



Marion County Board of County Commissioners

Growth Services

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Planning & Zoning Staff Report

The item before the Board of County Commissioners (BCC) is a proposed Ordinance amending Land Development Code (LDC) Article 4, Administration, Division 2, Section 23, Rural Commercial (RC-1) zoning classification. *The Land Development Regulation Commission (LDRC) has reviewed the proposed Ordinance and has forwarded the proposed Ordinance to the Board of County Commissioners with a recommendation the Ordinance be adopted with additional amendments proposed.*

I. BACKGROUND

The applicant, Horse Farms Forever, Inc., submitted an application on September 15, 2023, proposing Land Development Code (LDC) amendments to Rural Commercial (RC-1) zoning classification (See Attachment A). The LDRC considered these proposed amendments during a series of workshops held on the following days:

- October 25, 2023
- November 8, 2023
- December 13, 2023

The LDRC also considered these LDC amendments, as amended by Growth Services Planning staff after review by the County Attorney's Office, at a duly noticed public hearing, held on January 24, 2024. At that hearing, the LDRC made some further recommendations to the LDC under this section.

Growth Services Planning staff has now brought forward the application from Horse Farms Forever, Inc. and the further amendments recommended by the LDRC, and compiled them into the attached Ordinance, which is to be considered at two duly noticed public hearings. The BCC approved the scheduling for these two hearings to occur on the following dates and times certain:

- March 19, 2024, at 10:00 a.m.
- April 16, 2024, at 5:30 p.m.

Beginning at the outset of the application and throughout the application process, the

applicant has maintained open communication with Growth Services staff, and after several discussions and several LDRC workshops, has included additional revisions in their proposals for language amendments to this section of the LDC. The LDRC, in their recommendation made at the January public hearing, made some departures from the applicant's language amendment proposals. In response, respectfully, the applicant expressed at the LDRC public hearing their desire to maintain the proposals in their latest revision of the language amendments they proposed under this application.

Staff fully supports applicant's version of the language amendment proposals, and is asking the Board to consider approving those amendments, rather than the amendments proposed by the LDRC, which staff finds to be a less clear revision of our LDC, and a revision which is still in conflict with our Comprehensive Plan.

The first reading of this proposed ordinance is scheduled for March 19, 2024, at 10:00 a.m. Staff is asking for Board action to occur at the second reading of this proposed ordinance, which is scheduled for 5:30 p.m. on April 16, 2024.

II. SECTION-BY-SECTION ANALYSIS

This portion of the staff report focuses on a section-by-section summary analysis of the proposed ordinance. Attachment A displays the original application submitted by Horse Farms Forever, Inc., with changes to the proposed ordinance; the language being deleted shown in a ~~strike-through~~ format and the language being added through the use of an underline. Attachment C, displays the changes to the proposed ordinance (Attachment C) with language as recommended by the LDRC; deletions shown in a ~~strike-through~~ format and additions in underline. Attachment C also displays the proposed ordinance as supported by staff and the applicant; deletions shown in a ~~strike-through~~ format and additions in underline. This is language which has been discussed by the applicant and Growth Services staff, and is ultimately the complete language amendments proposed under this application for amending the Rural Commercial (RC-1) section of the LDC. The clean version of these proposed amendments in Attachment C is found in Attachment D.

Section 4.2.23. – Rural Commercial (RC-1) classification.

Subsection A. Intent of classification:

Horse Farms Forever, Inc. proposed changes to the Intent of classification in Section 4.2.23 to clarify the zoning of RC-1 is intended for limited agricultural-related commercial uses which are appropriate on Rural Lands, but not located in a Rural Activity Center, and stating that only undeveloped parcels on Rural Lands, with an existing commercial zoning, may be eligible to apply for RC-1, and those parcels must do so prior to applying for development approval. Applicant further proposes that the intent paragraph clarify that agriculturally zoned parcels are not eligible to rezone to this classification. (See Attachment C.) **Staff supports these proposed changes.**

The LDRC considered this proposed amendment at their January 24th, 2024 public hearing, and recommended additional language changes which departed from the

language proposed by the applicant. In the later portion of this paragraph, where the Code describes the parcels eligible to apply for this zoning classification, the LDRC agreed with the applicant in the recommendation to delete “commercial” from the parcels located in Rural Lands. Later in the same sentence, the LDRC recommends deleting “with an existing commercial zoning classification, shall...”. Finally, the LDRC recommends deleting the last sentence as proposed by the applicant, which reads “Agriculturally-zoned parcels shall not be rezoned to this classification.” (See Attachment C, pg. 1, lines 12-17.)

