



# STAFF REPORT

## MORGAN COUNTY PLANNING COMMISSION

### PETITION FOR: TEXT AMENDMENT

Applicant: Morgan County Planning & Development  
Applicant's Agent:  
Zoning Ordinance: City of Rutledge Zoning Ordinance  
Article 2 Definition of Terms  
Article 11 Use Provisions by District  
Article 12 Supplemental Standards for Specific Uses

#### Summary

The City of Rutledge has been approached (directly and via the Planning Office) regarding apartments in the historic downtown. One situation proposed turning a two-story commercial building into a multi-family apartment building with dwelling units on both floors. The second situation proposed turning a one story commercial space into a duplex. Morgan County Planning & Development was tasked with reviewing the City's regulations to determine if the requests were allowed, and if not, whether such uses could be accommodated without detriment to the historic nature of the downtown. The City has enacted a 90 day moratorium on apartments, including garage, loft and efficiency, while the language is reviewed.

Currently, the City of Rutledge Zoning Ordinance does not allow any multi-family housing in the City. This prevents the two-story multi-apartment proposal. The Ordinance allows Loft or Efficiency Apartments in the CH (Historic Commercial) zoning district, but requires the apartment to be one large space (no division of rooms except for the bathroom). The Ordinance does not allow Duplexes in CH, so the one story building could only be used as one large open-space apartment. Another concern with both proposals is the removal of the retail uses, which could affect the economy of the downtown, as well as change the appearance of the historic storefronts.

The language in the Ordinance has several issues. Article 2 (Definitions) includes several housing definitions which are not included in the use chart, including apartment, garage apartment, multi-family dwelling and townhouse. The use chart includes at least one term, accessory apartment, which has no definition, although there are specific regulations for the use.

Per the specific regulations, the City of Rutledge Zoning Ordinance allows for both accessory apartments and accessory dwellings. The Ordinance attempts to differentiate between the two by specifying that the accessory dwelling should be occupied by a family member. It also states that a property may have only one accessory dwelling, but may have multiple accessory apartments. The accessory apartment

language does not exclude residential properties, which creates the possibility of having numerous rental dwellings on one residential property.

Staff feels that the inclusion of both accessory dwellings and accessory apartments is confusing. Despite the regulation that an accessory dwelling would be occupied by family, there is no way to enforce such a regulation and it is probable that such spaces are being rented for income. Staff feels that accessory apartments *are* accessory dwellings and can, therefore, fall under the same term.

Regarding the possibility of dwellings in the historic downtown area, Staff feels that the use may be included if the storefronts remain intact and used for commercial. Allowing portions of the buildings to be used for habitation may be advantageous to Rutledge, as many storefronts are empty due to large square footage and high rents. Dividing the space and allowing a dwelling in the back or on the second floor could bring down rent for a potential commercial tenant, who may only need a small space for an office or retail venture.

Current and Proposed Language

**Article 2 Definitions of Terms**

Notes regarding proposed changes to definitions: Several of the terms currently contained in the definitions can be removed, as they are versions of accessory dwellings. The definition for accessory dwellings was changed to reflect a living unit in either a commercial or a residential space, instead of just the residential focus in the current definition. The single family attached definition was removed due to confusion with the multi-family definition, and multi-family residential development was added because the term is used in the multi-family regulations. Primary function was also mentioned in the regulations, which resulted in that term being added as well. Several small changes in the definitions were included to make them more compatible with building code.

Accessory Dwelling Unit: ~~A habitable living unit added to, created within, or detached from a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking, and sanitation, but is clearly subordinate to the principal dwelling.~~ **A habitable living unit added to, created within or detached from a principal building, whether residential or commercial, that provides basic requirements for living, sleeping, eating, cooking and sanitation.**

Apartment: One or more rooms and a bath which is designed according to the International Code Conference and designed or intended for occupancy by one (1) family or one (1) person doing its cooking therein. For zoning purposes, an apartment is regarded as a dwelling unit. A structure containing two (2) apartments is a duplex. A structure containing three (3) or more apartments is a multi-family dwelling.

