



To: City of Milton Planning Commission

From: Lynn Tully, AICP, Community Development Director

Date: August 17, 2010

1. Agenda Item: RZ10-04 – To Amend the City of Milton Zoning Ordinance to create a required distance for Convenience Stores and Service Stations from residential uses/zoning districts within the Northwest Fulton Overlay and State Route 9 Overlay Districts (Chapter 64 Division 5 and Chapter 64 Division 6).

Background:

Members of the City Council requested that Staff look at the feasibility of changing the existing ordinance in the following manner:

1. “Provide a reasonable set back from residential areas for all gas/service stations or drive through establishments. While I am sure there are examples of this type of setback in the surrounding jurisdictions, I would imagine a minimum of 300 feet would be considered reasonable.”
2. Require any commercial zoned property to obtain a use permit, if that property will utilize or sell any hazardous material such as gasoline, propane, or other materials that require special handling or storage.”

This amendment applies specifically to the first request. Staff collected information from surrounding jurisdictions within the metropolitan Atlanta area shown in the table below.

Jurisdiction	Required Setbacks
Snellville, GA	Fuel Pumps and Gas Storage Tanks to be 100 feet from any residential zoning district
Roswell, GA	All buildings and appurtenances to be 100 feet from any residential zoning district
Cherokee County, GA	Highway 92 Village Ordinance - All buildings and appurtenances are to be located at least 400 feet from any residential property line; and that all fuel is stored underground outside of any public right-of-way.)
Forsyth County, GA	The required setbacks required adjacent to residential range from 30 feet in the Neighborhood Shopping Zoning District to 90 feet in the Heavy Industrial District.

Staff notes that the distances are typically enforced in two ways within a zoning ordinance; 1) Use Permits and 2) Overlay district requirements. It is Staff’s opinion that for the City of Milton, adding a distance requirement to the overlay districts (State Route 9 and Northwest Fulton) would be the most prudent manner to enforce distance requirements. In addition, one jurisdiction is different from another and the same restrictions may result in unintended consequences. Therefore, Staff has made the following analysis regarding convenience stores and service stations.



Within the City of Milton Zoning Ordinance, there are two definitions that address dispensing of motor fuels in Section 64-1.

A. Convenience Store:

- (1) Means a use offering a limited variety of groceries, household goods, and personal care items, always in association with the dispensing of motor fuels as an accessory use.
- (2) Does not include vehicle service, maintenance and repair.

B. Service Station

Means a use which provides for the sale of motor vehicle fuels and automotive accessories, and which may provide minor repair and maintenance services. A service station shall be limited to four or fewer bays excluding no more than one attached or detached bay for washing cars.

Convenience stores and service stations are permitted within the C-1 (Community Business), C-2 (Commercial), M-1A (Industrial Park, M-1(Manufacturing), and M-2 (Heavy Manufacturing) districts. Convenience stores are also permitted in MIX (Mixed Use) districts. Staff notes there are no M-1A (Industrial Park) and M-1 (Heavy Manufacturing) districts in the City and a total of 11 acres of developed M-1 (Manufacturing) located within the city limits of Milton.

Zoning District	Service Station	Convenience Store
MIX (Mixed Use)	Not Permitted	Permitted
C-1 Community Business)	Permitted	Permitted
C-2 (Commercial)	Permitted	Permitted
M-1A (Industrial Park) None with the City	Permitted	Permitted
M-1 (Industrial)	Permitted	Permitted
M-2 (Heavy Industrial) None within the City	Permitted	Permitted

For sites on four acres or less, a 50-foot wide undisturbed buffer, with a ten-foot improvement setback, shall be located adjacent to all AG-1 zoning districts and all property zoned, used, or developed for residential uses. For sites on more than four acres, a 75-foot wide undisturbed buffer, with a ten-foot improvement setback shall be located adjacent to all AG-1 zoning districts and all property zoned, used, or developed for residential uses.(Sec 65-1091 in SR 9 Overlay and Sec 64-1141 in Northwest Fulton Overlay) The vast majority of parcels along SR 9 abuts AG-1 or residential uses and therefore would be required to provide the undisturbed buffers, reducing the developable area.