Subsection B. Permitted Uses:

The applicant proposes changes to the Permitted Uses in Section B of Section 4.2.23 of the LDC to remove uses that conflict with the Rural Land use designation (FLUE Policy 2.1.6), and conflict with the original intent of the zoning classification. (See Attachment C.) **Staff supports these proposed changes.** Those proposed changes are:

- Delete bait and tackle and sporting goods
- Delete bank, credit union, financial and loan
- Move church, places of worship, to 4.2.23.C. Special Uses
- Delete convenience store, gas station
- Delete dude ranch from riding academy
- Delete “manufacturing, and/or installation” from the various uses
- Removing gun store
- Delete hardware store
- Delete professional office
- Delete parking of commercial vehicles used for the permitted business purposes as an accessory use, to 4.2.23.C. Special Uses
- Delete landscape contractor’s yards from plant nursery
- Delete restaurants

At their January 24th, 2024 public hearing, the LDRC considered these amendments, and recommended changes. In some circumstances the LDRC was aligned with the applicant, and in other circumstances they departed from the applicant’s proposed amendments, and proposed their own amendments within Section 4.2.23.B. The amendments to this section, as proposed by the LDRC, which departed from the applicant’s proposed changes (see Attachment C, pgs 3-5), are as follows:

- Keep convenience store, gas station
 - with a proposal to limit the fueling positions to six (6) max
 - with a proposal to limit the area of the convenience store to 4,000 GSF, and exclude drive-thru
 - no definition given for “fueling position”
- Keep hardware store
 - With a proposal to limit the area of the store to 4,000 GSF
- Move parking of commercial vehicles, to 4.2.23.C. Special Uses
- Keep restaurants
 - With a proposal to limit the area of the restaurant to 4,000 GSF, and exclude drive-thru

Subsection C. Special Use (requiring permit):

The applicant proposes changes to the *Special Uses* in Section C of Section 4.2.23 of the LDC, to clarify agriculture-related uses, and to add or delete uses. (See Attachment C.)

Staff supports these proposed changes.

- Add “agricultural-related” to describe the type of goods for the use of assembly and fabrication of goods using components manufactured elsewhere and brought to the site
- Add churches or place of worship
- Delete construction or contractor’s yard
- Add electric substation
- Delete kennel, outdoor
- Delete sports facilities, which may include tennis facility, archery range, racquetball facility, or swimming club facility
- Add water supply, treatment and storage facilities which serve 15 or more service connections, or serve commercial or industrial buildings which are required by the building code to have fire sprinkler systems.

At their January 24th, 2024, public hearing, the LDRC considered these amendments, and recommended changes. The LDRC was aligned with the applicant on all of the applicant’s proposed amendments to this section; Section 4.2.23.C.

III. CONSISTENCY ANALYSIS

- A. **LDC Section 2.4.1** provides “[p]roposals to amend, modify, or change a component of the adopted Marion County Land Development Code (LDC) shall be considered and initiated by the filing of an application or shall be initiated by the Board. Ordinances initiated by the Board which do not actually change the zoning classification applicable to a piece of property but do affect the use of land, including amendments to this Land Development Code, regardless of percentage of the total land area of the County actually affected, shall be enacted or amended under this division.”

Analysis: The application to consider this proposed Ordinance is being initiated by the applicant, Horse Farms Forever, Inc., and therefore this application for consideration to amend the Land Development Code is **consistent** with this section.

