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October 16, 2025

Mr. Casey Cane
The Bauen Group, LLC
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Palm Harbor, FL 34684

Scott Steady, Esq.
Burr Forman, LLC
One Tampa City Center, Suite 3200
Tampa, FL 33602

Re: Response to FLEUDRA request for mediation and relief
6191 Lockhart Road Land Trust UTD 2/12/19 – Application H-25-20

Dear Messrs. Cane and Steady:

Pursuant to § 70.51(16), Fla. Stat., this letter serves as the Hernando County Board of County Commissioner's ("the Board") response to the FLEUDRA request for mediation and relief submitted by The Bauen Group, LLC ("Bauen"), regarding denial of Bauen's application H-25-20 to rezone the parcel identified as 6191 Lockhart Rd., Brooksville, FL 34602 ("the Parcel").

I. FACTUAL BACKGROUND OF H-25-20.

1. According to the Hernando County Property Appraiser, the Parcel is owned by 6191 Lockhart Road Land Trust UTD 2/12/19 ("the owner").[1] A single-family home is currently situated on the Parcel. The Parcel is 5.3 acres, currently zoned agricultural (AG)[2], and is located on the west side of Lockhart Rd., approximately 680 feet south of Cortez Blvd. The 680 feet between the northern boundary of the Parcel and Cortez Blvd. is comprised of a single C-1 zoned property[3]; it is the only commercial property near the Parcel on the west side of Lockhart. AG properties abut the western and southern boundaries of the Parcel; nearby are more AG

[1] The Parcel's previous owner, Casey Cane, transferred the Parcel to the 6191 Lockhart Road Land Trust on Feb. 12, 2019, by Warranty Deed. Casey Cane is the Trustee for the land trust.

[2] Permitted uses for property zoned AG are found in Appx. A, Art. IV, Sec. 6 of the Hernando County Code.

[3] Permitted uses for C-1 (general commercial district) and C-2 (highway commercial) zoned properties are found in Appx. A, Art. IV, Sec. 3 of the Hernando County Code.

properties as well as R-1C[4] and PDP (MH)[5] properties. An as yet undeveloped industrial parcel owned by Withlacoochee River Electric Co. sits on the east side of Lockhart directly across from the Parcel.

2. In or about April 2025, Casey Cane, as Trustee for the owner ("the Applicant"), submitted application H-25-20 to the Hernando County Planning and Zoning Department ("P&Z Dept.") requesting rezoning of the Parcel from Res/AG to C-2 Highway Commercial.[6],[7]

3. Upon review of H-25-20, the P&Z Dept staff issued a report ("staff report") finding:

> *The proposed rezoning from AG (Agricultural) to C-2 (Highway Commercial) is appropriate based on its compatibility with surrounding land uses and its consistency with both the Commercial Category Mapping Criteria and the goals of the I-75/SR 50 Planned Development District (PDD).*

4. THE P&Z COMMISSION HEARING.

The Planning & Zoning Commission ("the Commission") considered H-25-20 at its August 11, 2025 hearing. At that hearing, the Applicant testified that the Parcel was currently under contract for sale, and that the future user of the Parcel had "ideas about" the Parcel's future use, but there was no defined site plan or architectural plan to provide to the Commission. The Commission voted to recommend denial of the application to the Board.[8]

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[4] Permitted uses for the R-1C (residential) zoned properties are found in Appx. A, Art. IV, Sec. 2 of the Hernando County Code.

[5] Planned Development district for mobile home use.

[6] H-25-20 states throughout the Parcel is zoned Res/AG, but it is, in fact, zoned AG.

[7] H-25-20 lists The Bauen Group Inc. as the representative. Casey Cane is the president of The Bauen Group Inc.

[8] The Commission's hearing on the application is found at:
https://hernandocountyfl.granicus.com/player/clip/1954?view_id=1&meta_id=175118&redirect=true
The hearing is incorporated by reference herein.

5. THE BOARD HEARING.

a. At the September 2, 2025, Board hearing,[9] the Board expressed concern about "commercial creep" into agricultural and R1C areas which would set a dangerous precedent.

b. The Board noted that the Parcel, under its current zoning as AG, was an appropriate transition from commercial to residential; and that it was already functioning as its future land use under the Comprehensive Plan ("the Plan").

c. At the hearing, the Applicant, now the end user of the Property,[10] speculated that the area will eventually be *heavy commercial* and would be "creeping down into that residential neighborhood." He based his speculation on the Board's approval of an industrial district on the *east* side of Lockart three years prior, and he predicted that Withlacoochee River Electric would build a power plant on that parcel. The Applicant said that there was likely going to be "lots of semi-tractor trailers coming in through there," and that there were plans to widen Lockhart at some point in the future. He asserted that in the future the surrounding properties will likely be developed into PDPs with HOA restrictions. He therefore concluded that the most appropriate use of the Parcel would be as a storage facility for cars, boats and mini-storage.

d. The Board had already set a precedent by turning down PDP housing developments on the west side of Lockhart in order to preserve the rural character of the area. Allowing C2 would clearly veer from that precedent.

e. The Board noted that the adjacent and surrounding properties are currently AG and R1C, thus there would be no current benefit to the surrounding properties in having a storage facility on the Parcel. Moreover, there were other properties along Cortez more suitable for storage facilities.

f. There being no compelling reason to change the zoning to C2 to add more storage facilities, and given the precedent of retaining the agricultural character of the area, which aligns with the Plan's future land use strategy, the Board unanimously denied H-25-20.

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[9] The Board's hearing on the application is found at:
https://hernandocountyfl.granicus.com/player/clip/1960?view_id=1&meta_id=178860&redirect=true
The hearing is incorporated by reference herein.

