

Meadow Lake Airport Association

13625 Judge Orr Road, Meadow Lake Airport (kFLY), Peyton, CO 80831-6051

Date: September 18, 2024

To: El Paso County Planning and Community Development Department

Subj: **8308/8304 Cessna Drive – Application for Variance of Use**

Ref: (a) 8308 Cessna Dr, Lot 9 Blk 4 Meadow Lake Airport Fil No 1, Sched 4304002087
(b) 8304 Cessna Dr, Lot 14 Blk 1 Meadow Lake Airport Fil No 2, Sched 4304002058
(c) MLAA ltr dtd July 16, 2024
(d) MLAA ltr dtd July 31, 2024
(e) El Paso County Planning Commission hearing September 5, 2024

Owner: Sund Estate Management Corp

Zoning: R-4 GA-O [see Land Development Code para 4.4.4. (obsolete) and 4.3.2.(E)(1)]

1. Background. The El Paso County Planning Commission public hearing for the Sund's Application for a Variance of Use resulted in a recommendation that the requested variance be approved without a limitation to the current owner. The Meadow Lake Airport Association (MLAA) originally provided a "Statement of No Objection" in support of the Sund's as "members in good standing" with the airport association, but cannot support a permanent variance that "runs with the land". Therefore, our support for the application is withdrawn.
2. Discussion. C.R.S. 43-10-113 provides instruction that "*Governmental entities with zoning and building permit authority shall adopt and enforce, at a minimum, rules and regulations to protect the land areas defined in 14 CFR part 77.*" [Encl (1)]. Part 77 is commonly considered to be the terminal area airspace and application of the statute would apply to the underlying land areas around the airport; i.e. "compatible land use". But compatibility applies even more so to adjacent properties with "Through-the Fence" access to the runway complex.

Even before the airport became a "Reliever Airport" in 1989 and eligible for FAA and Colorado airport improvement grants, the airport developers and El Paso County recognized this compatibility fundamental and codified it with Plat Notes and Restrictions [Encl (2)] and the Land Development Code [Encl (3)].

With the designation of Meadow Lake Airport as a General Aviation Reliever Airport, compliance with the Airport Assurances provides an even stronger emphasis on compatible land use. The challenge is that neither the FAA, CDOT/Aeronautics, nor the MLAA have any authority over the private hangar properties. Land use, zoning, and building permit authority resides solely with El Paso County.

The primary concerns are as follows:

- a. Compatible Land Use (Compliance). The FAA and CDOT/Aeronautics publish multiple regulations and guidance pertaining to compatible land use and non-aeronautical use of properties on airports. Enclosure 5 provides Q&As relating to "*FAA policy on Use of Hangars at Obligated Airports*". FAA policy allows non-aeronautical use of hangars for temporary tenants, only until an aeronautical use presents itself. Meadow Lake has 70-80 aircraft waiting for hangar availability.
- b. Public Safety. MLAA has experienced safety issues with the general public driving through-out the hangar complex without regard to the aeronautical use of the taxiways and roadways, and even ending up on active runways. Pilots

understand that three taxiways cross Cessna Drive, and that the road ends at the Crosswind Runway. Non-aeronautical employees, customers and delivery trucks do not, and have created considerable hazards. A state grant provided fencing and a gated access control system on Cessna Drive, yet careless drivers have even damaged the gate three times (totally destroyed by an illegal residential tenant on the last occasion).

- c. Finances (Self-sustainability). The Meadow Lake Airport operations and maintenance budget is solely supported by annual dues assessed to hangar property owners. This budget includes repair to Cessna Drive which was not designed for heavy delivery trucks to businesses or the increased volume caused by employees and customers. Most owners understand this, but we have had one "non-aeronautical" user decide that he did not need/desire to pay dues. Our only recourse was to deny his tenant "Through-the-Fence" access for the airplane to taxi onto the airport from the hangar complex. We cannot support additional owners jeopardizing our ability to remain self-sustainable.

The El Paso County Land Development Code [Encl (3)] provides eight specific aeronautical uses of properties in Meadow Lake Airport Filings 1 and 2. The properties of this application were built for and were used for aeronautical use until the current owner. Although the previous two owners had primary businesses that were other than aeronautical, they did base aircraft on the property. And the properties can be returned to aeronautical uses with appropriate modifications.

3. Summary. The MLAA Board of Directors cannot support a permanent variance to the Meadow Lake Airport GA-O Use Restrictions that "run with the land".

