



# STAFF REPORT

## MORGAN COUNTY PLANNING COMMISSION

### PETITION FOR: TEXT AMENDMENT

Applicant: Morgan County Planning & Development  
Applicant's Agent: N/A  
Zoning Ordinance: Buckhead Zoning Ordinance Article 14

#### Summary

Morgan County Planning and Development is requesting a text amendment to the Buckhead Zoning Ordinance related to text amendments. While further text amendments will be necessary to fully update Buckhead's Zoning Ordinance, this text amendment request is a stop-gap measure to protect Buckhead regarding near-future text amendment applications.

Recently, an application was received for a Buckhead text amendment that consisted of numerous pages. The text was written and submitted by the applicant and was composed so badly that Staff could not offer enough corrections to make the submittal feasible. Upon receipt of the unfavorable staff report, the applicant withdrew and resubmitted the proposed language (more than once). The applicant also submitted additional language at the Council meeting. The result of the confusing and unorganized series of submittals was the adoption of a poorly written product which was not available for public review, not evaluated by Planning Commission or Staff, does not align with Buckhead's Comprehensive Plan and does not protect the town from unscrupulous development. The applicant also continued to withdraw and resubmit proposals on the original application, which meant that numerous advertisements, staff time for several staff reports, and Planning Commission payments, among other financial considerations, were all supposed to be covered by the one \$150 fee.

Based on the above considerations, Staff is suggesting changes to how text amendments are submitted and processed. Instead of the applicant submitting proposed language, Staff is now suggesting that the applicant submit a summary of the desired changes and Staff will write the text amendment. This will allow Staff to compare other plans to prevent contradiction and provide proposed language that protects the municipality from harm. However, this means that the product written by Staff may not match the applicant's intentions if those intentions are not beneficial for the Town. Therefore, it will be incumbent on the applicant to defend why their desired language is appropriate. Staff is also requesting that the applicant not be allowed to defer (withdraw) their application and push it to another meeting under the same application. This will require the applicant to work with Staff regarding the proposed language before final submittal and be properly prepared for the meeting. If not, then the applicant shall withdraw and submit another application and fee when they are prepared.

## Current and Proposed Language

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See attached.

## Staff Comments

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Buckhead Council has initiated meetings with Staff regarding the update of Buckhead's Zoning Ordinance. This text amendment simply inserts guidance regarding text amendment submittals into the existing language for Zoning Amendments, which addresses both text amendments and zoning map amendments. In the future, these two zoning actions should be addressed separately. However, there are credible rumors that substantial text amendments are planned for Buckhead in the near future, which has prompted Staff to seek this partial update.

## ARTICLE XIV PLANNING COMMISSION AND ZONING ACTIONS

### CHAPTER 14.1 PLANNING COMMISSION

In accordance with an agreement between the Town of Buckhead and Morgan County, the Morgan County Planning Commission shall serve as the Planning Commission for the Town. The Planning Commission is advisory only. It can make no final decisions.

The Planning Commission is authorized to review applications, hold public hearings, and make recommendations to the Town Council on applications for amendments to the text or map of the zoning ordinance, in accordance with Chapter 14.2, variances in accordance with Chapter 14.3, and conditional use permits in accordance with Chapter 14.4, all of which constitute requests for “zoning action.”

Public hearings required for the above-listed actions shall comply with Articles 18 and 19. After its hearing, the Planning Commission may decide not to make a recommendation, or it may make a recommendation to the Mayor and Council, including the following: approval, denial, deferral to a specific meeting date, reduction of the land area, take action different than that requested, or imposition of conditions.

The Planning Commission’s recommendations shall be submitted to the Mayor and Council prior to the public hearing by the Mayor and Council. If, however, the Planning Commission fails to submit a recommendation within thirty-five (35) days after the Planning Commission’s hearing, the Planning Commission shall be deemed to have recommended approval.

### CHAPTER 14.2 ZONING AMENDMENT PROCEDURES

#### SECTION-14.2.1 AMENDMENTS

**Authority.** The Governing Body of the Town of Buckhead may from time to time amend the number, shape, boundary, or area of the zoning districts established on the Zoning Map or individual section of this ordinance. Any proposed amendment shall first be submitted to the Morgan County Planning Commission for its recommendation, as outlined in this ordinance.

**Initiation of Amendment.** A petition to amend this ordinance or the Zoning Map may be initiated by the Governing Body of the Town of Buckhead, the Morgan County Planning Commission, or by any person, firm or corporation owning property in the Town of Buckhead. The property owner’s permission is required before a petition for changing the zoning district map can be filed by anyone other than the governing body or Planning Commission.

**Applicability.** The provisions of this Article apply to all applications for text amendments to the Buckhead Zoning Ordinance and map amendments to the Buckhead Zoning Map.

#### SECTION 14.2.2 PROCEDURES FOR REQUESTING A ZONING AMENDMENT

**Application.** Any person or persons desiring to submit a petition requesting a zoning amendment shall file such petition, with a deed for the property and a plat by a Georgia registered land surveyor of the property attached thereto, together with a fee as determined by the Morgan County Board of Commissioners to cover administrative and advertising costs, and any other information as may be required by this ordinance or as specified by the Director to evaluate compliance with this ordinance.

