codes apply to development near airports. The Planning Commission unanimously agreed with this at its 3/19 public hearing.

Dave, as we had offered publicly at the planning commission hearing and afterward to you personally, our client remains open to meeting with MLAA members and maintaining a dialog with the FAA to try and reasonably accommodate concerns. Guman's work in-progress for the Saddlehorn Ranch Preliminary Plan and Final Plan are now sufficiently detailed so as to show exact locations of the 135 acres of open space/no-build tracts we mentioned in our previous email to you. These tracts, along with the proposed street alignment in approach/departure areas for Runway 8/26 address the FAA's concerns (as recommended by Linda Bruce in her email to you). We still welcome the opportunity to show this to you prior to the next public hearing with the county. Please let us know when you can be available. Thank you.

Respectfully,

Bill

Bill Guman, RLA, ASLA

Principal

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