We are working with the Planning and Community Development staff to update the Land Development Code, in conformance with FAA and Colorado guidance.

Respectfully,



David E. Elliott

President, MLAA Board of Directors

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- Encl: (1) Colorado Revised Statute 43-10-113
(2) Plat Notes, Meadow Lake Airport
(a) Meadow Lake Airport Filing No. 1 dtd 14 Sept 1970, Reception No 760150
(b) Meadow Lake Airport Filing No. 2 dtd 8 Aug 1975, Reception No. 188004
(3) El Paso County Land Development Code para 4.3.2.(E)(1)
(4) Colorado Airport Grant Assurances
(5) "Frequently Asked Questions & Answers On FAA Policy on Use of Hangars at Obligated Airports"

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Enclosure (1)

Colorado Revised Statutes

Section 43-10-113 Safe operating areas around airports

- establishment

(1) The general assembly hereby declares commercial service airports, public airports, reliever airports, as defined in [49 U.S.C. sec. 47102](#), and the land areas surrounding such airports, as defined in 14 CFR part 77, to be a matter of state interest as provided in [article 65.1 of title 24](#), C.R.S.

(2) Governmental entities with zoning and building permit authority shall adopt and enforce, at a minimum, rules and regulations to protect the land areas defined in 14 CFR part 77.

Enclosure (2a)

Meadow Lake Airport Filing No. 1

A Tract of Land in Sections 4 and 5, T13S, R64W of the 6th P.M., El Paso County, Colorado

executed by Helen D. Conover, EAA Hangars Inc. and
Meadow Lake Airport Development Corp., 14 September 1970
recorded 20 October 1970 under Reception Number 760150

The above mentioned owners have caused said tract to be surveyed and platted into lots, blocks, streets and easements for public utility and drainage purposes as shown on the attached plat, which plat is drawn to a fixed scale as indicated thereon and accurately sets forth the boundary and dimensions of said tract and the location of said easements. Lots and streets and which tract so platted shall be known as "MEADOW LAKE AIRPORT FILING NO. 1". All streets as platted are private roadways.

UTILIZATION OF LOTS WITHIN MEADOW LAKE AIRPORT FILING NO.1:

- Block 1, Lots 1 thru 5 – Residential
- Block 2, Lots 1 thru 5, 7 & 8 – Hangar & Tie-down Facilities
- Block 2, Lot 6 – Airport Terminal Site
- Block 3, Lots 1 thru 13 – Hangar & Tie-down Facilities
- Block 4, Lots 1 thru 30 – Hangar & Tie-down Facilities
- Tract 1 & Tract 2 – Aircraft Maintenance Facilities

NOTES:

Each lot owner, where applicable, is responsible for his own water supply. All wells, septic tanks, subsurface absorption fields and stables must comply with at least the minimum requirements of the State of Colorado Health Department and the city-county Health Department of El Paso County, Colorado.

Utility easements as indicated are for public utilities purposes only.

Enclosure (2b)

Meadow Lake Airport Filing No. 2

A Subdivision in El Paso County Colorado

executed by Helen D. Conover, 8 August 1975

recorded 30 October 1975 under Reception Number 188004

DEDICATION: Said owners have caused said tract to be surveyed and replatted into lots, block and easements for utility and drainage purposes as shown on the plat attached hereto, which plat is drawn to a fixed scale as indicated thereon and accurately sets forth the boundary and dimensions of said lots and the location of said easements and which tract so platted shall be known as MEADOW LAKE AIRPORT FILING NO. 2 a subdivision in El Paso County, Colorado.

NOTE:

Each lot owner, where applicable, is responsible for their own water supply. All wells, septic tanks, subsurface absorption fields must comply with the requirements of the State of Colorado Health Department and the city-county Health Department of El Paso County, Colorado.

All lots in this subdivision will be utilized for hangars and tie-down areas.

All lots in this Subdivision are subject to an aviation esm't. as recorded in Book 2285 at Page 310 of El Paso County, Colorado records.

Vehicular & aircraft access is hereby granted to all property owners abutting the road and taxi easements as described on this Plat.

The road easements as shown on this Plat are hereby granted as easements for utilities and drainage.