Discussion:

Historically, under Fulton County the majority of parcels commercially re-zoned in the 1980's and 1990's with conditional zoning excluded service stations and also excluded convenience stores with gas pumps after the 1990's. The City of Milton has excluded convenience stores with gas pumps since its incorporation in 2006 when there have been requests for any type of non-residential zoning.

Although, most jurisdictions use the proposed building to measure outward to the adjacent properties, it is Staff's opinion that to be consistent and to predict future development, distances should be measured from the subject property line to the adjacent property line.

Parcels that are zoned MIX (Mixed Use) that are located adjacent to a proposed convenience store should be measured to the location of the sole residential use. Typically, the non-residential portion of the MIX will have a separate ownership from the residential portion. There may be instances in the Crabapple and Birmingham Crossroads areas where a residential use and a non-residential use are within one building. In this situation, these types of mixed uses would be considered residential.

The first map attached illustrates the parcels that are currently permitted by zoning for a gas station/convenience store. Many of these parcels, in reality, are already too small for development. Implementing the Overlay District buffers would further restrict their ability to be developed. Most of these parcels are "Unconditional" C-1 parcels that were assigned at the time of the creation of the Fulton County Zoning Resolution/Maps in 1955.

The second map attached illustrates the available parcels that meet the 100-foot setback for all non-residential and agricultural uses. The requirement eliminates all but six (6) parcels that could be developed as gas stations/service stations. Five (5) of the parcels are located in the Wal-Mart Shopping Center in undeveloped out parcels. The sixth parcel is located at the southernmost part of the City along the north side of SR9 adjacent to the city limits of Alpharetta.

Recommendation:

Based on this analysis, Staff recommends that all convenience stores and service stations should be located a minimum of 100 feet from the subject property line to any agricultural or residential zoned district within the SR 9 and Northwest Fulton Overlay Districts. Staff notes that the Northwest Fulton Overlay District also dictates the development standards for the Crabapple and Birmingham Crossroads Overlay Districts where these overlays are silent.

Alternatives:

The Mayor and City Council may request the measurement be made from proposed buildings and accessory structures as other jurisdictions have done or the distance can be increased with Staff's recommendation. In addition, if the Council would prefer to include the distance requirement for only the Northwest Fulton Overlay District, more parcels would be permitted to



City of Milton

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be developed as convenience stores or service stations within the SR 9 Overlay District but eliminate the “un-conditional” C-1 parcels in the Northwest Fulton Overlay District.

Concurrent Review:

Chris Lagerbloom, City Manager, Ken Jarrard, City Attorney

Sec. 64-1097. - Miscellaneous provisions. (State Route 9 Overlay District)

- (a) Telecommunications switchboards, power generators, and other telecommunications relay equipment rooms or floors housing such uses are limited to the following areas of a building:
 - (1) Subterranean levels;
 - (2) First and second floors which are set back a minimum of 50 feet from the street; or
 - (3) Third and fourth floors.
- (b) Stealth design is required for all wireless telecommunication towers.
- (c) Neither parking lots nor areas immediately adjacent to a building shall be used for storage or sale of goods.
- (d) Storage of shopping carts is allowed without a permit.
- (e) Displaying or sale of goods outside the interior permanent and sheltered portions of a building is prohibited. Exceptions: seasonal holiday trees, pumpkins, and open air fairs provided an administrative permit is obtained, pursuant to section 64-1608.
- (f) Vending machines, paper stands, and other similar devices must be located interior to the building structure.
- (g) All properties developed with service stations or convenience stores must be located a minimum of 100 feet from any AG-1 (Agricultural) districts, residential districts or any zoning district developed with a residential use. Measurement shall be from property line to property line.

Sec. 64-1145. - Building size, orientation, setback, height, scale and parking.

The design and lay out of a development should build upon and complement the design of crossroads communities as opposed to creating a new one. The size, orientation, setback and scale of buildings are integral elements of crossroads communities. A building's orientation and placement should complement and relate to adjacent buildings, structures and properties. The placement of buildings should create and informal grouping and relationship between them as opposed to being orderly and uniform. The location of a building should take into consideration its rural surrounding and take advantage of this by maintaining open views and spaces. Buildings should be in proportion, in scale and characteristic to their rural and natural setting. The building design and material should contribute to the style and feeling of its rural surrounding. The visual impact of parking should be minimized by placing it to the rear and by screening.

