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- 1-16-2024, Ordinance No. 2024-02 (Sec. 2-2.2)

ARTICLE 2. ADMINISTRATION

Sec. 2-1. Administrative and decision-making bodies.

2-1.1. *City Council.* Reserved.

2-1.2. *Planning Commission.* The City of Perry Planning Commission, herein referred to as the Planning Commission or Commission, is created and established to be organized and empowered as provided herein.

2-1.2.1. *Membership; compensation.*

- A. The Planning Commission shall consist of seven (7) members who shall be residents of the City of Perry, Georgia. The Mayor and each Councilperson shall appoint one member to the Planning Commission at the first meeting in January at the beginning of the Mayor or Councilperson's term of office.
- B. The term of office of the member of the Planning Commission shall run concurrently with the term of office of the Mayor or Councilperson by whom the Planning Commission member was appointed.
- C. Any vacancy in membership shall be filled for the unexpired term by the Mayor or Council member who appointed the vacating member. The Mayor or Council shall have the authority to remove any member for cause, on written charges, after a public hearing.
- D. All members may receive compensation as determined by Mayor and Council.

2-1.2.2. *Officers.*

- A. Chair. The planning commission shall elect its chairperson from among its members. The term of the chairperson shall be one (1) year with eligibility for re-election. The Planning Commission shall also elect a vice-chairperson from among its members.
- B. Vice-chair. The planning commission shall elect a vice-chair from among its members. The term for the vice-chairperson shall be one (1) year with eligibility for re-election. The vice-chairperson shall serve as chair in absence of the chairperson.
- C. The Planning Commission shall appoint a secretary, who may be an officer or an employee of the City of Perry.

2-1.2.3. *Meetings; rules of procedure; records; finances.*

- A. Prior to the beginning of each calendar year, the planning commission shall establish its meeting schedule for the coming calendar year, which shall include the date, time, and place of the meetings. Meetings are not required to be conducted if there is no business to transact.
- B. The planning commission shall adopt rules of procedure governing its procedures and policies governing the conduct of meetings, calling special meetings, presentation of evidence, and other policies as necessary.
- C. All meetings of the planning commission shall be open to the public, except as allowed by law, and all records of the planning commission shall be public records.
- D. The planning commission may appoint such city employees as it may deem necessary for its work and may contract with the state planning agencies and other consultants for services as it may require.
- E. Expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for such purposes by the city council.

2-1.2.4. *Duties and responsibilities.* It shall be the function and duty of the Planning Commission to make such careful and comprehensive surveys and studies of existing conditions and probable future developments and to prepare such plans for physical, social, and economic growth as will best promote public health, safety, morals, convenience, prosperity, or the general welfare as well as efficiency and economy in the development of its political jurisdiction. In particular, the Commission shall have the power and the duty to:

- A. Prepare and recommend for adoption a comprehensive plan of the City of Perry, and or parts thereof, including any updates to the comprehensive plan as may be necessary from time to time;
- B. Prepare and recommend for adoption a unified development code, which shall include a zoning ordinance and land development regulations, including any modifications to such unified development code as may be necessary;

- C. Prepare and recommend for adoption an official zoning map, including any modifications to such official zoning map as may be necessary;
- D. Prepare and recommend for adoption an official street map, including any modifications to such official street map as may be necessary;
- E. Initiate, review and make recommendations to the city council to approve, approve with conditions, or disapprove applications for rezoning, and text amendment;
- F. Review and make recommendations to the city council to approve, approve with conditions, or disapprove applications for annexation, and special exception;
- G. Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or interpretation made by the administrator in the enforcement of this ordinance;
- H. Hear and approve, approve with conditions, or disapprove applications for variance;
- I. Prepare and approve a design and specifications manual;
- J. Study, consider and recommend to city council any matter referred to the commission by city council;
- K. Unincorporated areas adjacent to municipalities may be added to and included in the area under the jurisdiction of the Perry Planning Commission for general planning and for master plan preparation and for the preparation and administration of zoning ordinances or resolutions, land subdivision regulations, and official maps, provided that the governing bodies of the county and municipality shall agree to the boundaries of such additional areas, procedures for the adoption and administration of ordinances and resolutions, and regulations applying to the area, and the manner of obtaining equitable representation on the Perry Planning Commission. Such agreement shall be formally established by appropriate official action by the governing authorities involved; and
- L. The Perry Planning Commission may make, publish, and distribute maps, plans and reports and recommendations relating to the plan and development of its political jurisdiction to public officials and agencies, public utility companies, civic, education, professional and other organizations and citizens. It may recommend to the executive or legislative officials of its political jurisdiction programs for public improvements and the financing thereof. All public officials shall, upon request, furnish, to the Planning Commission, within a reasonable time, such available information as it requires for its work. The Planning Commission, its members and employees, in the performance of its functions, may enter upon any land, make examinations and surveys and place and maintain necessary monuments and marks thereon, provided, however, that the Planning Commission shall be liable for any injury or damage to property resulting therefrom. In general, the Planning Commission shall have powers as may be necessary to enable it to perform its functions and promote the planning of its political jurisdiction, including the authority to enter into agreements with political subdivisions and Planning Commissions, by whatever name known, in adjacent states.

2-1.3. *Main Street Advisory Board.* In addition to the provisions of Chapter 2. Article V, Division 5 of the Code of the City of Perry, Georgia, within the downtown development overlay district, the main street advisory board is authorized to:

- (A) Review and act on applications for Mural Permit;
- (B) Provide recommendations on Certificates of Appropriateness to the administrator. When a property is located in the downtown development overlay district and a historic district or is a historic property, the main street advisory board shall yield its review authority to the preservation commission.
- (C) Adopt design guidelines for reconstruction, alteration, renovation, relocation, or demolition of existing buildings, construction of new buildings, and site improvements.

2-1.4. *Historic Preservation Commission.* The City of Perry Historic Preservation Commission, hereinafter referred to as the Preservation Commission, is created and established to be organized and empowered as provided herein. The Preservation Commission shall be part of the planning functions of the City of Perry.

2-1.4.1. Membership; compensation.

- A. The Preservation Commission shall consist of five (5) members appointed by the mayor and ratified by the City Council. All members shall be residents of the City of Perry and shall be persons who have demonstrated special interest, experience or education in history, architecture, or the preservation of historic resources. To the extent available in the City, at least one (1) member shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, archaeology, or related professions.

