



# STAFF REPORT

## MORGAN COUNTY PLANNING COMMISSION

**PETITION FOR: ZONING MAP AMENDMENT  
COUNTY AR TO BUCKHEAD IMU**

Property location:	1331 Seven Islands Road
Property tax parcel:	052-031A
Acreage:	2 acres
Applicant:	Richard Schmidt
Applicant's Agent:	N/A
Property Owner:	Estate of Ervin Stephens, 516 Smithson Crossing, McDonough, GA
Existing Zoning:	Morgan County Agricultural Residential (AR)
Proposed Zoning:	Buckhead Interstate Mixed Use (IMU)

### Summary

Richard Schmidt, representing property owner Estate of Ervin Stephens, is requesting a Zoning Map Amendment, from Morgan County Agricultural Residential (AR) to Buckhead Interstate Mixed Use (IMU). This application is part of an annexation request and is contingent on the approval of a submitted Text Amendment application, which creates the Interstate Mixed Use Zoning District. Seven parcels are proposed for annexation and are highlighted in blue below. The star indicates Tax Parcel 052-031A.





The zoning map above shows the property is zoned AR, as indicated by the light green color. It is surrounded by other AR parcels. Buckhead town limits is shown as the circle cut off at the top of the image. Inside Buckhead, the green is Buckhead Agricultural (AG) zoning; the yellow is Buckhead Residential (R).

By state law, when a property is accepted into a municipality by annexation, the zoning automatically becomes the most compatible zoning in the receiving municipality. In this case, if the annexation is approved, the parcel would automatically change from County AR to Buckhead AG. However, the applicant has requested IMU zoning instead, which required the zoning map amendment application. Annexation can only occur when parcels are contiguous to the receiving municipality. The parcel north of this parcel, 052-021, has also requested annexation, which allows the necessary contiguity.



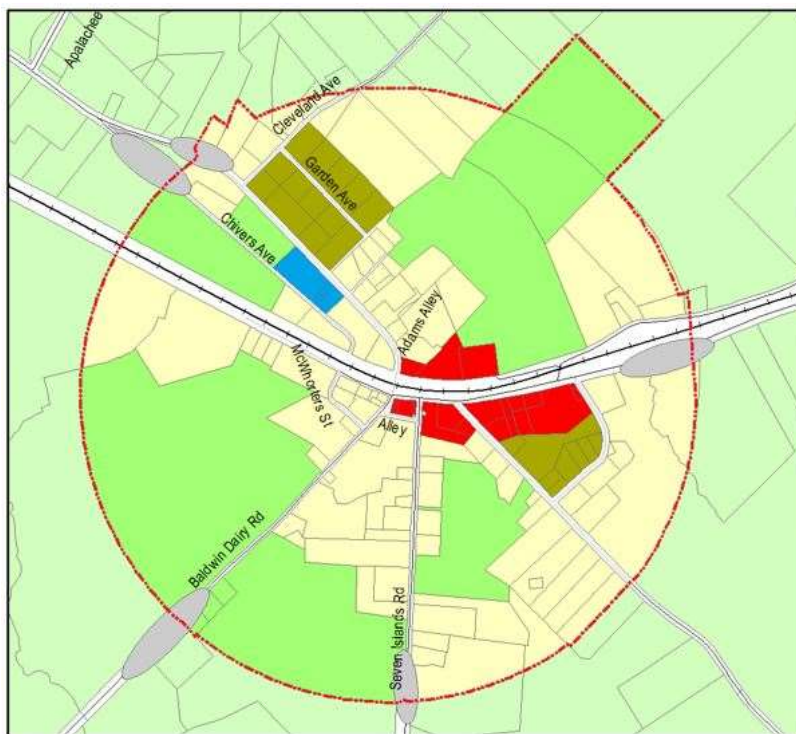
The parcel contains a 1940 house and is not enrolled in the Conservation Use Tax Program. There is no state water on the property. Access to the property is from Seven Islands Road.