Enclosure (3)

El Paso County Land Development Code**4.3.2. GA-O, General Aviation Overlay District**

- (A) **Purpose.** The GA-O Zoning District is intended to apply to land within and surrounding airports to protect those airports using non-instrument runways for general aviation purposes.
- (B) **Applicability.** The GA-O Zoning District regulations shall apply where adopted to all new airports established and to all runway extensions of existing airports, except the Colorado Springs Municipal Airport.
- (C) **Effect of GA-O Zoning District.** The GA-O Zoning District regulations apply in combination with base zoning district regulations, recorded plats, and all other applicable standards of this Code. When GA-O Zoning District standards conflict with the underlying base zoning district standards or other regulations of this Code, the regulations of the GA-O Zoning District will always govern. When no special GA-O Zoning District standards are specified, all other applicable regulations of this Code will govern.
- (D) **General Aviation Overlay District Map.** The GA-O Zoning District shall be shown on maps, charts and other documents which are hereby made a part of this Code. Any change in the General Aviation District Map shall be deemed in force upon adoption by the BoCC. The GA-O Zoning District is an overlay district. Within the GA-O Zoning District, Sub-Zones of greater detail, description, and restriction may be proposed and adopted in accordance with the provisions for adoption of the GA-O Zoning District.

Should any part of the GA-O Overlay District be declared inapplicable by reason of action of; (1) the BoCC in amending this Code, or (2) the BoCC, or any court of competent jurisdiction in interpreting this Code, the underlying zoning shall remain unchanged.

Adoption of any General Aviation Overlay District Map by El Paso County and as referenced in this Section does not impose in the unincorporated area of El Paso County any additional height or use restrictions identified in these overlay zoning regulations.

- (E) **Use Restrictions.** No building or land may be used and no building may be erected, converted, or structurally altered except in accordance with the following requirements.
- (1) **Meadowlake Airport GA-O Uses.** The following uses are allowed in the non-residential area of the Meadowlake Airport included in the GA-O Zoning District, in addition to those uses allowed in the underlying base zoning district:
- Aero club facilities

- Aircraft maintenance facilities
 - Airfields and landing strips
 - Airport terminals, related supporting facilities
 - Aviation control towers
 - Hangars and tie-down facilities
 - Navigation instruments and aids
 - Aviation related businesses
- (2) **Rezoning within a GA-O.** The base zoning district for land within a GA-O zoning district should not be rezoned to a residential or multifamily zoning district which allows a higher density than 1 dwelling unit per 2.5 acres.
- (3) **Construction or Alteration Requiring FAA Notice.** Any person proposing construction or alteration of an improvement shall notify the FAA where required, in accordance with 14 CFR Part 77, as amended or any similar regulation or statute which may hereinafter be enacted in total or in part. Any notice required by this Section shall be on FAA Form 7460-1 "Notice of Proposed Construction or Alteration," available from the regional offices of FAA. Notice required under this part shall be completed and a determination from the FAA be made as an attachment to development applications, where required.
- (4) **Installation and Maintenance of Marking or Lighting on Improvements Requiring FAA Notice.** The BoCC may condition any development approval for a chimney, steeple, crane, tower, etc., with a requirement that the owner of the improvement install, operate and maintain, at the owners' expense, markers and lights as may be necessary to indicate to aviators the presence of an obstruction to flight in as may be required to comply with the requirements of the FAA and/or FCC. The BoCC may, with the permission of the owner and at its own expense, install and operate markers or lights as may be necessary upon existing improvements within the GA-O Zoning District in conformance with the standards of the FAA and/or FCC. After initial installation, the BoCC may, upon written notice to the owner, require the owner to maintain those markers or lights in conformance with the standards of the FAA and/or FCC.
- (5) **Airport Activity Notice and Disclosure.** As a condition of BoCC approval, with any rezoning or subdivision action, the owner is required to record the Airport Activity Notice and Disclosure against the property as a condition of approval.
- (F) **Federal Aviation Administration Standards.** All development in the GA-O Zoning District shall comply with any applicable restrictions contained in Title 14 of the Code of Federal Regulations, Subchapter I, Federal Aviation Regulations.