- B. **LDC Section 2.4.3.A** provides “[t]he proposed amendment language shall be reviewed by staff and shall be placed on the agenda of the Land Development Regulation Commission (LDRC) for review and consideration.”

Analysis: This Staff Report represents the required staff review of the proposed amendment language, and the proposed Ordinance is attached hereto as Attachment G. The item was considered by the Land Development Regulation Commission at a duly noticed public hearing on January 24, 2024. In addition, between October 2023 and December 2023, the LDRC held a series of workshops

to review the proposed Ordinance and this proposed Ordinance incorporates the applicant's proposals, as supported by staff, along with the LDRC workshop recommendations, where the LDRC departed from the applicant's proposals in their recommendations to the Board. Therefore, this application is **consistent** with this section.

- C. **LDC Section 2.4.3.B** provides the LDRC shall hold a public hearing after due public notice as defined in Article 1 to consider proposed amendments to the LDC. In making a recommendation for approval to the Board, the LDRC shall make a written finding that the proposed amendment is consistent with the Marion County Comprehensive Plan. If the LDRC recommends denial of the proposed amendment, it shall state in writing its findings of fact and reasons for denial.

Analysis: Staff finds the LDRC has considered the proposed Ordinance at its duly noticed public hearing, which was held on January 24, 2024. This Staff Report represents the LDRC's written finding that the proposed amendment is consistent with the Marion County Comprehensive Plan. Proof of publication demonstrating due public notice of this LDRC public hearing is on file for review and inspection at the Growth Services Department. Therefore, this application is **consistent** with this section.

- D. **FLUE Policy 1.1.4: Private Property Rights.** The County shall recognize and protect private property rights in the creation and implementation of land use regulations and other government actions; and shall provide compensation or other appropriate relief as provided by law, for actions by the County that are determined to be unreasonable uses of the police power so as to constitute a taking.

Analysis: The proposed Ordinance protects private property rights because it facilitates the reasonable use of property. Moreover, the Ordinance, as proposed by the applicant, furthers the County's objectives for the protection and use of Rural Lands, and makes a return for this Rural Commercial zoning classification to the original purpose for the zoning classification; it was created as a work around for agriculturally-related commercially-zoned properties in existence on Rural Lands when the Comprehensive Plan was adopted, providing a way for those pre-existing parcels to come into compliance with the Comprehensive Plan. It was never designed for any and all classifications to be eligible to apply to rezone to this classification to fit all commercial uses onto Rural Lands which belong in a Rural Activity Center (RAC). (See Attachment E.)

The nature of the properties which carry a Rural Land future land use designation are the exact type of property that the Comprehensive Plan set out to protect in a variety of ways, under multiple policies within the Comprehensive Plan. The County set out to protect these rural/agriculture properties by limiting commercial development in or about these properties. This zoning classification was the County's answer to agriculturally-related commercially-zoned properties on the Rural Lands that are not within a RAC, which is where the Comprehensive Plan has encouraged commercial uses for day-to-day needs in the rural areas to be located. The County protects private property rights by maintaining the Rural Commercial zoning classification as the fix for very limited circumstances that allow

for only those commercial uses which support these rural/agriculture property owners. By broadening the scope of eligibility to rezone to this zoning classification, the rights of these property owners have been diminished by subjecting them to premature urbanization and urban sprawl. By returning this zoning classification to being limited in its use, as was its original intent, the County is preserving the rights of all affected property owners and furthering its vision for guiding growth in Marion County. This application seeks to do just that with these language amendments.

Currently, there are only twenty (20) parcels zoned RC-1 in the county, and of those, only two (2) are uses as permitted in RC-1, per the LDC. This zoning classification has been around since before 1996 and has not been used much at all. The County has created RACs for commercial nodes in the rural areas. Staff recommends a return to more closely echo the original intent, as does this applicant, and to clear up the intention and uses to again be only agriculture-related or agriculture-supporting uses that would be appropriate on Rural Lands not within RAC, and Farmland Preservation Area (as is the applicant's concern, and where many relevant parcels are situated).