The applicant's letter addendum states that the public facility impacts for a mixed-use development would be minimal. He briefly explains water and sewer services, but other services are not mentioned. Buckhead has a volunteer fire department with dwindling membership. Buckhead's trash pick-up is an individual in a personal truck. If roads are to be adopted by Buckhead, the town has only one part time grounds person and relies on Morgan County for road maintenance assistance. The Sheriff's Office would need additional personnel to police a mixed-use development. Services must be addressed during conversation related to a mixed-use development.

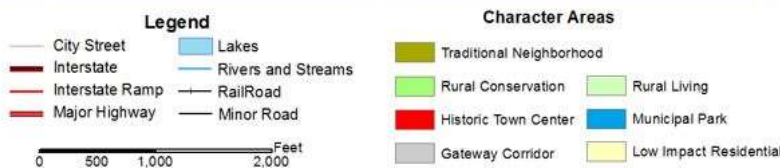
This application did not contain a copy of the petition for annexation. See the Staff Report for 052-031.



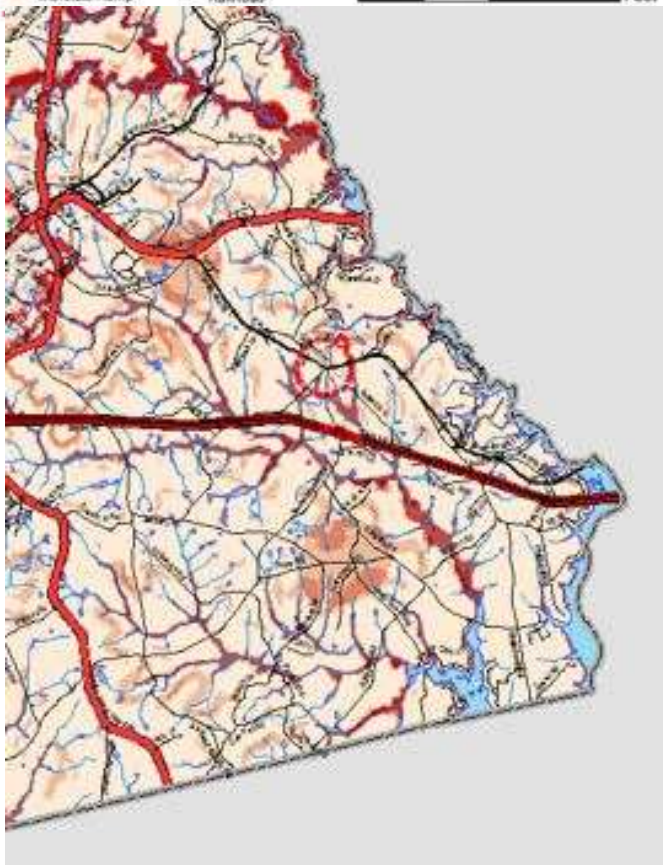
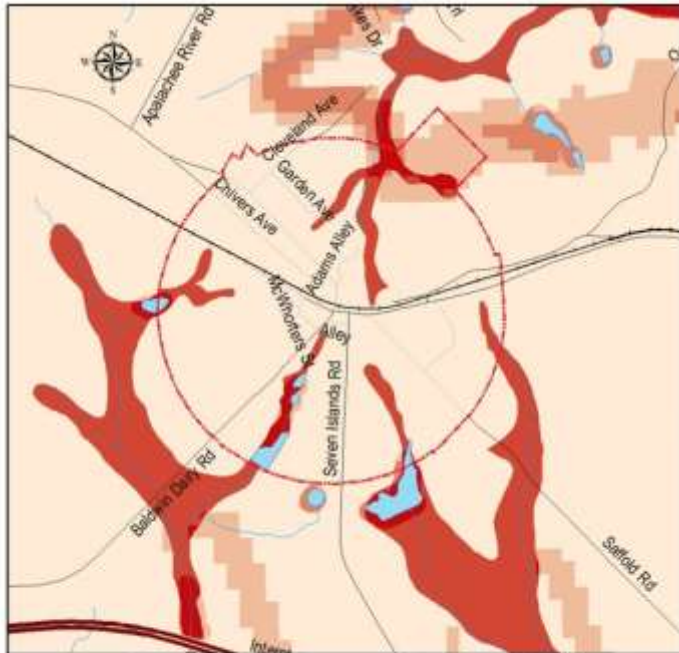
Above is the Character Map (Future Land Use) for Morgan County at Exit 121. The green color indicates that the area is designated Rural Beauty, which means it is proposed to remain rural.