~~Apartment Building: A multi-family dwelling unit located on a parcel of land under a single ownership and consisting of three or more single family dwelling units separated by fire resistant walls as required by the Building Code of Morgan County, Georgia, as the same may be amended from time to time.~~

~~Dwelling, Loft Apartment or Efficiency: A dwelling unit consisting of not more than one habitable room together with a kitchen or kitchenette and sanitary facilities.~~

Dwelling, Multi-family: A building **on a single lot** containing at least 3 dwelling units, **separated by fire resistant walls**, designed for residential use by 3 or more families living independently of each other. This includes apartments but not group homes and **townhomes** condominiums.

~~Dwelling, Single Family Attached: A building or portion thereof containing dwelling units which are attached to each other by party walls without opening. This term includes one-family and two-family dwellings and townhomes but does not include hotels and boarding or lodging houses.~~

Dwelling, Two Family (Duplex): A structure containing 2 dwelling units, **separated by fire resistant walls**, designed and arranged for residential use by 2 families living independently of each other.

Dwelling Unit: A building, or portion thereof, designed, arranged and used for **living quarters independent living facilities** for one or more persons living as a single housekeeping unit with **cooking living, sleeping, cooking, eating and sanitation** facilities, but not including units in hotels or other structures designed for transient residence.

~~Garage Apartment: A dwelling unit for one family erected above a private garage detached from the principal dwelling.~~

**Multi-Family Residential Development: One or more buildings, each containing more than 3 apartments, on one lot under a single ownership.**

**Primary Function: A major activity for which the building is intended.**

Townhouse: A single family ~~attached~~ dwelling unit that is erected in a row as part of a single building, on adjoining lots, each separated from adjoining unit or units by approved fire resistant party wall or walls extending from the basement or cellar floor to the roof along the dividing lot line. Each unit shall have its own front door which opens to the outdoors, and shall have a minimum of 2 floors. There is no access between adjoining units. **Units must have open space on at least two sides.**

**Article 11 Use Provisions by District**

Notes regarding proposed changes to use provisions: Accessory apartment and loft dwellings are now incorporated under accessory dwellings. Single family attached was removed and multi-family was added. Staff suggests that any dwellings added to historic downtown buildings should go through the conditional use process to confirm that the addition will not harm the integrity of the historic buildings or of the commercial area, and that off street parking can be provided without affected the downtown businesses. (NMU-Mixed Use, CH-Historic Commercial)

USES	AR	R1	R2	R3	R4	NMU	CH	C1	C2	LI
Accessory Apartment	P	P	P	P	P	P				
Accessory Dwelling	P	P	P	P	P	P	C			
<del>Dwelling, Loft or Efficiency</del>	<del>P</del>	<del>P</del>	<del>P</del>			<del>P</del>	<del>P</del>			
Dwelling, Single Family Attached					P	P				
Dwelling, Multi-Family						P	C	P	P	
Dwelling, Two Family (Duplex)					P		C			

**Article 12 Supplemental Standards for Specific Uses**

Notes regarding proposed changes to supplemental standards: Staff suggests that Multi-Family Dwellings take the Section number currently assigned to Accessory Apartments. The Multi-Family language is copied from the county zoning ordinance and has been modified to remove conflicts with other language in Rutledge’s zoning ordinance. Current Section 12.1.10 requires any accessory use to register with both Rutledge and with Planning. This language has not been enforced and Staff recommends removing it. Any structural changes must be permitted and inspected by the Planning office.