[10] According to the Applicant, the sale contract fell through due to the Commission's recommendation to deny H-25-20.

6. RESOLUTION 25-147.

a. The Applicant was present at the hearing when the Board rendered its decision on H-25-20. In other words, he had *actual* notice of the Board's action. The Applicant applied for relief from the action in accordance with § 70.51(3), Fla. Stat., which reads:

> Any owner who believes that a development order, either separately or in conjunction with other development orders, or an enforcement action of a governmental entity, is unreasonable or unfairly burdens the use of the owner's real property, may apply within 30 days after receipt of the order *or notice* of the governmental action for relief under this section.

(*Emphasis* added.)

b. As a result of the hearing, the Board's Chairman signed Resolution 25-147, denying H-25-20. The Resolution is a public record and is available online to everyone, including the Applicant, by going at https://hernandocountyfl.legistar.com. Furthermore, anyone may obtain a copy of the Resolution by making a public records request.

c. Nothing in the Applicant's request for FLEUDRA proceedings shows that the Applicant made a public records request for the Resolution, or that such request was denied.

II. APPLICABLE LAWS AND ARGUMENT.

1. DENIAL OF REZONING APPLICATION:

a. The P&Z staff's finding does not bind the Board to approve the application. See *Broward County v. Capeletti Bros.*, 375 So.2d 313 (Fla. 4th DCA 1979) ("Although the zoning board and division of planning had both recommended approval of the petition, the commission was not required to follow the recommendations of those advisory bodies.")

b. Simply showing that a proposed rezoning is compatible does not entitle the Applicant to approval. In *Board of County Commissioners of Brevard County v. Snyder*, 627 So.2d 469, 475 (Fla. 1993), the Florida Supreme Court said:

> [W]e cannot accept the proposition that once the landowner demonstrates that the proposed use is consistent with the comprehensive plan, he is presumptively entitled to this use unless

> the opposing governmental agency proves by clear and convincing evidence that specifically stated public necessity requires a more restricted use. We do not believe that a property owner is necessarily entitled to relief by proving consistency when the board action is also consistent with the plan.

c. Moreover, the Board is not required to immediately allow the maximum intensity of the future land use. In *Snyder*, the Florida Supreme Court said that a "comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth." *Id*.

> [A] comprehensive plan only establishes a long-range maximum limit on the possible intensity of land use; a plan does not simultaneously establish an immediate minimum limit on the possible intensity of land use. The present use of land may, by zoning ordinance, continue to be more limited than the future use contemplated by the comprehensive plan.

Id., approving *City of Jacksonville Beach v Grubbs*, 461 So.2d 160, 163 (Fla. 1st DCA 1984), quoting *Marracci v. City of Scappoose*, 552 P.2d 552, 553 (Or.Ct.App.1976).

d. The Board had already established a precedent for maintaining the AG and R1C character of the land on the west side of Lockhart Rd. Moreover, the Board showed that the Parcel, zoned AG, was already serving as its future land use and that there would be no current benefit to the surrounding area by allowing rezoning of the Parcel to C2 so that a storage facility could be built on it.

e. Florida law encourages local governments to "establish a long-term incentive-based strategy to balance and guide the allocation of land so as to accommodate future land uses in a manner that protects the natural environment, stimulate economic growth and diversification, and encourage the retention of land for agriculture and other traditional rural land uses." See § 163.3248(1), Fla. Stat.

f. The Plan's Future Land Use chapter respects the foregoing statute. For example, section 1.04E of the Plan, titled Agriculture Lands Retention Strategies, reads: "Agricultural pursuits are recognized as an important part of the economy and culture of Hernando County. The retention of agriculture will be pursued through multiple strategies in order to support traditional agriculture and changes in agricultural trends."

2. DUE PROCESS CLAIM.

a. Florida law requires the Board to make its decisions available to the public in a timely manner. No law or ordinance required the Board to "deliver" the Resolution to the Applicant. Additionally, as stated above, the Applicant had actual notice of the Board's decision, and the written decision (i.e., the Resolution) was available online and by public records request in a timely manner.

b. The Applicant, having *actual* notice of the Board's action, timely submitted his FLEUDRA proceedings request pursuant to § 70.51(3), Fla. Stat.

c. The Applicant was not deprived of access to the Resolution. Nothing in the FLEUDRA request shows that he made a specific request for the Resolution, that the County received his request, and that the County improperly refused to produce the Resolution. See *O'Boyle v. Town of Gulf Stream*, 257 So.3d 1036, 1040 (Fla. 4th DCA 2018), quoting *Grapski v. City of Alachua*, 31 So.3d 193, 196 (Fla. 1st DCA 2010) ("To set forth a cause of action under the [state's Public Records Act], a party must 'prove they made a specific request for public records, the [local government] received it, the requested public records exist, and the [County] improperly refused to produce [the public records] in a timely manner.'")

d. Therefore, the Applicant was not deprived of his opportunity to respond to or appeal the denial, and his allegation that he was deprived of due process is without merit.

III. PUBLIC PURPOSE.

By aligning with the statute and the section 1.04E of the Plan, the Board's action satisfies a legitimate public purpose in that it retains the agricultural character of the properties surrounding the Parcel.

V. CONCLUSION.

The Board's action should be upheld because the Board met its burden of showing that the action satisfies the legitimate public purpose of maintaining the agricultural character of the properties surrounding the Parcel.

Respectfully submitted,

Melissa Tartaglia

Melissa A. Tartaglia, Esq.

cc: Jeffrey Rogers, County Administrator