At left is the Character Map for the Town of Buckhead. The green color indicates Rural Conservation, which is for agricultural uses. The yellow represents low impact residential. The grey oval on Seven Islands Road at the Town limits represents a gateway area, which the applicant mentions in his addendum letter.



The pages from the Comprehensive Plan for each description above is attached.



The applicant mentions Figures 2.3 and 4.2 in his addendum letter. The image at left, top, is Figure 4.2, Development Suitability Map for Buckhead. The image at left, bottom, is a portion of the development suitability map for the unincorporated county, which is difficult to see due to the size of the map and becomes too pixelated if zoomed. These maps in the Comprehensive Plan for the Town of Buckhead and the unincorporated county respectively. From the Town of Buckhead Comprehensive Plan: The Development Suitability map uses ArcView GIS software to overlay slope, wetland, flood plain and ground water recharge areas to estimate relative potential additional cost for new development. The suitability map does not consider proximity to road, rail, water and sewer infrastructure. The lighter an area is shaded, the fewer environmental conditions are impacted and the lower the development costs for mitigating environmental conditions. The darkest areas in the map would be difficult locations for any new development and, in some cases, those locations may not be developable at all. In general, higher slopes generate more grading cost; water recharge areas require stormwater mitigation and reduction of impervious area; wetlands require replacement mitigation; and floodplains prevent most construction activity and may be only suitable for trail or natural park systems with minimal impact from creation of impervious areas.

In summary, the development suitability map indicates areas where development will cost less for the developer.

## Criteria for Consideration

### Buckhead Zoning Ordinance, Criteria for Considering Zoning Amendments

1. **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.
2. **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.
3. **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.
4. **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.
5. **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.
6. **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.
7. **Consistency with Comprehensive Plan:** Whether the proposal is in conformity with the policy and intent of the locally adopted comprehensive plan.
8. **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.

## Staff Comments

The question of minimum acreage in the associated text amendment should be addressed, particularly regarding this parcel. A 2 acre parcel with a residential structure should not be considered for mixed use development designation unless it is to be combined with another larger parcel. As presented, the application does not meet Criteria 1, 6 and 7. The applicant's addendum letter used Criteria 3 and 5 to justify the zoning map amendment request. However, Criterion 8 must also be considered and whether the desire for a mixed-use development exists in Buckhead.

Approval or denial of the zoning map amendment may not have an effect on the annexation, which may still occur with the parcel being brought into town limits with AG zoning. If annexed with either AG or IMU zoning, the Comprehensive Plan for Buckhead will require amendment.

**PETITION REQUESTING ANNEXATION  
CITY OF BUCKHEAD, GEORGIA**

Date of Submission: August 01, 2018

TO THE HONORABLE CITY COUNCIL OF THE CITY OF BUCKHEAD, GEORGIA

1. The undersigned, as owner of all real property described herein, respectfully requests that the City Council annex this territory to the City of Buckhead, Georgia, and extend the City boundaries to include the same.
2. The territory to be annexed is unincorporated and is or will be contiguous through other to be annexed parcels, as described in O.C.G.A. § 36-36-20, to the existing corporate limits of Buckhead, Georgia, and the description of such territory is as follows:

**Address:** Seven Islands Road, as to Tract One; 1331 Seven Islands Road, as to Tract Two

**Tax Map and Parcel Number:** 052 031, as to Tract One; 052 031A, as to Tract Two

**Legal Description:**

**Tract One:** That certain tract or parcel of land lying and being in Buckhead District, G.M., Morgan County, Georgia, containing one hundred sixty (160) acres, more or less, lying on the public road leading from Buckhead to the Foster Place, the same being bounded as follows: on the north by lands of T.L. Bell; on the east by lands of T.L. Bell and lands of Joe Bell; on the south by lands of Joe Bell; and on the west by lands of T.L. Bell, the land herein conveyed being the same land as deeded to R.L. Taylor by the Equitable Life Assurance Society of the United States; see Deed Book 30, Page 165, Clerk's Office of Morgan County Superior Court, except for three (3) acres, more or less, deed by R.L. Taylor to T.L. Bell on November 10, 1949, and includes three acres, more or less, deeded to R.L. Taylor by T.L. Bell on November 10, 1949.

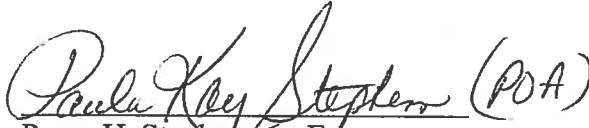
LESS AND EXCEPTING THEREFROM the property conveyed by deeds recorded in Deed Book 71, Page 314; Deed Book 68, Pages 12-13; and Deed Book 49, Page 421, said Clerk's Office.

FURTHER LESS AND EXCEPTING THEREFROM the property shown on plat recorded in Plat Book 42, Page 53, said Clerk's Office. (said parcel is set out as a separate tax parcel, but no deed has been filed conveying said parcel. The separate parcel is established as a separate tax parcel only by virtue of the recordation of the aforementioned plat)

Tract Two: All that tract or parcel of land, together with all improvements thereon, situate, lying, and being in Land Lots 318 and 327, 4th Land District, 279th (Buckhead) G.M.D., Morgan County, Georgia, containing 2.000 acres, more or less, shown on survey for Ervin Stephens, prepared by Whitley Land Surveying, Inc., certified by William E. Whitley, Georgia R.L.S. No. 2686, dated December 30, 2009, recorded in Plat Book 42, Page 53, in the Office of the Clerk of Superior Court of Morgan County, Georgia, the recorded plat being incorporated herein by reference. This is a portion of that certain 200 acre tract conveyed to Ervin Stephens on November 11, 1949, and recorded in Deed Book 40, Page 184, said Clerk's Office, and currently held by the Estate of Ervin Stephens, Percy H. Stephens, Executor.

WHEREFORE, the Petitioner prays that the City Council of the City of Buckhead, Georgia, pursuant to the provisions of the acts of the General Assembly of the State of Georgia, Georgia Laws, do by proper ordinance annex said property to the City Limits of the City of Buckhead, Georgia.

Respectfully submitted,

  
Percy H. Stephens, as Executor  
of the Estate of Ervin Stephens

Address:

576 Amethson Crossing  
27711 Rossmore GA 30252



**LETTER ADDENDUM TO  
APPLICATION FOR ZONING MAP AMENDMENT TO THE  
ZONING MAP FOR THE TOWN OF BUCKHEAD**

This letter serves as an addendum to the application of Richard Schmidt acting on behalf of Morgan Seven Islands, LLC, and in concert with the Town of Buckhead, Georgia in connection with the annexation of property, into the Town of Buckhead, adjacent to Interstate 20, along with the accompanying required rezoning in conformity with the Zoning Ordinance of the Town of Buckhead.

The Property owner, in connection with adjacent property owners, desire to develop their properties over time into a mixed use area at the Interstate 20, Buckhead exit, to include those services normally found at an interstate exit such as gas stations, restaurants and other businesses catering to the traveling public.