Section 12.1.7 ~~Accessory Apartments~~

An accessory apartment shall be permitted provided the following criteria is met:

- ~~(a) Any property owner seeking to establish an accessory apartment shall apply to register the apartment with the Director of Planning and Development and with the City Clerk pursuant to Section 12.1.10 of this Chapter.~~
- ~~(b) The accessory apartment shall have the same ownership as the principal building.~~
- ~~(c)~~
- ~~(d) One or more accessory apartments may be located in a single principal building, provided that no ground level floor is used for residential purposes.~~
- ~~(e) Each accessory apartment shall be limited to between three and eight hundred (300-800) square feet of heated living area.~~
- ~~(f) Accessory apartments may share an exterior access door and common areas, limited to private self-service laundry and storage facilities.~~
- ~~(g) Each accessory apartment shall have one (1) off-street parking space either on the same lot, in a commercial parking lot, or in a commercial parking garage.~~

See exceptions below for regulations pertaining to Multi-Family Dwellings in the CH zoning district. In zoning districts where permitted, Multi-Family Dwellings shall meet the following requirements:

- (a) No more than 48 units shall be allowed per Multi-Family Residential Development. Apartments must have a minimum of four (4) and a maximum of eight (8) dwelling units per floor per building.
- (b) The minimum lot area for any Multi-Family Residential development shall be four (4) acres. In no case shall more than fifty percent (50%) of the lot area be occupied by buildings.
- (c) The maximum impervious surface area for Multi-Family Residential developments shall meet the zoning district where located. All Multi-Family Residential developments shall dedicate a minimum of 20% to open space. At least one half of the dedicated open space must be useable space for passive and active recreational use. Pervious areas such as storm water facilities and parking lot islands shall not be used as part of the open space requirement. All open space recreational areas must be separated from the internal traffic flow and public thoroughfares. All passive and active recreational areas must be readily accessible to all occupants of the development.
- (d) All buildings must be separated on all sides a minimum of 60 feet from any other building; All buildings must be set back a minimum of 45 feet from the side and rear lot lines; All buildings must be set back a minimum of 60 feet from the street right-of-way; All buildings and structures must be set back a minimum of 100 feet from all bodies of water qualifying as State Waters; All buildings must be located outside any area designated as floodplain.
- (e) All buildings shall be oriented as to face front to front or rear to rear. No building shall be oriented as to face front to rear of another building within the development or to adjoining properties.
- (f) All Multi-Family Residential dwellings are limited to a maximum of two (2) floors and a median height of 35 feet above finished grade.
- (g) All Multi-Family dwelling units shall meet the following for minimum heated floor space:
  - One (1) bedroom unit – 800 square feet
  - Two (2) bedroom unit – 1,000 square feet
  - Three (3) bedroom unit – 1,200 square feet
- (h) Every Multi-Family Residential development proposed to contain 24 dwelling units or more must include a community recreation amenity to serve the development. These amenities may include any of the following:
  - Active play area(s)
  - Children’s play area(s)
  - Accessible walking trails
  - Public swimming pool(s)
  - Ball fields
  - Club house
  - Kitchen with seating
  - Tennis court(s)
  - Basketball court(s)
  - Volleyball court(s)
  - Other active recreation courts

Community Garden(s)

Community Outdoor

Multi-Family Residential developments containing 24 to 48 dwelling units must include a minimum of two (2) amenities.

- (i) Each applicant of a Multi-Family Residential Development shall present, as part of the application, all legal documents in which all land associated with the development shall be protected and maintained. This includes all internal streets, parking areas, sidewalks, landscaping, open space areas, recreation amenities, common areas and structures.
- (j) All Multi-Family developments must be connected to a public water system and a public sanitary sewer system. All utilities must be located underground within the development.
- (k) All Multi-Family Residential developments must comply with the latest building and fire code adopted by the City of Rutledge. A fire hydrant, meeting the required fire flows for the size of the structure, must be located within one hundred (100) feet of each building within the development. In no case shall the hydrants be placed further than five hundred (500) feet apart within the development.
- (l) A landscaping plan shall be submitted and approved as part of the construction documents. The use of native plants and trees as landscaping material is encouraged wherever possible. Invasive or potentially invasive plants are not permitted. Existing tree cover and natural vegetation shall be preserved, whenever possible, or replaced with suitable vegetation. Ground cover(s) should be used to supplement landscaping in appropriate areas to reduce the need for extensive grass lawns. All Multi-Family Residential Developments are required to have a minimum of 20 feet planted buffer or natural buffer along adjoining property lines. This buffer shall consist of overstory and understory plants and trees.
- (m) Exceptions: Multi-Family dwellings proposed in the CH zoning district may be located on the second floor or in the rear of the commercial space. The dwelling units must not exceed 50% of the first floor and shall not use the storefront entrance or be accessible from the commercial space. Multi-Family units must be a minimum of 300 heated square feet and must meet all fire and life safety requirements. One off-street parking space per dwelling unit must be provided.