(1)

Size. Noninstitutional buildings shall be limited to the following:

a.

On a development of four acres or less, the maximum building size shall be 20,000 square feet. However, to encourage construction of multiple buildings, if two or more buildings are built, the total size of all buildings shall be a maximum of 25,000 square feet, no single one of which shall exceed 15,000 square feet.

b.

On developments larger than four acres, the maximum building size shall be 25,000 square feet.

c.

A group of two or more buildings that share at least one contiguous wall will be considered as one building.

(2)

Orientation.

a.

All buildings shall be oriented to a public street. An entrance to a building should be located on the side of the building facing a public street.

b.

Driveways shall be perpendicular to the street.

(3)

Setbacks.

a.

For all property and lots located adjacent to public rights-of-way and from zero to 400 feet from an intersection, buildings shall be setback no more than 20 feet from the edge of the required landscape strip or easements. This 20-foot front yard area may be developed with a combination of landscape and hardscape elements, such as plazas, fountains, benches, and tables. Additional shade tree plantings are encouraged within public gathering places and alongside pedestrian paths. Buildings shall have varying setbacks to create the informal crossroads community setting.

b.

For all property and lots located adjacent to public rights-of-way and 400 feet or more beyond an intersection, buildings shall be set back no more than 30 feet from the edge of the required landscape strip or easements. This 30-foot front yard area may be developed with a combination of landscaping and hardscape elements, such as plazas, fountains, benches, and tables. Additional shade tree plantings are encouraged within public gathering places and alongside pedestrian paths.

c.

Buildings within a development shall have a 20-foot separation between buildings. This area shall be developed as greenspace or with a combination of hardscape and landscaping.

d.

In the case where a building in a development cannot front a public street and meet the requirements of this article because other buildings are located there and no more space is available along the public street, then the building can front on an internal street in the development. The standards in this article that specify a building's position and relation to the street are also required for a building fronting on an internal street. The internal streets will also have to meet the standards specified for the public right-of-way, including landscape and streetscape requirements.

- e. All properties developed with service stations or convenience stores must be located a minimum of 100 feet from any AG-1 (Agricultural) districts,

residential districts, or any zoning district developed with a residential use.

Measurement shall be from property line to property line.

(4)

Height. There shall be a maximum height limit of two stories with the maximum height 30 feet from average finished grade to the bottom of the roof eave.

(5)

Scale. For every 80 feet of building length on a single face, there shall be variation in the exterior. This exterior variation shall be accomplished through the following means:

a.

For each 80 feet of building exterior wall, the building exterior and roof shall be offset by a minimum of ten feet. Overhangs and roof lines shall follow the building's location.

b.

For each 80 feet of building exterior wall, there shall be a change in details, or patterns or materials.

(6)

Parking.

a.

Parking shall be shared among users within a common development. Parking shall be reduced according to the shared parking standards established in section 64-1411. Additional reduction in the number of parking spaces is encouraged.

b.