The Zoning Map Amendment will change the Subject Property concurrently here with being annexed into the Town of Buckhead from AG, Agricultural Zoning District, to IMU, Interstate Mixed Use, which will allow for consistent and planned development of the interstate exit area. The IMU District, contemporaneous with this application, has been applied for as a text amendment to the Zoning Ordinance for the Town of Buckhead.

The proposed rezoning has been reviewed by the Town Council of the Town of Buckhead, Christian Henry, county Attorney, and attorney for the Town of Buckhead, and the Morgan County Planning and Zoning Department. Based on those reviews, I have received authority from the Town of Buckhead to move forward with the text amendment to be applied to properties immediately adjacent to Interstate 20 which are being annexed into the Town of Buckhead. The Town Council had no comments or changes to the proposed text amendment. The city attorney had no comments or changes to the proposed text amendment. I have worked with Tara Cooner and Chuck Jarrell and have drafted the ordinance into its present form, subject only to comment from the Planning and Zoning Board.

With respect to why the text amendment should be recommended for approval, I offer the following:

- (a) The Town of Buckhead is interested in approving the zoning map amendment to provide for controlled and quality development at its gateway from Interstate 20;
- (b) Mixed use zoning is appropriate at the interstate interchange, an exit off of Interstate 20 at Seven Islands Road;
- (c) Providing an appropriate zoning district which will allow the development of the area adjacent to the interstate will promote economic development can only increase property values with zoning entitlements, development, and required utilities;
- (d) The area proposed to be made subject to the new IMU District is currently agricultural and is adjacent to industrial land on the south side of the interstate, the rock quarry.

- (e) The text amendment Creating the IMU District provides for a focus on appearance with appropriate signage, landscaping, beautification measures, and effective traffic flow, as suggested in the Comprehensive Plan gateway strategies.
- (f) Changing the property from AG to IMU is consistent with and compatible with normal and natural development at an interstate exit.
- (g) Property values are expected to increase in the IMU District.
- (h) The property is suitable to either remain zoned as AG or to be rezoned as IMU. However, it is the wish and intent of the Town of Buckhead and the property owner, along with adjacent property owners, to create an IMU District in connection with the annexation project.
- (i) The property has been agricultural land since settlement in the area in the 1800s. In the 1960s, when the interstate was built and the exit was constructed, the property became prime for development. Now development is reaching from Atlanta and there exists interest in purchasing the rural property for interstate exit type development. We have no information as to the length of time going forward within which we expect the development to take place.
- (j) The Town of Buckhead, the applicant on behalf of the property owner and adjacent property owners, have determined that it is in the best interests of the Town of Buckhead and surrounding properties that development be controlled, and therefore, the annexation, the creation of the IMU District, and the rezoning of the subject property into IMU is designed specifically to promote public health, safety, morality and general welfare of the community.
- (k) The public facility impacts will be minimal. The Town of Buckhead provides water, but not sewer, which is expected to be constructed in connection with any development and which could have a beneficial effect for the Town of Buckhead through the sale of water and the potential for sewer utilities.
- (l) Currently the Town of Buckhead's comprehensive plan does not specifically speak to development of the interstate exit area. However, the majority of the area proposed to be made subject to the new IMU District is located in an area shown on Figures 2.3 and 4.2 of the Morgan County Comprehensive Plan as the highest development suitability, subject only to some wetlands areas.
- (m) The mixed use aspect of the IMU District incorporates many of the community work program tasks set out on table 4.1 of the Buckhead Comprehensive Plan.

Thank you for your consideration.

Sincerely,



Richard Schmidt  
Attorney for Morgan Seven Islands, LLC



## MORGAN COUNTY PLANNING AND DEVELOPMENT

150 East Washington Street, Suite 200  
P.O. Box 1357  
Madison, Georgia 30650  
(706)342-4373 Office · (706)343-6455 Fax

September 9, 2020

### Addendum

Staff Reports for Zoning Map Amendment applications submitted by Richard Schmidt for Tax Parcels 052-021, 052-031, 052-031A, 052-032, 052-040, 052-041 and 052-041A.

