



## ***MEMORANDUM***



**TO:** David McDevitt, Director  
Development Services and Environmental Management

**FROM:** Wayne Tedder, Director  
Planning, Land Management and Community Enhancement (PLACE)

**DATE:** November 20, 2014

**SUBJECT:** Consistency Review—Rural Amendment to Eliminate Fuel Sales

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### **Description of the Commercial Uses in the Rural Zoning District Ordinance:**

The proposed ordinance would amend the Leon County Land Development Code to accomplish the following:

- Remove gasoline service stations, fuel oil dealers, and liquefied petroleum gas dealers from the list of allowed uses in the Rural (R) zoning district; and
- Eliminate the recently adopted design standards for gasoline service stations.

### **Amendment Background**

Over the past year, the Board has had numerous discussions regarding the appropriateness of certain commercial uses within rural areas of the County. A Land Development Code (LDC) revision, adopted on September 2, 2014 included “additional restrictions on all proposed retail trade-related minor commercial land uses in Rural, a limitation on the number of locations where retail trade-related minor commercial uses are allowed in the Rural zoning district, and additional restrictions on all proposed gasoline service stations with or without convenience stores...”

On September 23, 2014 the Board approved a Settlement and Forbearance Agreement to Resolve Litigation Related to a Proposed Gas Station on Crump Road. The terms of the agreement include the following as it relates to zoning and land use matters:

- A. Within sixty (60) days of the Effective Date of this Agreement, the Leon County Board of County Commissioners (“BOCC”) shall consider, at a duly-noticed public meeting, whether to amend the County’s LDC to prohibit gasoline service stations (SIC Code 554), fuel oil dealers

(SIC Code 5983), and liquefied petroleum gas dealers (SIC Code 5984) on all property designated as “Rural” on the County’s Future Land Use Map.

- B. Within sixty (60) days of the Effective Date of this Agreement, the BOCC shall initiate the process for a Comprehensive Plan Amendment to evaluate whether commercial development is appropriate on any property designated as “Rural” on the County’s Future Land Use Map, and shall complete such process within one (1) year of the Effective Date of this Agreement.

Currently, the subject LDC amendment is scheduled for final disposition by the Board on December 9, 2014. Based on the Board action to date, staff is also evaluating whether commercial development is appropriate on any property designated as Rural on the Comprehensive Plan Future Land Use Map. The Board will also be considering this analysis at the December 9, 2014 meeting.

### **Analysis of Consistency with the Tallahassee-Leon County Comprehensive Plan**

The Comprehensive Plan addresses the density and intensity of broad land use categories such as office, commercial, industrial, community service, etc. It is a function of the land development regulations (zoning code) to determine what specific uses within those broad categories best implement the policies in the Comprehensive Plan. Unless a land use in a zoning district is essential for the implementation of the Future Land Use Map (FLUM) category that underlies the subject zoning district, the elimination of specific land uses within a zoning district would be consistent with the Comprehensive Plan. An example of a land use that is essential for the implementation of a FLUM category would be single-family detached homes in a Residential Preservation FLUM-associated zoning district.

The proposed ordinance eliminates three land uses within the Rural (R) zoning district. The Rural zoning district is located within the Rural Future Land Use Map (FLUM) Category. Comprehensive Plan Land Use Policy 2.2.1 [L] indicates that it is the intent of the Rural FLUM to allow “[v]ery low residential density (1 unit per 10 acres) and minimal commercial designed to service basic household needs of adjacent residents.” The type of commercial development envisioned for the Rural FLUM is further defined in Land Use Policy 3.1.2 [L], which establishes different classifications of commercial development. The least intensive classification of commercial established by Policy 3.1.2 is minor commercial.

The major function of minor commercial development is to “[p]rovide for the sale of convenience goods and services to immediate residential area”, which mirrors the type of commercial development specified in the Rural FLUM. Policy 3.1.2 also indicates that the trade area of minor commercial is generally one mile, and it provides development standards for location, acreage, size and design. In addition to minor commercial development, the Rural FLUM also permits “[i]ndustrial and ancillary commercial land uses associated directly with the timbering industry and/or agri-business.”

The proposed ordinance will eliminate gasoline service stations, fuel oil dealers and liquefied petroleum gas (bottled gas) dealers from the Rural zoning district. Fuel oil dealers and liquefied petroleum gas dealers are not commercial uses that are essential to the implementation of the Rural FLUM. Those businesses sell products that are purchased infrequently and need not be in close proximity to the rural households who may require fuel oil or bottled gas. In addition, the operation of agriculture or silviculture does not require heating oil or bottle gas dealers to be located in close

proximity to them. **Therefore, the removal of fuel oil dealers and liquefied petroleum dealers as allowed uses within the rural zoning district is consistent with the Comprehensive Plan.**

The proposed ordinance would also eliminate gasoline service stations as an allowed use in the Rural Zoning District. Current Comprehensive plan and Land Development Code policy would allow approximately 70 gas and convenience stores to be located at 26 intersections throughout the County. Recently approved Land Development Code amendments reduced the number of such potential gasoline service stations from approximately 200 intersections to 26 intersections, limited the intensity of those uses to 3,000 square feet, set a maximum of six fuel pumping stations, and established other design standards to ensure that such land uses are appropriately scaled to fit into the rural setting. These amendments were found to be consistent with the Comprehensive Plan by the Planning Department and the Planning Commission. However, the Board of County Commissioners have found that the current ordinance does not fully protect the desired rural character intended in the Rural zoning district.

It can be argued that gasoline service stations alone are ancillary to timbering and agri-business uses and that eliminating the use could create locational consistency issues with the Comprehensive Plan. However, two points should be noted: 1) Staff recalls only one gasoline service station proposed (or built) in the Rural zoning district since the adoption of the comp plan in 1992, indicating that there has been little to no demand for the use during a 20+ year planning period; and 2) Eliminating gasoline service stations at this time may actually encourage development of these uses within the Rural Community land use category (nodes) that are strategically located in the heart of the Rural areas. This approach furthers a number of Comprehensive Plan goals and objectives supporting concentrated growth at appropriate nodes.

Regarding the "rural character" issues raised by the Board, it is also noted that gasoline service stations do, in fact, contain vehicular use areas that are significantly greater than the other commercial uses allowed within the Rural zoning district. As such, it is more difficult for these uses to be developed in a manner that maintains the rural character intended within the district.

#### **Finding of Consistency with the Tallahassee-Leon County Comprehensive Plan**

Based on the findings above, the Planning Department finds that the proposed ordinance is consistent with the Comprehensive Plan.