Enclosure (4)

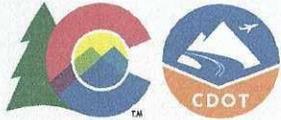
Colorado Discretionary Aviation Grants



State Grant Assurances

IV. AIRPORT SPONSOR GRANT ASSURANCES

1. **Compatible Land Use.** Compatible land use and planning in and around airports benefits the state aviation system by providing opportunities for safe airport development, preservation of airport and aircraft operations, protection of airport approaches, reduced potential for litigation and compliance with appropriate airport design standards. The airport will take appropriate action, to the extent reasonable, to restrict the use of land adjacent to, in the immediate vicinity of, or on the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft.
2. **On-Airport Hazard Removal and Mitigation.** The airport will take appropriate action to protect aircraft operations to/from the airport and ensure paths are adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
3. **Safe, Efficient Use, and Preservation of Navigable Airspace.** The airport shall comply with 14 CFR Part 77 for all future airport development and anytime an existing airport development is altered.
4. **Operation and Maintenance.** In regards to Projects that receive Division funding, the airport sponsor certifies that it has the financial or other resources that may be necessary for the preventive maintenance, maintenance, repair and operation of such projects during their Useful Life.



State Grant Assurances

The airport and all facilities which are necessary to serve the aeronautical users of the airport shall be operated at all times in a safe and serviceable condition. The airport will also have in effect arrangements for:

- a. Operating the airport's aeronautical facilities whenever required;
 - b. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - c. Promptly notifying airmen of any condition affecting aeronautical use of the airport.
5. **Airport Revenues.** All revenues generated by the airport will be expended by it for the capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the owner or operator of the airport for aviation purposes.
 6. **Airport Layout Plan (ALP).** Once accomplished and as otherwise may be required to develop, it will keep up-to-date a minimum of an ALP of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing improvements thereon.
 7. **Use for Aviation Purposes.** The Airport Sponsor shall not use runways, taxiways, aprons, seeded areas or any other appurtenance or facility constructed, repaired, renovated or maintained under the terms of this Agreement for activities other than aviation purposes unless otherwise exempted by the Division.

Enclosure (5)

Frequently Asked Questions & Answers On FAA Policy on Use of Hangars at Obligated Airports

An Airport sponsor who accepts Federal airport grants is bound by the conditions and assurances in the associated grant agreements. These obligations include grant assurances related to use of hangars and other designated aeronautical facilities on the airport for exclusively aeronautical purposes. On June 9, 2016, FAA issued a notice of final policy regarding the storage of non-aeronautical items in airport facilities designated for aeronautical use. In conjunction with that notice of policy, FAA is posting a series of frequently asked Questions and Answers (Q&As) to the FAA Airport Compliance website. These Q&As, which are intended to assist airport sponsors and users, will be periodically updated and may be included in the next update to FAA Order 5190.6B, Airport Compliance Handbook.

- [Notice of final policy about the storage of non-aeronautical items in airport facilities designated for aeronautical](#) (PDF)
- [FAA Order 5190.6B, Airport Compliance Handbook](#)

Frequently Asked Questions

Why are hangars limited to certain kinds of use?

FAA Response. Airport sponsors that have accepted FAA grants or deeds of Federal surplus property are obligated to use dedicated aviation facilities for aeronautical use. If hangars are not reserved for aeronautical use, Federal airport grant funds could inadvertently subsidize non-aeronautical users, and aeronautical users could be denied access to needed airport facilities. Conditions in AIP grant assurances, relevant to hangar use, include:

- Preserving rights and powers (Grant Assurance 5);
- Making the airport available for aviation use on certain terms (Grant Assurance 22);
- Not granting exclusive rights (Grant Assurance 23);
- Ensuring safe operations (Grant Assurance 19); and
- Complying with the ALP (Airport Layout Plan) process and requirements (Grant Assurance 29).

What is an airport sponsor's responsibility for hangar use?

FAA Response. To ensure appropriate use of hangars, an airport sponsor should:

- manage the use of hangars through an airport leasing program that requires a written lease agreement or permit;

- monitor the use of hangars on the airport and take steps to prevent unapproved non-aeronautical use;
- minimize the length of time to provide hangar space for those on a "waiting list"; and require non-aviation users pay a fair market rental for the use of the hangar and if needed, the hangar is returned to aviation use, under circumstances where temporary non-aeronautical use of a vacant hangar is permitted.

What is the primary purpose of an aircraft hangar?

FAA Response. The primary purpose of an aircraft hangar is aircraft storage. If a hangar is serving its primary purpose - the storage of aircraft - then storage of non-aeronautical items in the hangar does not violate the airport sponsor's federal obligations.

Why is FAA issuing a separate policy statement on hangar use?