- B. Members shall serve three-year terms. There is no limit on the number of terms members may serve. To achieve staggered terms, initial appointments shall be: one (1) member for one (1) year; two (2) members for two (2) years; and two (2) members for three (3) years.
- C. Members shall not receive a salary, although they may be reimbursed for expenses.

2-1.4.2. Meetings; rules of procedure; records; finances.

- A. The Preservation Commission shall adopt rules and standards for the transaction of its business and for consideration of application for designation and Certificates of Appropriateness, such as by-laws, removal of membership provision, and design guidelines and criteria. The Preservation Commission shall have the flexibility to adopt rules and standards without amendment to this Ordinance. The Preservation Commission shall provide for the time and place of regular meetings and a method for the calling of special meetings. The Preservation Commission shall select such officers as it deems appropriate from among its members. A quorum shall consist of a majority of the members.
- B. The Preservation Commission shall be subject to all conflict-of-interest laws set forth in Georgia Statutes and in the City of Perry Charter.
- C. The Preservation Commission shall have the authority to accept donations and shall ensure that these funds do not displace appropriated governmental funds.
- D. A public record shall be kept of the Preservation Commission resolutions, proceedings, and actions.

2-1.4.3. Duties and responsibilities. The Preservation Commission shall be authorized to:

- A. Prepare and maintain an inventory of all property within the City of Perry having the potential for designation as historic property;
- B. Recommend to the City Council specific districts, sites, buildings, structures, or objects to be designated by ordinance as historic properties or historic districts;
- C. Review application for Certificates of Appropriateness, and grant or deny same in accordance with the provisions of this Ordinance;
- D. Recommend to the City Council that the designation of any district, site, building, structure or object as a historic property or as a historic district be revoked or removed;
- E. Restore or preserve any historic properties acquired by the City of Perry;
- F. Promote the acquisition by the City of Perry of façade easements and conservation easements, as appropriate, in accordance with the provisions of the *Georgia Uniform Conservation Easement Act of 1992* (O.C.G.A., Section 44-10.1 through 8);
- G. Conduct educational programs on historic properties located within the City and on general historic preservation activities;
- H. Make such investigation and studies of matters relating to historic preservation, including consultation with historic preservation experts, the City Council, or the Preservation Commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources;
- I. Seek out local, state, federal or private funds for historic preservation, and make recommendations to the City Council concerning the most appropriate uses of any funds acquired;
- J. Submit to the Historic Preservation Division of the Department of Community Affairs a list of historic properties and historic districts designated;
- K. Perform historic preservation activities as the official agency of the Perry historic preservation program;
- L. Receive donations, grants, funds, or gifts of historic property and acquire and sell historic properties. The Preservation Commission shall not obligate the City of Perry without prior consent.
- M. Review and make comments to the Historic Preservation Division of the Department of Community Affairs concerning the nomination of properties within its jurisdiction to the National Register of Historic Places; and
- N. Participate in private, state, and federal historic preservation programs and with the consent of the City Council, enter into agreements to do the same.

2-1.5. *Duties and powers of the administrator.* The administrator shall have the responsibility of interpreting, administering, and enforcing the provisions of the Ordinance unless specifically provided otherwise. In particular, the administrator shall have the following powers and duties under the Ordinance:

- A. *Authorization.* The administrator is authorized to review and make final decisions regarding permits and other development requests as authorized in the Ordinance. The administrator is further authorized to approve or issue any form or certificate necessary to perfect a petition described in Title 5 of the Georgia Code for the planning commission and historic preservation commission and to accept service of such petition on behalf of these commissions during normal business hours at the community development department office.
- B. *Duty.* It shall be the duty of the administrator to administer and enforce the provisions of the Ordinance.
- C. *Records.* The administrator shall keep records of actions on Comprehensive Plan amendments, official zoning map or text amendments, variances, special exceptions, appeals, preliminary and final plats, permits, licenses, certificates of appropriateness, and certificates of occupancy along with notation of all special conditions involved. The administrator shall file and safely keep these records along with copies of all related applications, reviews, opinions, public hearings, sketches, and plans submitted and other related documents that are to be made a part of the public record.
- D. *Review.* All applications and plans for which action by the administrator is authorized shall be reviewed and acted upon within 30 days of receipt of a complete application, except where another time limit is specified for the type of action under review.

2-1.6. *Duties and powers of the city manager.* In addition to other duties and powers authorized by other provisions of the city code, the city manager shall have the authority to accept service and upon whom service of an appeal of a quasi-judicial decision may be perfected on behalf of the city council during normal business hours at the city manager's office.

Sec. 2-2. Procedures.

2-2.1. *Variances and appeals of administrative decisions.* Applications for variances and appeals of administrative decisions shall be considered at a public hearing held by the Planning Commission for such purposes, following the adopted policies and procedures governing zoning hearings.

- (A) *Initiation of application.* An application for variance or appeal of an administrative decision may be initiated by the owner(s) of the subject property or their authorized agent(s). Any person aggrieved or affected by a decision or interpretation of the administrator may also initiate an appeal.
- (B) *Application requirements.*
 - (1) An application for variance or appeal of an administrative decision must be submitted in writing to the administrator on the form provided by the administrator.
 - (2) The application shall be accompanied by plans, plats, photographs, or other documents as may be required by the administrator to fully understand the extent of the proposed variance or the grounds of the appeal.
 - (3) An application for appeal shall be filed within ten (10) business days of the date of the decision/interpretation being appealed.
 - (4) No application shall be scheduled for a public hearing until it is deemed complete by the administrator, including payment of any required fees established by council.
- (C) *Notice of planning commission public hearings.* The administrator shall cause to have posted in a conspicuous place on the property in question a minimum of one "public hearing" sign for every 1,000 feet of road frontage, each of which shall not be less than six square feet in area, and which shall state the date, time, place, and purpose of the public hearing. Such signs shall be placed on the subject property at least 30 days prior to but not greater than 45 days before the public hearing. Notice of the hearing shall be mailed to the owner of the property that is the subject of the application at least 30 days prior to the public hearing.
- (D) *Planning Commission Public hearings.*
 - (1) The commission shall fix a reasonable time for the hearing of appeals or variances and shall decide the same within 45 days from the date of such public hearing at which the application was first heard.
 - (2) The applicant bears the burden of proof to demonstrate that an application complies with applicable approval standards of this chapter.