Currently, the Town of Buckhead encompasses .8 square miles. The proposed project totals .68 square miles. Therefore, the project will come close to doubling the size of the town. However, the proposed mix of uses and density could quadruple the population, if not more. Changes will not be limited to the proposed properties and the immediate area on Seven Islands and Saffold Roads but will also affect the historic downtown and surrounding unincorporated areas. By the applicant's own proposed definitions, the IMU District is composed of parcels that border the Interstate. As such, Tax Parcels 052-021 and 052-031A do not qualify and Staff does not recommend the rezoning of these parcels. Parcel 052-041 also does not border the Interstate and may, or may not, be considered as access to Tax Parcel 052-041A. However, 052-041A may be accessed from Tax Parcel 052-040. Staff recommends that the rezoning of the remaining proposed parcels be contingent on the requirement and evaluation of the following:

1. Approved Ordinance for IMU Zoning District.
2. Concept Plan for the entire project (see text amendment Staff Report).
3. Development of Regional Impact review (if applicable).
4. Traffic Study to detail not just how Seven Islands and Saffold Roads will be impacted at the project site, but how increased traffic will impact the intersections of those roads with Parks Mill Road. How the increase in traffic will impact Baldwin Dairy Road, Buckhead Road, and other nearby roads and structures, particularly the railroad crossing, should also be examined. Whether any, or all, of these roads and structures will require upgrades and widening should be identified. The potential for traffic signals should be examined and Developer responsibility should be identified.
5. Comments from Board of Education on whether the school system can handle the potential influx of students from the proposed development.
6. Development Agreement, including but not limited to the following topics:
  - a. Project Density: Identify a maximum number of residential units. This is necessary for multiple reasons, including Board of Education projections and DRI determination.
  - b. Phasing of project, including limitations on number of rooftops or percentage of commercial space prior to the build-out of other uses. This is to prevent the build-out of all commercial, or all residential, and provide for an even mix of uses during development.
  - c. Donation of land for civic uses, including but not limited to a fire station and other government uses.
  - d. Donation of monies for purchase of fire equipment, including but not limited to, fire engines.
  - e. Developer responsibility for right-of-way acquisition and road widening on Saffold and Seven Islands Roads.
  - f. Developer responsibility of right-of-way acquisition, deceleration lanes and turn lanes.

- g. Donation of monies to Board of Education. This may be covered by a separate Development Agreement with the Board of Education.
- h. Developer responsibility for school bus turn-around. Due to the location of the proposed project on opposing sides of Seven Islands Road, more than one may be necessary.
- i. Developer mitigation responsibilities related to the historic cemetery located on Tax Parcel 052-040 as well as any other historic or cultural resources discovered during development.
- j. Developer responsibility for potable water should be identified, including but not limited to responsibility for well installation and associated engineering costs.
- k. Sanitary sewer service should be identified specifically, including but not limited to the type of system, total capacity, type of disposal, and certification and employment of operator. Length of time the developer will be responsible for maintenance of facility must be identified and may be tied to issuance of Certificates of Occupancy.
- l. Responsibility of Developer or Associations for drainage systems throughout the project.
- m. Number of entrances (per concept plan) and sequence of construction related to building permit issuance.
- n. Developer's responsibility for utility infrastructure to and within the project.
- o. Developer responsibility for all bridge projects within the project and outside project, if traffic study determines that traffic increase will pose issues for structures on adjacent or nearby roads.
- p. Developer's responsibility for water quality related to state waters, floodplains and wetlands located on the subject properties.
- q. Homeowner's Association documents draft, including covenants.
- r. Developer's responsibility for solid waste management, including length of time, which may be tied to issuance of Certificates of Occupancy.
- s. Identification of whether any residential uses will limit residents by age (55 plus).
- t. The allowance of private streets and gated communities.