In the Comprehensive Plan, only agricultural-related uses are intended on RL.

Policy 2.1.13: Rural Land (RL): "This land use designation is intended to be used primarily for agricultural uses, low density residential units on large lots or family divisions and associated housing related to farms or other agricultural related commercial and industrial uses. The base density shall be (1) dwelling unit per ten (10) gross acres, and the following special provisions shall apply for development not meeting the base density, as further defined in the LDC"

Sec. 4.2.23. - Rural Commercial (RC-1) classification. (Applicant's revised proposal for the intent paragraph):

1. Intent of classification. The Rural Commercial classification is intended to provide for limited agricultural-related commercial uses that would be appropriate on Rural Lands not located in a Rural Activity Center. Only undeveloped parcels located in the Rural Lands with an existing commercial zoning classification may be eligible to rezone to this classification and must do so prior to applying for development approval. Agriculturally-zoned parcels shall not be rezoned to this classification.

The amendments to the zoning classification seek to reflect the original intent of the County, which is to preserve property rights of affected property owners in Rural Lands, by limiting the use of this zoning classification to agricultural-related commercial uses on Rural Lands which are outside a RAC and have been since before the Comprehensive Plan was adopted. And further, encouraging commercial uses in Rural Lands to exist in the RAC nodes created for them, and for the ease of all members of those rural communities. Agriculturally-zoned parcels should not be permitted to use this zoning classification as a way to avoid following the County's vision for the community in guiding commercial growth on

Rural Lands to the RAC nodes in order to protect the community against premature urbanization and urban sprawl, as set out under numerous Comprehensive Plan policies. This application seeks to do just that with the language changes proposed.

For the above reasons, it is concluded this application is **consistent** with this policy.

- E. **FLUE Policy 4.1.1: Consistency between Comprehensive Plan, Zoning, and LDC**, provides that “[t]he County shall amend and maintain an official land use and zoning map, appropriate land use designations and zoning classifications, and supporting LDC that shall be consistent with each other.”

Analysis: There is no commercial entitlement on Rural Land (RL). Any commercial uses on Rural Land belongs in a RAC. The Rural Commercial zoning classification was designed for the agriculturally-related commercial properties which pre-dated the Comprehensive Plan but which support our rural communities; it was the County’s solution to bring them into compliance with the Comprehensive Plan.

Upon the receipt of this application, Staff reviewed the language of this zoning classification and finds that as it is currently written, it conflicts with the Comprehensive Plan by allowing parcels currently zoned agriculturally to apply for this zoning classification, which is not the original intent for the classification. Originally, it was meant only for a limited situation where an agriculturally-related commercial zoning existing on Rural Land, not located within a RAC. By allowing commercial uses outside of this limited set of criteria to be able to rezone to this zoning classification, we are allowing Comprehensive Plan-compliant parcels to become out of compliance with the Comprehensive Plan, and place commercial uses on Rural Lands and not necessarily require them to exist in a RAC. This is not what this zoning classification was designed for, and it is also opposite of what the County is required to do under this policy.

Staff further finds that the current language needs a revision of the permitted and special uses, as well as the revision to the intent paragraph. The 1996 language for this zoning classification is attached hereto as Attachment E. Staff recommends that the LDC be amended to make a return to the intent as it was written in 1996. This would maintain official land uses and zoning maps, appropriate land use designations and zoning classifications, and supports an LDC which is consistent with the Comprehensive Plan. This application seeks to do just that and is **consistent** with this policy.

- F. **FLUE Policy 4.1.2: Conflicts Between the Comprehensive Plan, Zoning, and LDC**, provides that “[t]he Comprehensive Plan shall be the governing document. In the event of conflict between the Comprehensive Plan, Zoning, and LDC, the more stringent regulation shall apply, unless the County has developed a process to allow a variance or waiver of the regulation where a conflict in regulations occurs in accordance to the Comprehensive Plan, Zoning, or LDC.”

Analysis: This policy is an illustration of the importance of removing conflicts

with the Comprehensive Plan which exist now in our LDC. This application proposes to do just that. Therefore, it is **consistent** with this policy.