- (3) Any person may appear at a hearing and submit testimony, either individually, or as a representative of a person or an organization.
 - (4) When considering a variance, the commission shall approve, approve with conditions, approve with modifications, or deny the application.
 - (5) When considering an appeal of an administrative decision, the commission shall, in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions or determination of the administrator, and to that end, shall have all the powers of the administrator and may issue or direct the issuance of a zoning compliance permit.
 - (6) The planning commission may continue a hearing to a fixed date, time, and place, subject to the time restriction for deciding an application listed above in section (D)(1).
- (D) *Stay of legal proceedings.* An appeal of an administrative decision stays all legal proceedings in furtherance of the action appealed from, unless the administrator certifies to the commission after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and/or property. In such case, a proceeding shall not be stayed other than by a restraining order which may be granted by said commission or by a court of record, on application, on notice to the official from whom the appeal is taken and on due cause.
 - (E) *Withdrawal of application.* Any petition for a hearing before the planning commission may be withdrawn prior to action thereon by said commission at the discretion of the person, firm or corporation initiating such a request upon written notice to the administrator. The fee for a withdrawn application shall not be refunded once public notice of the application has been initiated.
 - (F) *Time for reconsideration following denial.* When an application for variance is denied by the Commission, another application for variance on the same property shall not be considered for six (6) months from the date of the denied application.
 - (G) *Appeal to Superior Court.* Any person or persons severally or jointly aggrieved by any decision of the planning commission may take an appeal to the superior court.

2-2.2. *Amendments to the official zoning map, annexation and zoning of land, de-annexation of land, text amendments, and special exceptions.* Applications for amendments to the official zoning map, annexation and zoning of land, de-annexation of land, text amendments, and special exceptions shall be considered by the Planning Commission at an informational hearing to provide a recommendation to City Council. City Council shall conduct a public hearing on each application. Informational hearings and public hearings shall follow the adopted policies and procedures governing zoning hearings.

- (A) *Initiation of application.*
 - (1) Amendments to the official zoning map and special exceptions may be initiated by the owner(s) of the subject property, the authorized agent(s) of the owner(s) of the property, by the city council, by the administrator, or by recommendation of the planning commission.
 - (2) Annexation and zoning of land may be initiated by the owner(s) of the subject property, their authorized agent(s), or by the city council through resolution and referendum or pursuant to a local act passed by the General Assembly.
 - (3) De-annexation of land may be initiated by the owner(s) of the subject property or their authorized agent(s).
 - (4) Amendments to the text of the ordinance may be initiated by city council, by the administrator, or by recommendation of the planning commission.
- (B) *Application requirements.*
 - (1) An application must be submitted in writing to the administrator on the form provided by the administrator.
 - (2) An application shall be accompanied by plans, plats, photographs, or other documents as may be required by the administrator to fully understand the extent of the proposal.
 - (3) All applications shall be submitted to the administrator pursuant to established application submittal schedules included in the administrative manual.
 - (4) No application shall be scheduled for an informational or public hearing until it is deemed complete by the administrator, including payment of any required fees established by Council.
- (C) *Notice of planning commission Informational hearings.*

- (1) For an informational hearing, except for amendments to the official zoning map initiated by the City, the administrator shall cause to have posted in a conspicuous place on the property involved in an application a minimum of one "informational hearing" sign for every 1,000 feet of road frontage, each of which shall be not less than six square feet in area and shall include the date, time, place, and purpose of the informational hearing. Such signs shall be posted on the subject property at least 30 days prior to but not greater than 45 days before the informational hearing.
- (2) Notice of the informational hearing shall be mailed to the owner of the property that is the subject of the application at least 30 days prior to the informational hearing.
- (3) For amendments to the official zoning map initiated by the City, the administrator shall mail written notice to the property owner(s) of record affected by the amendment at least 30 days prior to the informational hearing. The notice shall include the date, time, place, and purpose of the informational hearing. Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The administrator shall certify that notice meeting the content requirements was mailed. A copy of the mailed notice shall be maintained in the office of the administrator for public inspection during normal business hours.
- (4) Informational hearings for a text amendment to the ordinance are not subject to the sign posting requirements outlined above.
- (5) Map amendments and text amendments affecting single-family residential zoning districts may be subject to additional notice requirements per O.C.G.A. § 36-66-4 (h).

(D) *Planning Commission Informational Hearings.*

- (1) The planning commission shall hold an informational hearing and shall make a recommendation to city council. A report of the planning commission's recommendation accompanying a summary of the proceedings of the hearing shall be submitted to mayor and council.
- (2) The applicant bears the burden of proof to demonstrate that an application complies with applicable approval standards of this chapter.
- (3) Any person may appear at a hearing and submit testimony, either individually, or as a representative of a person or an organization.
- (4) The planning commission's recommendation shall be for approval, approval with conditions, approval with modifications, or denial of the application. For zoning amendments, the commission may include recommendations for conditions or limitations on uses appropriate to ameliorate the impact on the surrounding area and may recommend a less intense use or intermediate zoning classification. Where the applicant does not agree to such conditions or limitations on uses, the recommendation shall be interpreted as a recommendation for denial.
- (5) For rezoning, text amendment, and special exception applications, the commission shall have 45 days from the date of the informational hearing at which the application was first heard within which to submit a report to the council. If the commission fails to submit a report within the 45-day period, it shall be deemed to have recommended approval of the application.
- (6) For annexation and rezoning of land and de-annexation applications, the commission shall have 45 days from the latest date of the following in which to submit a report to council. If the commission fails to submit a report within the 45-day period, it shall be deemed to have recommended approval of the application.
 - a. Receipt of the county's concurrence letter
 - b. The date arbitration has concluded, or
 - c. The informational hearing.
- (7) The planning commission may continue a hearing to a fixed date, time, and place, subject to the time restriction for submitting a report on an application to city council as listed above.

(E) *Notice of City Council Public hearings.*

- (1) Notice of a public hearing shall be published in a newspaper of general circulation in the city no less than 15 days and no more than 45 days prior to the public hearing. Such published notice shall comply with the provisions of O.C.G.A. §36-66-4.
- (2) For a public hearing, except for amendments to the official zoning map initiated by the City, the administrator shall cause to have posted in a conspicuous place on the property involved in an application, a minimum of

one “public hearing” sign for every 1,000 feet of road frontage, each of which shall be not less than six square feet in area and shall include the date, time, place, and purpose of the public hearing. Such signs shall be posted on the subject property at least 15 days prior to but not greater than 45 days before the public hearing.

