



STAFF REPORT

MORGAN COUNTY PLANNING COMMISSION

PETITION FOR: TEXT AMENDMENT

Applicant: Morgan County Planning & Development
Applicant's Agent:
Zoning Ordinance: Morgan County Zoning Ordinance
Article 22 Public Hearings

Summary

In addition to discussing the proposed changes to zoning action applications, potential changes to the procedures for public hearings were also a topic at Planning Commission training sessions. The changes proposed by Staff fall into three categories:

1. Presence of the applicant: The current language does not require an applicant to be present at the meeting, although it has been required in the past (at least by the Chairman at the time). Instances have occurred when the Planning Commission has been unable or unwilling to proceed with an application because questions could not be asked of the applicant in order to make an informed decision. The proposed language makes it necessary for the applicant, or a representative, to be present at the meeting.
2. Ability of the Planning Commission to table more than once: The current language requires the Planning Commission to make a recommendation to the appropriate governing body within 60 days of the public hearing. This time frame allows the Planning Commission to table an application once. In the past, applications have been tabled when the Planning Commission has requested more information from Staff or the applicant, or has been hindered by an absent applicant. In at least one instance (Bethany Road Parallel Housing), the Planning Commission still did not feel the necessary information had been provided, but was forced to make a recommendation due to the limitation of the 60 day requirement. Staff suggests modifying the language to 90 days, which will give the Planning Commission the ability to table an application twice.
3. Making information available to the applicant and the public: The current language requires Staff to provide a copy of the staff report to the applicant at least 5 days prior to the public hearing. Many applicants do not have (or give) email addresses and home addresses can be tricky if the applicant has more than one address (which is frequently the case). The proposed language states that the staff reports will be made available to the applicant and the public at least 5 days prior to the public hearing. Staff has been putting the staff reports on the Morgan County website for the last year and the staff reports are available in the Planning Office.

The current language also requires Staff to send a formal letter informing the applicant of the Planning Commission's recommendation within 5 days of the Planning Commission meeting. Staff recommends the removal of this language for two reasons. First, if the applicant is required to be present, the decision will already be known. Second, the Board of Commissioners meeting

and the Bostwick City Council meeting are often within 5 days of the Planning Commission meeting, meaning a final decision could be made prior to the applicant receiving the notification of the Planning Commission recommendation. The language still requires a formal notification of the final decision by the appropriate governing body.

Proposed Language

See attached.

Article 22 Public Hearings

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Chapter 22.1 Procedures and Policies

Whenever a public hearing is required by this Ordinance or by state law prior to a request for a variance, a conditional use, rezoning, a zoning map amendment, or to a zoning text amendment, or any request deemed appropriate for public hearing, such public hearing, whether conducted by the Morgan County Resource Preservation Advisory Board, Morgan County Planning Commission or Board of Commissioners, shall be conducted in accordance with the following procedures, which are adopted pursuant to O.C.G.A. Section 36-66-5(a), as amended.

Section 22.1.1 Public Record of Hearing

All proceedings of public hearings governed by this Ordinance are public record. Minutes of the meeting shall be taken by the Secretary of the Morgan County Resource Preservation Advisory Board, Morgan County Planning Commission or Board of Commissioners. A copy of the Minutes of the meetings may be requested, and it will be provided at the expense of the person making the request.

Section 22.1.2 Order of Public Hearing

- The public hearing shall be called to order by the Chairman;
- The Chairman shall explain the procedures to be followed in the conduct of the public hearing. A list of those procedures will be provided in writing at every public hearing, and it will include at a minimum:
 - Recognition of applications in the order they are presented in the agenda;
 - Recognition of planning staff to provide staff reports in accordance with this Article;
 - Recognition of members of the public in attendance to speak for or against the application;
 - Call for a motion for each application.
- Applications will be heard in the order they are listed on the agenda. **The applicant or their representative must be present.** If an applicant is not present at the time their item is called, it will be moved to the end of the agenda to allow time for the applicant to arrive. If the applicant has not arrived by the time all other items have been considered, the Resource Preservation Advisory Board, Planning Commission or Board of Commissioners ~~may proceed with one of the following actions:~~ **will table the application to a specified date. If the applicant is not present at the specified date and has made no effort to reschedule the presentation of their application, the application will be withdrawn.**
 - ~~Table the application to a specified date;~~
 - ~~Proceed with the public hearing of the application including the staff report and comments from members of the public in attendance to speak for or against the application.~~

Section 22.1.3 Recognition of Speakers

- The Chairman shall call upon the Director of Planning and Development or his designee to introduce the application and give the staff report;
- After the staff report has been given, the Chairman will call upon the applicant or their representative to provide any additional comment to the staff report. At minimum, the applicant

and/or their representative shall collectively have no less than ten (10) minutes for presentation of data, evidence, and opinion;