FAA Response. The FAA received a number of questions from airport sponsors and airport tenants about the possible uses of hangars and how rigidly the aeronautical use requirement should be applied. In developing the policy statement, FAA focused on giving discretion to the local airport sponsor and allowing reasonable accommodation of activities that do not impact other aeronautical uses and do not create unjustly discriminatory conditions at the airport.

To what airport facilities does the policy apply?

FAA Response. Policy applies to all aircraft storage areas or facilities on a federally obligated airport that are designated for aeronautical use on an FAA-approved Airport Layout Plan. The policy does not apply to property designated for non-aeronautical use on an approved Airport Layout Plan or otherwise approved for non-aeronautical use by FAA.

Does the policy apply to airports that have never received federal assistance in the form of AIP grants or Federal Surplus or Non-Surplus Property conveyances?

Does the policy apply to privately owned hangars on private property?

FAA Response. The policy does not apply to privately owned facilities located off the airport.

What aeronautical uses of a hangar are permissible?

FAA Response.

- Storage of active aircraft.
- Shelter for maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of non-operational aircraft.
- Construction of amateur-built or kit-built aircraft provided that activities are conducted safely;
- Storage of aircraft handling equipment, e.g., tow bar, glider tow equipment, workbenches, and tools and materials used to service, maintain, repair or outfit

aircraft; items related to ancillary or incidental uses that do not affect the hangars' primary use.

- Storage of materials related to an aeronautical activity, e.g., balloon and skydiving equipment, office equipment, teaching tools, and materials related to ancillary or incidental uses that do not affect the hangars' primary use; V' Storage of non-aeronautical items that do not interfere with the primary aeronautical purpose of the hangar (for example, televisions, furniture).
- A vehicle parked at the hangar while the aircraft usually stored in that hangar is flying, subject to local airport rules and regulations.

What uses are not permissible under the policy?

FAA Response.

- Use as a residence.
- Operation of a non-aeronautical business, e.g., limo service, car and motorcycle storage, storage of inventory, non-aeronautical business office.
- Activities which impede the movement of the aircraft in and out of the hangar or other aeronautical contents of the hangar.
- Activities which displace the aeronautical contents of the hangar or impede access to aircraft or other aeronautical contents of the hangar.
- Storage of household items that could be stored in commercial storage facilities.
- Long-term storage of derelict aircraft and parts.
- Storage of items or activities prohibited by local or state law.
- Fuel, and other dangerous and Hazmat materials.
- Storage of inventory or equipment supporting a municipal agency function unrelated to the aeronautical use.

For the purpose of airport access and hangar use, how are UAS categorized?

In cases where an UAS operator seeks hangar access/use, how should the airport sponsor manage UAS vis-à-vis other conventional aircraft or aeronautical activities?

What discretion does the policy allow the airport sponsor?

FAA Response. The policy:

- Preserves the airport sponsor's discretion to manage or address issues, including:
 1. adopting rules covering the different uses of hangars;

2. mitigating related safety concerns (e.g., emergency access, fire codes, insurance, and the impact of vehicular traffic);
 3. airport planning;
 4. preserving airport efficiency; and
 5. managing funding aspects of airport management.
- Provides protection against claims of discrimination by imposing consistent rules for incidental storage in all similar facilities at the airport.
 - Provides airport sponsors with the ability to permit certain non-aeronautical items to be stored in hangars provided the items do not interfere with the aeronautical use of the hangar.
 - Allows an airport sponsor to request FAA approval of an interim use of a hangar for non-aeronautical purposes for a period of 3 to 5 years.
 - Allows an airport sponsor to request FAA approval of a leasing plan for the lease of vacant hangars for non-aeronautical use on a month-to-month basis.

What are the policy changes for homebuilders?

Is it possible that some aspects of aircraft construction may not be permissible in all hangars?

Does the policy apply to privately constructed hangars on federally obligated airports?

FAA Response. An airport sponsor's permission to lease aeronautical land on the airport for construction of a hangar accepts the sponsor's conditions that come with that land, in return for the special benefits of the location. The fact that the tenant uses the land through a ground lease with the airport sponsor and constructs the hangar using tenant funds does not affect the airport sponsor's agreement with FAA. That agreement requires the airport land and facilities, including aircraft hangars, to be used for aeronautical purposes.

May hangars be used for aviation museums or non-profit organization activities encouraging aviation?

How does the use of a hangar affect the rent charged?

If there is no unsatisfied aviation demand for hangars, can they be leased to generate revenue from non-aeronautical uses?

Last updated: Monday, August 1, 2022