- (3) For amendments to the official zoning map initiated by the City, the administrator shall mail written notice to the property owner(s) of record affected by the amendment at least 15 days prior to the public hearing. The notice shall include the date, time, place, and purpose of the public hearing. Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The administrator shall certify that notice meeting the content requirements was mailed. A copy of the mailed notice shall be maintained in the office of the administrator for public inspection during normal business hours.
- (4) Map amendments and text amendments affecting single-family residential zoning districts may be subject to additional notice requirements per O.C.G.A. § 36-66-4 (h).

(F) *City Council Public Hearings.*

- (1) The council shall hold a public hearing at the earliest possible time under the time limits provided herein to consider the application.
- (2) The recommendations of the commission shall be read aloud into the minutes at the public hearing.
- (3) The applicant bears the burden of proof to demonstrate that an application complies with applicable approval standards of this chapter.
- (4) Any person may appear at a hearing and submit testimony, either individually, or as a representative of a person or an organization.
- (5) The council shall act on the application within 60 days from the date of the public hearing by approving or disapproving the recommendation, by approving it with conditions, by approving it with modifications, by approving a less intense use or intermediate zoning classification, or by remanding the matter with instructions to the planning commission. If council fails to act within the 60-day period following the public hearing, the recommendation of the planning commission as outlined in the planning commission report to council, shall become the final decision on the application. For zoning amendments, the council may include conditions or limitations on uses appropriate to ameliorate the impact on the surrounding area and may approve a less intense use or intermediate zoning classification. Where the applicant does not agree to such conditions or limitations on uses, the application will be denied.
- (6) Map amendments and text amendments affecting single-family residential zoning districts may be subject to additional public hearing and actions by council per O.C.G.A. § 36-66-4 (h).
- (7) Following remand, upon resubmission by the commission, the council shall hold a public hearing as described above and take final action on the request.
- (8) City council may continue any hearing to a fixed date, time, and place, subject to the time restriction for acting on an application as listed above.
- (9) Upon final action taken by city council on an amendment to the official zoning map, annexation and zoning of land, de-annexation of land, or special exception, the administrator shall provide written notification to the applicant, or affected property owner(s) in the case of an amendment initiated by the city, of the action taken by city council. Written notification may be provided by first class United States mail or by email.

(G) *Modification of application by applicant.*

- (1) *Prior to public hearing.* An application may be modified by the applicant any time prior to the administrator submitting the required notice for the public hearing for publication to the newspaper of general circulation. Such modification request must be in writing from the applicant and submitted to the administrator.
- (2) *During the public hearing.* In response to questions or comments by persons appearing at the public hearing, or in response to suggestions or recommendations from the reviewing body, the applicant may agree to modify his application, including the plans and specifications submitted. Unless such modifications are so substantial or material that the reviewing body cannot reasonably perceive the nature and impact of the proposed modifications without having revised plans before it, the reviewing body may approve the application contingent upon receiving plans reflecting the agreed-upon changes. Any required permit will not be issued until the plans reflecting the agreed-upon modifications are verified by the administrator.

(H) *Withdrawal of application.* Any application may be withdrawn prior to final action at the discretion of the person, firm or corporation initiating such request upon written notice to the administrator. The fee for a withdrawn application shall not be refunded once public notice of the application has been initiated.

- (l) *Time for reconsideration following denial.* When an application is denied by city council, the same type of application on the same property shall not be considered for six months from the date of the denied application.

Sec. 2-3. Specific Application Requirements.

2-3.1. Official zoning district map amendments; annexation and zoning of land.

- (A) In reviewing a proposed amendment to the official zoning district map and taking action on said proposed amendment, the planning commission and city council shall consider the following standards governing the exercise of the zoning power as adopted in accordance with O.C.G.A. § 36-66-5(b):
- (1) The existing land uses and zoning classification of nearby property;
 - (2) The suitability of the subject property for the zoned purposes;
 - (3) The extent to which the property values of the subject property are diminished by the particular zoning restrictions;
 - (4) The extent to which the destruction of property values of the subject property promotes the health, safety, morals or general welfare of the public;
 - (5) The relative gain to the public as compared to the hardship imposed upon the individual property owner;
 - (6) Whether the subject property has a reasonable economic use as currently zoned;
 - (7) The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property;
 - (8) Whether the proposed zoning will allow uses that are suitable in view of the uses and development of adjacent and nearby property;
 - (9) Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
 - (10) Whether the zoning proposal is in conformity with the policies and intent of the Comprehensive Plan;
 - (11) Whether the zoning proposal will result in a use which will cause an excessive burden upon existing streets, transportation facilities, utilities, or schools; and
 - (12) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.
- (B) In reviewing an application for annexation and zoning of land and taking action on said application, the planning commission and city council shall consider the following standards:
- (1) The existing land uses and zoning classification of nearby property;
 - (2) Whether the proposed zoning will allow uses that are suitable in view of the uses and development of adjacent and nearby property;
 - (3) Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
 - (4) Whether the zoning proposal is in conformity with the policies and intent of the Comprehensive Plan;
 - (5) Whether the zoning proposal will result in a use which will cause an excessive burden upon existing streets, transportation facilities, utilities, or schools; and
 - (6) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

2-3.2. Amendments to the text of the ordinance.

- (A) In reviewing an application for an amendment to the text of the ordinance and acting on said application, the planning commission and city council may consider the following standards:
- (1) Whether, and the extent to which, the proposed amendment is consistent with the Comprehensive Plan;
 - (2) Whether, and the extent to which, the proposed amendment is consistent with the provisions of this chapter and related city regulations;
 - (3) Whether, and the extent to which, there are changed conditions from the conditions prevailing at the time that the original text was adopted;

- (4) Whether, and the extent to which, the proposed amendment addresses a demonstrated community need;
- (5) Whether, and the extent to which, the proposed amendment is consistent with the purpose and intent of the zoning districts in this chapter, will promote compatibility among uses, and will promote efficient and responsible development within the city;
- (6) Whether, and the extent to which, the proposed amendment will result in logical and orderly development pattern;
- (7) Whether, and the extent to which, the proposed amendment will result in beneficial impacts on the natural environment and its ecology, including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, and wetlands; and
- (8) Whether, and the extent to which, the proposed amendment will result in development that is adequately served by public facilities and services (roads, potable water, sewerage, schools, parks, police, fire, and emergency medical facilities).