#### Section 12.1.8

#### Accessory Dwelling Unit

An accessory dwelling unit shall be permitted provided the following criteria is met:

- ~~(a) Any property owner seeking to establish an accessory dwelling unit shall apply to register the dwelling with the Director of Planning and Development and with the City Clerk pursuant to Section 12.1.10 of this Chapter.~~
- (b) The accessory dwelling unit shall have the same ownership as the **single family dwelling principal building in, or the property on, which the accessory dwelling unit is located.**
- ~~(c) Either the single family or the accessory dwelling unit must be occupied by an owner of the property, who resides therein at least six (6) months of the year, claims said location as his/her residence, and does not rent out the owner-occupied dwelling unit.~~
- ~~(d) The total number of unrelated occupants in both the single family residence and the accessory dwelling unit combined shall not exceed four (4).~~
- (e) No lot, **regardless of the primary function**, shall have more than one (1) accessory dwelling unit. An accessory dwelling unit precludes a ~~residential business or a bed and breakfast establishment~~ **or a bed and breakfast inn.**
- (f) The accessory dwelling unit shall be limited to between three and eight hundred (300-800) square feet of heated living area.

- ~~(g) Accessory dwelling units located in accessory buildings shall also meet the requirements in Section 12.1.1 of this Chapter.~~
- (h) If located in the CH zoning district, an accessory dwelling may be located on the second floor or in the rear of the commercial space. The accessory dwelling unit must not exceed 50% of the first floor and shall not use the storefront entrance or be accessible from the commercial space.
- (i) Detached accessory dwellings must adhere to the setbacks in the zoning district where they are located.
- (j) One off-street parking space per accessory dwelling unit must be provided.

Section 12.1.10 Accessory Uses – Inspection and Registration

~~The purpose of inspection and registration is to prevent the spread of non-conforming accessory uses.~~

- ~~(a) Registration. Any property owner seeking to establish an accessory use shall apply to register the use with the Director of Planning and Development and City Clerk. The property owner shall file a completed application with the City Clerk fully describing the proposed accessory use.~~
- (b) Inspection. After receipt of a complete application and prior to approval and registration of any accessory use, the Director of Planning and Development shall inspect the property to confirm all applicable requirements of this Ordinance are met.
- ~~(c) Cancellation of Registration. Cancellation of the accessory use's registration may be accomplished by the property owner filing a certificate with the Director of Planning and Development or may occur as a result of enforcement action. Should it be determined that the accessory use violates applicable zoning provisions, then a cancellation letter will be issued by the City.~~
- ~~(d) No business license shall be issued for an accessory use that is prohibited in a zoning district.~~

**Staff Comments**

A size minimum/maximum is proposed for accessory dwellings. This is to ensure that the principal/accessory relationship between residential buildings is maintained and to prevent a conflict with the restriction regarding only one principal building per lot. The proposed minimum is the smallest dwelling currently allowed by Morgan County. The minimum/maximum still applies in the CH district, but includes the additional restriction that the square footage can total no more than 50% of the first floor.

The multi-family regulations include larger square footage minimums, as these are primarily apartment complexes. A smaller minimum is proposed for multi-family in the historic downtown, but no maximum is given. Justification must be given for the square footages when conditional use approval is requested. There appears to be a conflict between the definitions for multi-family uses, which define multi-family as 3 or more units, and the regulations which require at least 4 units per floor. Rutledge's zoning ordinance already included the 3 unit requirement, but the typical apartment complex is a quad unit layout. It is possible to have 3 unit multi-family units in the downtown area.