**Application Requirements.** Each application for a zoning amendment must be submitted to the Planning and Development Office at least forty-five (45) days before any hearing by the Planning Commission. Each application shall include the following information:

- (a) A written description of the proposal designed to inform the Planning Commission and Town Council, in detail, about all aspects of the proposed zoning amendment and its impacts on

- the community.
- (b) When appropriate, a concept plan, drawn to scale by a professional engineer, architect, landscape architect, or surveyor, indicating how the proposed zoning amendment will affect the property for which the zoning amendment is sought, and surrounding property in the area. This concept plan will include, when appropriate, at minimum:
- a. Project name
  - b. Project owner
  - c. Date, scale, and north arrow
  - d. Exterior dimensions of the site
  - e. Total project acreage
  - f. Subdivision of lots within project
  - g. Location of all existing or proposed streets
  - h. Location of all proposed structures
  - i. Rough floor plans including gross floor area
  - j. Building height
- (c) Any other materials as determined relevant or necessary by the Planning and Development Staff, the Planning Commission, and/or the Town Council.
- (d) Applications which are incomplete at the date of submission, may be postponed or withheld from a Planning Commission meeting, at the discretion of Planning and Development Staff, until all required materials are received.

#### SECTION 14.2.3 PROCEDURES FOR REQUESTING A TEXT AMENDMENT

**Application:** Any person or persons desiring to submit a petition requesting a text amendment to the Morgan County Zoning Ordinance shall file such petition, together with a fee as determined by the Morgan County Board of Commissioners to cover administrative and advertising costs, and any other information as may be required by this Ordinance or as specified by the Director to evaluate compliance with this Ordinance.

**Application Requirements:** Each application for a text amendment must be submitted to the Planning and Development Office at least forty-five (45) days before any hearing by the Planning Commission. Each application shall include the following information:

- Written **summary** of the text amendment request. **Staff will use the summary provided to write the text amendment and determine whether the requested language will contradict existing zoning ordinances and associated plans. Depending on the applicant's request and potential contradictions, the proposed language submitted for Board review may not equate to the requested text amendment. At the public hearing, it will be the applicant's responsibility to prove the Staff-written language is inappropriate for the proposed zoning districts or contradictory to existing language.** Sufficient justification must be made as to why the language should be modified. Such justification must address all properties affected by the requested change and should not focus on the applicant's property.

Planning and Development Staff, the Planning Commission, or the Board of Commissioners may request additional information, depending on the nature of the text amendment requested. Incomplete applications will not be accepted.

#### SECTION 14.2.3 NOTICE OF PUBLIC HEARING.

Upon the filing of a petition for a zoning amendment, the Office of Planning and Development shall erect a sign, no less than fifteen (15) days and no more than forty-five (45) days before the public hearing, in a conspicuous place on the property in question, which shall read more or less as follows:

PUBLIC NOTICE OF PROPOSED REZONING

An application has been filed with the Town of Buckhead in regards to the Zoning Ordinance as it applies to this property located on Map \_\_\_\_\_, Tax Parcel \_\_\_\_\_.

THE APPLICATION IS FOR:  
Rezoning this property from \_\_\_\_\_ to \_\_\_\_\_.

THE MEETINGS WILL BE HELD ON:

Date: \_\_\_\_\_, 201\_\_\_\_  
Time.

Morgan County Admin Building  
150 E. Washington Street, Ste. 201  
Madison, GA 30650

Date: \_\_\_\_\_, 201\_\_\_\_  
Time: .

Town of Buckhead  
Buckhead Fire Department  
Buckhead, GA 30625

FOR FURTHER INFORMATION CALL: (706) 342 - 4373

THIS SIGN IS NOT TO BE REMOVED WITHOUT AUTHORIZATION FROM MORGAN COUNTY DIRECTOR OF PLANNING AND DEVELOPMENT

Upon the filing of a petition for a zoning amendment, the Office of Planning and Development shall place an advertisement in the legal organ of Morgan County, no less than fifteen (15) days and no more than forty-five (45) days prior to the public hearing, indicating that a zoning amendment has been requested, the purpose of the request, the location of the property (listed as street address and tax map and parcel number), the person/organization requesting the zoning amendment, and the dates, times, and locations of all public hearings regarding the request.

SECTION 14.2.4 SUBMISSION OF ACCURATE INFORMATION.

The submission of inaccurate or incomplete information may be cause for denial of the request, or if said discrepancies are realized after approval of the petition or issuance of relevant local permits, cause the revocation of the approval and any related permits by the Town Council.