2-3.3. *Planned unit development (PUD)*. Permitted uses for planned unit development districts are established in subsection 4-1.3 of this chapter. Use, area, bulk, and height requirements shall be determined by the procedures set forth in this section.

- (A) *Specific requirements*. In order to qualify for a planned unit development district zoning classification a proposed development area shall be in one ownership or management, or if in several ownerships, the application for amendment to this section shall be filed jointly by all of the owners of the properties included in the plan. Applications for planned unit development shall be submitted to the administrator pursuant to established application submittal schedules included in the administrative manual.
- (B) *Procedure for approval of a planned unit development (PUD) district*. The filing of a plan for a planned unit development shall follow the procedures for amendment to the official zoning map in Section 2-2.2 and shall meet the requirements specified in this section. In addition, the following regulations shall apply:
 - (1) Two (2) copies of a preliminary site plan shall be submitted to the commission.
 - (2) The commission shall review the proposals prior to submitting a recommendation to the council. The commission may make reasonable additional requirements including but not limited to utilities, drainage, landscaping, and maintenance thereof, lighting, signs and advertising devices, screening, access ways, curb cuts, traffic control, height and setback of buildings, to protect adjoining uses, or to protect the PUD from adjacent uses.
 - (3) Approval by the council subsequent to a public hearing constitutes creation of the planned unit development (PUD) district.
- (C) *Preliminary site plan required*. The preliminary site plan which accompanies an application for approval of PUD shall show the following:
 - (1) The proposed title of the project and the name of the engineer, architect, designer, or landscape architect, and the development.
 - (2) The north point, scale, and date; the scale of the site plan shall be as follows:
 - (a) For projects containing fifty (50) acres or more, not more than one hundred (100) feet to one inch.
 - (b) For projects containing less than fifty (50) acres, not more than fifty (50) feet to one inch.
 - (3) Existing zoning and zoning district boundaries and proposed changes in zoning.
 - (4) The boundaries of the property involved, the location of all existing easements, section lines, and property lines, existing streets, buildings and other existing physical features in or adjoining the project.
 - (5) The location and size of existing and proposed streets, alleys, driveways, curb cuts, entrances and exits, loading areas (including number of parking and loading spaces), and outdoor lighting systems.
 - (6) The location of proposed lots, setback lines, and easements, and proposed reservations for parks, parkways, playgrounds, school sites, and open spaces.
 - (7) The location and height of all proposed main and accessory buildings for all structures except single- and two-family dwellings.
 - (8) Location, height and material of all fences, walls, screens, plants and landscaping.

- (9) Proposed location, intended use, and character of all buildings. For residential structures, show type and number of dwellings, and minimum square footage of single-family detached dwellings.
 - (10) Location, character, size and height and orientation or proposed signs.
 - (11) A location map showing the position of the proposed development in relationship to the surrounding area.
 - (12) A tabulation of the total number of acres in the project, gross and net, and the percentage thereof proposed to be devoted to different dwelling types, commercial uses, other nonresidential uses, off-street parking, streets, parks, schools, and other public and private reservations.
 - (13) A tabulation of the total number of dwelling units of various types in the project and the overall project density in dwelling units per acre, gross and net, as required by district regulations.
 - (14) A detailed legal description of the location of the site.
 - (15) A discussion of the proposed standards for development including restrictions on the use of the property, density standards and yard requirements restrictive covenants. The commission may establish additional requirements for the preliminary site plan and in special cases, may waive a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.
- (D) *Final plat required.* A final plat shall be recorded prior to submission of an application for a building permit. The plat shall comply with all laws, regulations, and resolutions governing the approval of subdivisions and, in addition, shall show all the features required on the preliminary site plan. A plat of development shall be recorded regardless of whether a subdivision is proposed. At least one of the final site plan maps shall include topographical contour lines at intervals no less than five (5) feet.
- (E) *Review standards.* The commission shall review plans for proposed planned unit developments for conformity with the comprehensive plan. Specifically, the proposed plan shall meet the following conditions.
- (1) The plan shall conform to the purpose and intent of this chapter as stated in section 1-3.
 - (2) Access to all developed property shall be sufficient to provide for an acceptable level of fire protection.
- (F) *Miscellaneous provisions.*
- (1) *Amendments and additions.* Amendments or additions to an approved plan or to the boundaries of the PUD shall be accomplished subject to the same regulations and procedures applicable to a new application.
 - (2) *Deed restrictions.* The commission may require filing of deed restrictions to help carry out the intent of this chapter.
- (G) *Site design requirements.*
- (1) *Location of district.* A PUD district may be established anywhere within the City of Perry, Georgia.
 - (2) *Site design, general.* The proposed development must be designed so as to produce an environment of stable and desirable character not out of harmony with its surrounding neighborhoods. The review by the commission shall consider the following design elements:
 - (a) *Privacy.* Personal and individual privacy shall be maintained and balanced with the provision of public and common areas.
 - (b) *Variety.* Interest and variety shall be sought by means of street design and changes in mixtures of building types, heights, facades, uses, setbacks, plants, or size of open space. The design should be harmonious as a whole and not simply from street-to-street.
 - (c) *Traffic and parking.* No through or commercial traffic should be permitted; streets should not be straight for long distances, but should curve so as to discourage fast movement of traffic; group parking areas should be screened as defined in section 6-3 so that the vehicles are substantially hidden from the street.
 - (d) *Lot area and lot width, general.* The commission will establish lot area and lot width. However, the minimum lot or width may not be reduced if the Houston County/Peach County Health Department determines that an increased area or width is necessary for health reasons.
 - (e) *Setbacks.* The commission will establish setback requirements for all structures.
 - (f) *Open space.* Open space should be incorporated into the PUD plan. It can be common areas, parks, recreational facilities, greenspace, landscape buffers, pedestrian trails, etc. The open space can be suitably improved or unimproved if containing natural features worth of preservation.

(g) *Street standards.* All streets in the PUD plan should be standard streets.

(h) *Other building requirements.* The commission shall determine other development standards.

2-3.4. Historic Preservation.

2-3.4.1. Purpose.