- After the applicant or their representative has given additional comment, the Chairman will open the floor to individuals with comments in favor of the application. Comments may be limited at the discretion of the Chairman in accordance with O.C.G.A. Section 36-65-5. At minimum, those individuals wishing to speak in favor of the application shall collectively have no less than ten (10) minutes for presentation of data, evidence, and opinion. All speakers are urged to make their comments briefly and concisely, and they should avoid repeating others' comments.
- After individuals with comments in favor of the application have spoken, the Chairman will open the floor to individuals with comments opposed to the application. Comments may be limited according to the discretion of the Chairman in accordance with O.C.G.A. Section 36-65-5. At a minimum, those individuals wishing to speak in opposition to the application shall collectively have no less than ten (10) minutes for presentation of data, evidence, and opinion. All speakers are urged to make their comments briefly and concisely, and they should avoid repeating other's comments.
- After individuals with comments in opposition to the application have spoken, the Chairman will formally close the floor for further comment from the public. The Chairman shall call upon the applicant or their representative to make any final summary remarks regarding their application. The Chairman shall call upon the Planning staff to make any final summary remarks regarding the application.
- At any time during the public hearing, members may ask questions of the Planning staff, county attorney, the applicant and/or their representative, members of the public, or any other individual present at the meeting.

Chapter 22.2 Planning and Development Staff Review and Report

The Director of Planning and Development and his/her staff shall review all applications and shall prepare a report of the application, which considers the criteria specified in this Ordinance. The staff report shall be submitted to the Planning Commission and to the appropriate governing body. The Director will also ~~provide~~ **make available** a copy of the report to the applicant **and to the public** no less than five (5) days prior to any public hearing scheduled on the matter.

Chapter 22.3 Planning Commission Action

Before taking action on the application, the Planning Commission shall hold a public hearing on the proposal. This meeting shall comply with the provisions of this Ordinance.

After all interested parties have been recognized and given opportunity to speak, the Chairman shall announce that the public hearing for the application is closed. The Planning Commission shall then convene its business session to consider the application and shall, at that time, take action on its recommendation to the appropriate governing body.

The Planning Commission may decide to not make any recommendation, or they may make any of the following recommendations with respect to the application: approval, denial, referral, withdrawal, ~~reduction of the land area for which the application is made, change of the zoning district requested, or~~ imposition of conditions, **or may defer a decision until a specified meeting date**. The recommendation shall be put forward in the form of a motion and a second, and it will pass with the majority vote, as indicated by a show of hands of the Planning Commission members. If a motion is made and not seconded, it shall die for want of a second. If a motion is made and seconded, but does not attain a

majority of votes of the Planning Commission members, it will be defeated and the Chairman may call for another motion. If no recommendation is made by the Planning Commission, then the report to the appropriate governing body will be that it makes no recommendation on the application. The Planning Commission is an advisory board, and their recommendation will be submitted to the appropriate governing body for a final decision.

The Planning Commission shall submit its recommendation, or report of no recommendation, on the application to the appropriate governing body. The report shall be submitted by the Secretary of the Planning Commission, or other staff designated for that purpose. If the Planning Commission fails to submit a recommendation or report within ~~60~~ 90 days of a public hearing, the Planning Commission's recommendation shall be deemed one of approval.

~~The Director or his designee will notify the applicant in writing of the Planning Commission's recommendation within five (5) days of the recommendation.~~

Chapter 22.4 Board of Commissioners Action

Before taking action on an application for zoning action, the Board of Commissioners shall hold a public hearing on the proposal. This meeting shall comply with the provisions of this Article.

The Board of Commissioners shall consider the recommendation of the Planning Commission in making a final decision on each application.

After a report on the Planning Commission recommendation has been made, and all parties have been recognized and given opportunity to speak, the Chairman shall announce that the public hearing for the application is closed. The Board of Commissioners shall then convene its business session to consider the application and make a final decision.

So that the purpose of this Ordinance will be served and so that health, public safety, and general welfare will be secured, the Board of Commissioners in its decision on the application may, in its legislative discretion, approve or deny the application as submitted, defer a decision until a specified meeting date, require the applicant to file a site plan or other plans regarding the application and defer action to a later meeting date, or allow a withdrawal of the application by the applicant, if requested. The withdrawal shall not be subject to the 12 month prohibition on refiling. The Board of Commissioners may also require that the land area for such application be reduced, or that conditions be added or deleted as the Board of Commissioners deemed appropriate.

The recommendation shall be put forward in the form of a motion and a second, and it will pass with the majority vote, as indicated by a show of hands, of the Board of Commissioners. If a motion is made and not seconded, it shall die for want of a second. If a motion is made and seconded, but does not attain a majority of votes of the Board of Commissioners, it will be defeated and the Chairman may call for another motion. A majority vote is defined as more than half of the votes cast on a motion, so long as a quorum (at least 3 of the 5 Commissioners) is present and voting. Nothing contained herein shall require the Chairman to vote, except in the event of a tie.

The Director or his designee will notify the applicant in writing if the Commissioner's recommendation within five (5) days of the recommendation.

Chapter 22.5 Disclosure Requirements

All members of the Morgan County Resource Preservation Advisory Board, Morgan County Planning Commission and Board of Commissioners shall comply with the Disclosure Requirements of this Ordinance.