SECTION 14.2.5 CRITERIA FOR CONSIDERING ZONING MAP AMENDMENTS

Required Findings for Zoning Map Approval. The following standards governing the exercise of the Town Councils zoning power are adopted in accordance with O.C.G.A. §36-66-5(b), as amended, to be used by the Director, Planning Commission and the Town Council in reviewing, recommending, and acting upon applications for map amendments for approval, conditional approval, or disapproval as appropriate so as to balancing the interest of the public health, safety or general welfare against the unrestricted use of property:

- (a) Compatibility with Adjacent Uses and Districts: Existing uses and use districts of surrounding and nearby properties, whether the proposed use district is suitable in light of such existing uses and use districts of surrounding and nearby properties, and whether the proposal will adversely affect the existing use or usability of adjacent or nearby properties.
- (b) Property Value: The existing value of the property contained in the petition under the existing use district classification, the extent to which the property value of the subject property is

- diminished by the existing use district classification, and whether the subject property has a reasonable economic use under the current use district.
- (c) Suitability: The suitability of the subject property under the existing use district classification, and the suitability of the subject property under the proposed use district classification of the property.
  - (d) Vacancy and Marketing: The length of time the property has been vacant or unused as currently used under the current use district classification; and any efforts taken by the property owner(s) to use the property or sell the property under the existing use district classification.
  - (e) Evidence of Need: The amount of undeveloped land in the general area affected which has the same use district classification as the map change requested. It shall be the duty of the applicant to carry the burden of proof that the proposed application promotes public health, safety, morality or general welfare.
  - (f) Public Facilities Impacts: Whether the proposal will result in a use, which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities and services.
  - (g) Consistency with Comprehensive Plan: Whether the proposal is in conformity with the policy and intent of the locally adopted comprehensive plan.
  - (h) Other Conditions: Whether there are any other existing or changing conditions affecting the use and development of the property that give supporting grounds for either approval or disapproval of the proposal.

#### SECTION 14.2.6 APPLICATION REVIEW AND RECOMMENDATION

Public Hearing Requirements. The public hearing shall be held in accordance to the provisions of Article 18, Public Hearings.

Disclosure Requirements.

- (a) All persons and/or organizations requesting a zoning amendment must meet the requirements of Article 19, Disclosure Requirements.
- (b) All members of the Planning Commission or Town Council must meet the requirements of Article 19, Disclosure Requirements, in regard to each application.

Criteria for Consideration. Each application will be reviewed and considered in accordance with the conditions of Section 14.2.5 of this Article.

Submission of Additional Information.

- (a) In addition to the materials required for an application for a zoning amendment request specified in Section 14.2, the applicant may submit any additional materials for consideration up to fourteen (14) days prior to the scheduled Planning Commission meeting where the zoning amendment will be heard. Materials submitted after the fourteen (14) days will be accepted only at the discretion of the Chairman of the Morgan County Planning Commission.
- (b) Once the application has been presented for public hearing by the Planning Commission, additional materials may only be submitted at the discretion of the Chairman of the Planning Commission, the Mayor, and/or staff of the Office of Planning and Development.
- (c) If additional materials are submitted after the public hearing of the Planning Commission, and the content of these materials does not substantially change the content of the application, the conditions for which the zoning amendment is requested, and/or the nature of the zoning amendment requested, the Mayor may: consider the additional materials at his/her discretion; or may remand the application to the Planning Commission for reconsideration.
- (d) If additional materials are submitted after the public hearing of the Planning Commission, and the content of these additional materials substantially changes the content of the

application, the conditions for which the zoning amendment is requested, and/or the nature of the zoning amendment requested, the Mayor may: consider the additional materials at his/her discretion; may remand the application to the Planning Commission for reconsideration; or may request the applicant to withdraw its/his/her application.

Site Plan Approved. Unless otherwise noted, the site plan submitted in support of an approved zoning amendment shall be considered part of the approval and must be followed.

Future Expansion Not Approved. Approval of a proposed use by the Town Council does not constitute an approval for future expansion of or additions or changes to the initially approved operation. Any future phases or changes not included in the original approval are subject to the provisions of this Article and the review of new detailed plans and reports for said alterations by the Town Council.

Withdrawal of Zoning Amendment Application. Any application may be withdrawn without prejudice at any time at the discretion of the applicant, upon written notice to the Planning and Development Office, prior to a decision of the Town Council. **Once withdrawn, a new application and associated fees shall be required. No deferrals shall be allowed unless the application is tabled by the Planning Commission or Town Council.**

#### SECTION 14.2.7 APPEALS

Appeal from Office of Planning and Development. Any persons/ organizations jointly or severally aggrieved by any decision of the Morgan County Office of Planning and Development shall have the right to file an appeal in accordance with Article 2, Legal Status Provisions, section 2.7.

Appeal from Town Council. Any persons/ organizations jointly or severally aggrieved by any decision of the Town Council shall have the right to file an appeal in accordance with Article 2, Legal Status Provisions, section 2.8.

Stay of Proceedings. An appeal to a Court of Record stays all proceedings in furtherance of the action appealed from, unless the Director certifies that a stay would, in his opinion, cause imminent peril to life and property.

#### SECTION 14.2.8 LIMITATION ON NEW APPLICATIONS

In a case where an application for text amendment to this ordinance or application for a zoning map amendment is denied by the Town Council, the same or substantially similar application shall not be eligible to be resubmitted for reconsideration until twelve (12) months has elapsed from the date of said denial.