In support and furtherance of its findings and determination that the historical, cultural, and aesthetic heritage of the City of Perry is among its most valued and important assets and that the preservation of this heritage is essential to the promotion of the health, prosperity, and general welfare of the people;

To stimulate revitalization of the business districts and historic neighborhoods and to protect and enhance local historic and aesthetic attractions to tourists and thereby promote and stimulate business;

To enhance the opportunities for federal or state tax benefits under relevant provisions of federal or state law; and

To provide for the designation, protection, preservation and rehabilitation of historic properties and historic districts and to participate in federal or state programs to do the same;

The City Council hereby declares it to be the purpose and intent of this Ordinance to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, objects, and landscape features having a special historical, cultural, or aesthetic interest or value, in accordance with the provisions of the Ordinance.

2-3.4.2. Definitions.

The following words, terms, and phrases, when used in Section 2-3.4 shall have the meanings ascribed to them in this subsection.

- A. "Building" – A building is a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail or a house and barn.
- B. "Certificate of appropriateness" – Means a document evidencing approval by the Historic Preservation Commission of an application to make a material change in the appearance of a designated historic property or of a property located within a designated historic district.
- C. "Exterior architectural features" – Means the architectural style, general design, and general arrangement of the exterior of a building, structure, or work of art, including but not limited to the kind or texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, features, details, or elements relative to the forgoing.
- D. "Exterior environmental features" – Means all those aspects of the landscape which affect the historic character of the property or the development of a site, including but not limited to parking areas, driveways, walkways, fences, walls, landscaping, signs, or other permanent landscape elements, and other appurtenant environmental fixtures, features, details, or elements relative to the forgoing.
- E. "Historic district" – Means a geographically definable area, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or works of art united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. A Historic District shall further mean an area designated by the City Council as a Historic District pursuant to the criteria established in Section 2-3.4.3(B) of this Ordinance.
- F. "Historic property" – Means an individual building, structure, site, or work of art including the adjacent area necessary for the proper appreciation or use thereof designated by the City Council as a historic property pursuant to the criteria established in Section 2-3.4.3(C) of this Ordinance.
- G. "Material change in appearance" – Means a change that will affect either the exterior architectural or environmental features of a historic property or of any place, district, site, building, structure, or work of art within a historic district, such as:

1. A reconstruction or alteration of the size, shape, or façade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details or elements;
 2. Demolition or relocation of a historic building or structure;
 3. Commencement of excavation for construction purposes;
 4. A change in the location of advertising visible from the public right-of-way; or
 5. The erection, alteration, restoration or removal of any buildings or other structure within a historic property or district, including walls, fences, steps and pavements, or other appurtenant features, except exterior paint alterations.
- H. "Site" – A site is the location of a significant event, a prehistoric or historical occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

2-3.4.3. Recommendation and designation of historic districts and properties.

- A. Preliminary research by the preservation commission.
1. The Preservation Commission shall compile and collect information and conduct surveys of historic resources within the City of Perry.
 2. The Preservation Commission shall present to the City Council recommendations for historic districts and properties.
 3. Prior to the Preservation Commission's recommendation of a historic district or historic property to the City Council for designation, the Preservation Commission shall prepare a Report for Nomination consisting of:
 - a. a physical description;
 - b. a statement of the historical, cultural, architectural and/or aesthetic significance;
 - c. a map showing district boundaries and classification (i.e., contributing, or non-contributing) of individual properties therein, or showing boundaries of individual historic properties; and
 - d. representative photographs.
- B. Designation of a historic district.
1. Criteria for selection of historic districts. A historic district is a geographically definable area, which contains buildings, structures, sites, objects, and landscape features or a combination thereof, which:
 - a. has special character or special historic/aesthetic value or interest;
 - b. represents one or more periods, styles, or types of architecture typical of one or more eras in the history of the municipality, county, state, or region; and
 - c. causes such area, by reason of such factors, to constitute a visibly perceptible section of the municipality or county.
 2. Boundaries of a Historic District. Boundaries of a Historic District shall be included in the separate ordinances designating such districts and shall be shown on the Official Zoning Map of the City of Perry, or in the absence of zoning, on an official map designated as a public record.
 3. Evaluation of properties within Historic Districts. Individual properties within historic districts shall be classified as:
 - a. Contributing (contributes to the district)
 - b. Non-contributing (does not contribute to the district, as provided for in B.1 above.)
- C. Designation of a historic property.
1. Criteria for selection of Historic Properties. A historic property is a building, structure, site, or object; including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the City of Perry, the region, or the State of Georgia for one of the following reasons:
 - a. it is an outstanding example of a structure representative of its era;
 - b. it is one of the few remaining examples of a past architectural style;
 - c. it is a place or structure associated with an event or persons of historic or cultural significance to the City of Perry, State of Georgia, or the region; or

- d. it is the site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the municipality, county, state, or region.
- D. Requirements for adopting an ordinance for the designation of historic districts and historic properties.
1. Application for designation of historic districts or property. Designations may be proposed by the City Council, the Preservation Commission, or:
 - a. for historic districts – a historical society, neighborhood association or group of property owners may apply to the Preservation Commission for designation;
 - b. for historic properties – a historical society, neighborhood association or property owner may apply to the Preservation Commission for designation.
 2. Required components of a designation ordinance. Any ordinance designating any property or district as historic shall:
 - a. list each property in a proposed historic district or describe the proposed individual historic property;
 - b. set forth the name(s) of the owner(s) of the designated property or properties;
 - c. require that a Certificate of Appropriateness be obtained from the Preservation Commission prior to any material change in appearance of the designated property; and
 - d. require that the property or district be shown on the Official Zoning Map of the City of Perry and be kept as a public record to provide notice of such designation.
 3. Required public hearings. The Preservation Commission and the City Council shall each hold a public hearing on any proposed ordinance for the designation of any historic district or property. Notice of the hearing shall be published in at least three (3) consecutive issues in the principal newspaper of local circulation, and written notice of the hearing shall be mailed by the administrator to all owners and occupants of such properties. All such notices shall be published or mailed not less than ten (10) nor more than twenty (20) days prior to the date set for the public hearings. A notice sent via the United States mail to the last-known owner of the property shown on the City tax digest and a notice sent via attention of the occupant shall constitute legal notification to the owner and occupant under this ordinance.
 4. Notification to DCA. No less than thirty (30) days prior to making a recommendation on any ordinance designating a property or district as historic, the Preservation Commission must submit the report, required in Section 2-3.4.3(A)(3), to the Historic Preservation Division of the Department of Community Affairs.
 5. Recommendations on proposed designations. A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made by the Preservation Commission within 45 days following the Public Hearing and shall be in the form of a resolution to the City Council.
 6. City council actions on the preservation commission's recommendation. Following receipt of the Preservation Commission recommendation, the City Council may adopt the ordinance as proposed, may adopt the ordinance with any amendments they deem necessary, or reject the ordinance.
 7. Notification of adoption of ordinance for designation. Within thirty (30) days following the adoption of the ordinance for designation by the City Council, the owners and occupants of each designated historic property, and the owners and occupants of each structure, site or work of art located within a designated historic district, shall be given written notification of such designation by the City Council, which notice shall apprise said owners and occupants of the necessity of obtaining a Certificate of Appropriateness prior to undertaking any material change in appearance of the historic property designated or within the historic district designated. A notice sent via the United States mail to the last-known owner of the property shown on the City tax digest and a notice sent via attention of the occupant shall constitute legal notification to the owner and occupant under this ordinance.
 8. Notification of other agencies regarding designation. The administrator shall notify all necessary agencies within the City of Perry of the ordinance for designation.
 9. Moratorium on applications for alteration or demolition while ordinance for designation is pending. If an ordinance for designation is being considered, the City Council shall have the power to freeze the status of the involved property.