G. **Chapter 163.3194(1)(a) of the Florida Statutes** provides that,

“[a]fter a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.”

Subsection 2(b) of this statute continues on to provide that,

“[a]ll land development regulations enacted or amended shall be consistent with the adopted comprehensive plan, or element or portion thereof, and any land development regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent. *If a local government allows an existing land development regulation which is inconsistent with the most recently adopted comprehensive plan, or element or portion thereof, to remain in effect, the local government shall adopt a schedule for bringing the land development regulation into conformity with the provisions of the most recently adopted comprehensive plan, or element or portion thereof.* During the interim period when the provisions of the most recently adopted comprehensive plan, or element or portion thereof, and the land development regulations are inconsistent, the provisions of the most recently adopted comprehensive plan, or element or portion thereof, shall govern any action taken in regard to an application for a development order.” (emphasis added)

Subsection 3 of this statute establishes that a land development regulation is consistent with the comprehensive plan if

“the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.”

Analysis: Based on this statute, the inconsistencies within this zoning classification that conflict with the Comprehensive Plan cannot be permitted to continue, and must be brought into conformity. This application proposes to accomplish just that; therefore, it is **consistent** with this statute.

H. **FLUE Policy.5.1.4: Notice of Public Hearings.** The County shall provide notice consistent with Florida Statutes and as further defined in the LDC.

Analysis: Proof of publication, and evidence of mailed notices is on file at Growth

Services. Therefore, this application is **consistent** with this policy.

- I. **Potable Water Element Policy 1.2.1:** Potable water system regulations, standards and specifications in the LDC shall address, at a minimum the following: retrofitting existing water systems; evaluation of the feasibility of existing utilities to continue their operations; evaluation of the extension of these facilities; and establishment of minimum criteria for future county ownership.

Analysis: The proposed LDC amendments to the potable water system address the above-stated minimum requirements. Therefore, this application is **consistent** with this section.

Based on the above findings, staff concludes that the proposed LDC amendments are consistent with the LDC and the Comprehensive Plan and the applicable Florida Statute. The LDRC, at the January 24, 2024 public hearing, has also found the proposed LDC amendments to be **consistent** with the LDC and Comprehensive Plan, by recommending some changes which departed from the amendments as proposed by the applicant. This staff report memorializes that finding.

IV. RECOMMENDATIONS

- A. Growth Services Department. The Growth Services Department supports the language amendments as proposed by the applicant, and staff recommends the BCC **approve the proposed Ordinance**, reflecting changes to this section of the LDC **as proposed by the applicant in Attachment C**.
- B. LDRC. At the January 24, 2024 public hearing, the LDRC supported the applicant's proposed amendments in some areas, but has recommended some changes that departed from the applicant's proposals, and recommends the BCC **approve the Ordinance**, reflecting the **additional modified language amendments as proposed by the LDRC in Attachment C**.
- C. BCC. The proposed Ordinance is scheduled for consideration by the BCC at the duly noticed **March 19, 2024** public hearing. The Ordinance is scheduled for consideration and action at the duly noticed **April 16, 2024** public hearing.

V. LIST OF EXHIBITS

1. Attachment A – Original Rural Commercial LDC Amendment Application, by applicant, Horse Farms Forever, Inc.
2. Attachment B – Proposal RC-1 Intent Comparison Language Strikethrough Underline from both the applicant and LDRC
3. Attachment C – Proposal RC-1 Language Strikethrough Underline, with LDRC Language recommendations. And proposal RC-1 Language Strikethrough Underline, as revised by applicant with staff, Horse Farms Forever, Inc.

4. Attachment D – Proposal RC-1 Language, clean, as proposed by applicant, Horse Farms Forever, Inc., in Attachment C
5. Attachment E – 1996 Rural Commercial RC-1 Zoning Classification Language
6. Attachment F – Letter from 1000 Friends of Florida on the Proposed LDC Amendment
7. Attachment G – Proposed Ordinance for signature

enm/KW