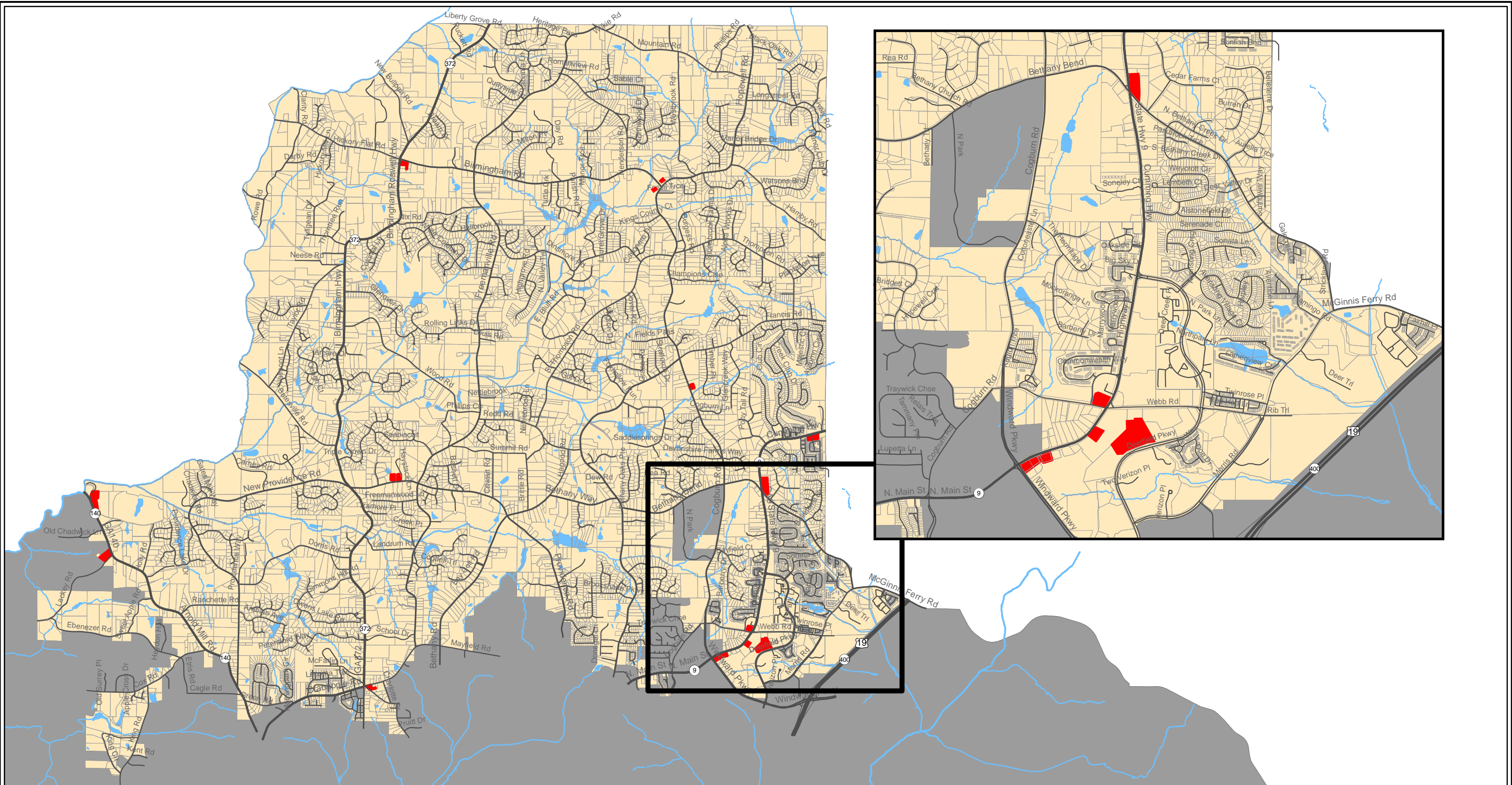
All parking spaces built, which exceed the minimum number required by the city zoning ordinance, shall be constructed of pervious material.

c.

No on-site parking shall be located to the front of a building or between a building and the public right-of-way (see section 64-1142(2) regarding landscaping if parking is in view from the right-of-way). Parking shall be located adjacent to internal streets, not a public right-of-way.

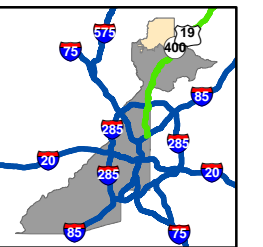
d.

If an internal street is developed for use by the general public, one row of parallel or diagonal parking is allowed between the street and the curb.

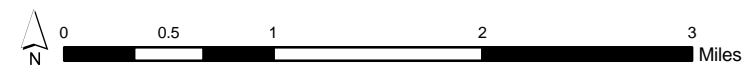


**Parcels Currently Zoned for Convenience Store/ Service Station
City of Milton**

- Street Centerlines
- Rivers & Streams
- Parcels Currently Permitted for Convenience Store/ Service Station
- Lakes & Ponds
- Milton City Limits
- Fulton County Boundary



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**Parcels That Can be Developed for Convenience Store/ Service Station
with the 100' Distance Requirement
City of Milton**

- Street Centerlines
- Rivers & Streams
- Parcels Potentially Developed into Convenience Store/ Service Station
- Lakes & Ponds
- Milton City Limits
- Fulton County Boundary