2-3.4.4. Application for certificate of appropriateness.

- A. Exemptions.
 - 1. The Georgia Department of Transportation and any contractors, including cities and counties, performing work funded by the Department of Transportation are exempt from this section.
 - 2. Local governments are exempt from the requirement of obtaining certificates of appropriateness; provided, however, that local governments shall notify the preservation commission 45 days prior to beginning an undertaking that would otherwise require a certificate of appropriateness and allow the preservation commission an opportunity to comment.
- B. Approval of material change in appearance in historic districts or involving historic properties. After the designation by ordinance of a historic property or of a historic district, no material change in the appearance of such historic property, or of a contributing or non-contributing building, structure, site, or object within such historic district, shall be made or be permitted to be made by the owner or occupant thereof, unless or until the application for a Certificate of Appropriateness has been submitted to and approved by the Preservation Commission. A Building Permit shall not be issued without a Certificate of Appropriateness.
- C. Submission of plans. An Application for a Certificate of Appropriateness shall be accompanied by such drawings, photographs, plans and documentation as may be required by the Preservation Commission.
- D. Interior alterations. In its review of applications for Certificates of Appropriateness, the Preservation Commission shall not consider interior arrangement or use having no effect on exterior architectural features.
- E. Technical advice. The Preservation Commission shall have the power to seek technical advice from outside its members on any application.
- F. Public hearings on applications for certificates of appropriateness, notices, and right to be heard. The Preservation Commission shall hold a public hearing for each proposed Certificate of Appropriateness. The preservation commission shall cause to have posted in a conspicuous place on the property in question a minimum of one (1) "public hearing" sign for every 1,000 feet of road frontage, each of which shall not be less than six (6) square feet in area, and which shall state the date, time, place, and purpose of the public hearing. Such signs shall be posted on the subject property at least 15 days prior to but not greater than 45 days prior to the public hearing. The Preservation Commission shall give the property owner, applicant, and others wishing to speak an opportunity to be heard at the Certificate of Appropriateness hearing.
- G. Acceptable preservation commission reaction to applications for certificate of appropriateness. The Preservation Commission may approve the Certificate of Appropriateness as proposed, approve the Certificate of Appropriateness with any modifications it deems necessary, or reject it. The Preservation Commission shall approve the application and issue a Certificate of Appropriateness if it finds that the proposed material change(s) in the appearance would not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic property or the historic district. In making this determination, the Preservation Commission shall consider, in addition to any other pertinent factors, the following criteria for each of the following acts:
 - 1. Reconstruction, Alteration, New Construction or Renovation. The Preservation Commission shall issue Certificates of Appropriateness for the above proposed actions if those actions conform in design, scale, building materials, setback, and site features, to the Secretary of Interior's Standards for Rehabilitation, Guidelines for Rehabilitating Historic Buildings, and any other design guidelines adopted by the Preservation Commission.
 - 2. Relocation: A decision by the Preservation Commission approving or denying a Certificate of Appropriateness for the relocation of a building, structure, or object shall be guided by:
 - a. The historic character and aesthetic interest the building, structure or object contributes to its present setting.
 - b. whether there are definite plans for the area to be vacated and what the effect of those plans on the character of the surrounding area will be.
 - c. Whether the building, structure or object can be moved without significant damage to its physical integrity.
 - d. Whether the proposed relocation area is compatible with the historical and architectural character of the building, structure, site, or object.

3. Demolition: A decision by the Preservation Commission approving or denying a Certificate of Appropriateness for the demolition of buildings, structures, or sites judged to be 50 years old or older, or works of art shall be guided by:
 - a. The historic, scenic, or architectural significance of the building, structure, site, or work of art.
 - b. The importance of the building, structure, site, or work of art to the ambiance of a district.
 - c. The difficulty or the impossibility of reproducing such a building, structure, site, or work of art because of its design, texture, material, detail, or unique location.
 - d. Whether the building, structure, site, or work of art is one of the last remaining examples of its kind in the neighborhood or the city.
 - e. Whether there are definite plans for use of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be.
 - f. Whether reasonable measures can be taken to save the building, structure, site, or work of art from collapse.
 - g. Whether the building, structure, site, or work of art can earn reasonable economic return on its value.
- H. Undue hardship. When, by reason of unusual circumstances, the strict application of any provision of this Ordinance would result in exceptional practical difficulty or undue hardship upon any owner of a specific property, the Preservation Commission, in passing upon applications, shall have the power to vary or modify strict adherence to the provisions or to interpret the meaning of the provision so as to relieve such difficulty or hardship; provided such variances, modifications or interpretations shall remain in harmony with the general purpose and intent of said provisions, so that the architectural or historical integrity, or character of the property, shall be conserved and substantial justice done. In granting variances, the commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this Ordinance. An undue hardship shall not be a situation of the owner's or occupant's own making.
- I. Deadline for approval or rejection of application for certificate of appropriateness.
 1. The Preservation Commission shall approve or reject an application for a Certificate of Appropriateness within forty-five (45) days after the filing thereof by the owner or occupant of a historic property, or of a building structure, site, or object located within a historic district. Evidence of approval shall be by a Certificate of Appropriateness issued by the Preservation Commission. Notice of the issuance or denial of a Certificate of Appropriateness shall be sent in writing to the applicant and all other persons who have requested such notice in writing filed with the Preservation Commission.
 2. Failure of the Preservation Commission to act within said forty-five (45) days shall constitute approval, and no other evidence of approval shall be needed.
- J. Necessary action to be taken by preservation commission upon rejection of application for certificate of appropriateness.
 1. In the event the Preservation Commission rejects an application, it shall state its reasons for doing so, and shall transmit a record of such actions and reasons, in writing, to the applicant. The Preservation Commission may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if he or she so desires, may make modifications to the plans and may resubmit the application at any time after doing so.
 2. In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of the application for a Certificate of Appropriateness by the Preservation Commission shall be binding upon the building inspector or other administrative officer charged with issuing building permits and, in such a case, no building permit shall be issued.
- K. Requirement of conformance with certificate of appropriateness.
 1. All work performed pursuant to an issued Certificate of Appropriateness shall conform to the requirements of such certificate. In the event work is performed not in accordance with such certificate, the Preservation Commission shall issue a cease-and-desist order and all work shall cease.
 2. The Preservation Commission and the City Council shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in appearance of a designated historic property or historic district, except those changes made in compliance with the

provisions of this ordinance or to prevent any illegal act or conduct with respect to such historic property or historic district.

- L. Expiration of certificate of appropriateness. A Certificate of Appropriateness shall become void unless construction is commenced within six (6) months of date of issuance. A Certificate of Appropriateness shall be issued for a period of eighteen (18) months and may be renewed.
- M. Record of applications for certificate of appropriateness. The Preservation Commission shall keep a public record of all applications for Certificates of Appropriateness, and of all the Preservation Commission's proceedings in connection with said application.
- N. Acquisition of property. The Preservation Commission may, where such action is authorized by the City Council and is reasonably necessary or appropriate for the preservation of a unique historic property, enter negotiations with the owner for the acquisition by gift, purchase, exchange, or otherwise, of the property or any interest therein.
- O. Appeals. Any person adversely affected by any determination made by the Preservation Commission relative to the issuance or denial of a Certificate of Appropriateness may appeal such determination to the City Council. Any such appeal must be filed with the City Council within fifteen (15) calendar days after the issuance of the determination pursuant to Section 2-3.4.4(l)(1) of this Ordinance or, in the case of a failure of the Preservation Commission to act, within fifteen (15) calendar days of the expiration of the forty-five (45) day period allowed for the Preservation Commission action, Section 2-3.4.4(l)(2) of this Ordinance. The appeal shall be in writing and state the grounds for the appeal. The City Council may approve, modify, or reject the determination made by the Preservation Commission, if the governing body finds that the Preservation Commission abused its discretion in reaching its decision. Appeals from decisions of the City Council may be taken to the Superior Court of Houston County or Peach County, whichever is appropriate, in the manner provided by law.

2-3.4.5. Maintenance of historic properties and building and zoning code provisions.

- A. Affirmation of existing building and zoning codes. Nothing in this Ordinance shall be construed as to exempt property owners from complying with existing City building, property maintenance, and zoning codes, nor prevent any property owner from making any use of this property not prohibited by other statutes, ordinances, or regulations.
- B. Ordinary maintenance or repair. Ordinary Maintenance or repair of any exterior architectural or environmental feature in or on a historic property to correct deterioration, decay, or to sustain the existing form, and that does not involve a material change in design, material, or outer appearance thereof, does not require a Certificate of Appropriateness.

2-3.5. *Special exceptions.*

- (A) In reviewing a proposed application for a special exception, the planning commission and the city council shall consider the following standards, where applicable:
 - (1) The existing land use pattern.
 - (2) Whether the proposed use is consistent with the Comprehensive Plan.
 - (3) Whether all proposed structures, equipment or material will be readily accessible for fire and police protection.
 - (4) Whether the proposed use will be of such location, size, and character that, in general, it will be in harmony with the appropriate and orderly development of the area in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties or a deterrent to the improvement of adjacent properties in accordance with the zoning classification of such properties, the existing land use pattern or the Comprehensive Plan.
 - (5) Whether, in the case of any use located in, or directly adjacent to, a residential district or area:
 - (a) The nature and intensity of operations will be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said residential district or area, or conflict with the normal traffic of the neighborhood; and

- (b) The location and height of buildings, and other structures, and the nature and extent of screening, buffering or landscaping on the site will be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings in conformance with existing zoning districts and development pattern.
- (6) Whether the proposed use will increase the population density resulting in the increase or overtaxing of the load on public facilities such as schools, utilities, streets, etc.; or approval of the use would encourage adjacent areas to develop at higher densities than provided in the comprehensive plan resulting in the overtaxing of such public facilities.
- (7) Whether the proposed use will cause a health hazard, a public safety problem, or create a nuisance or cause excessively increasing traffic and associated congestion; create a drainage problem; generate unnecessary disturbance due to noise, the emission of smoke or other contaminants, odor, electrical interference, or cause pollution to land, air and/or water.
- (8) Whether the proposed change will adversely affect property values in adjacent areas.
- (9) Whether there are substantial reasons why the property cannot be used for a permitted use in the district where the property is located.

2-3.6. Short-term Rental Permit.

- (A) *Purpose.* The purpose of a short-term rental permit is to safeguard the life, health, safety, welfare, and property of the occupants of residential dwelling units, the neighbors of said occupants, and the general public, through the regulation of short-term rental property. The intent of a short-term rental permit is to preserve the neighborhood character of residential subdivisions within the City of Perry, to minimize adverse impacts to the housing supply caused by the conversion of residential units to visitor accommodation use, and to minimize adverse impacts on surrounding properties.
- (B) *Applicability.* An owner who desires to use its property as a short-term rental shall obtain a short-term rental permit prior to using, allowing the use of, or advertising the use of said property as a short-term rental unit.
- (C) *Procedure.*
 - 1. *Initial application.*
 - a. Application for short-term rental permit in a residential zoning district shall require a special exception pursuant to section 2-2.2. The owner shall demonstrate compliance with the standards in sections 2-3.5 and 4-3.5.
 - b. The administrator is authorized to issue a short-term rental permit located in a non-residential zoning district pursuant to section 2-1.5. The owner shall comply with the standards in Section 4-3.5.
 - 2. *Renewal of permit.* The administrator is authorized to issue a renewal permit for short-term rental pursuant to the provisions of this section.
 - 3. *Inspection required.* No permit or renewal permit shall be approved for a short-term rental until the City has inspected the premises and found the premises to comply with minimum health and safety requirements for use and occupancy. If a premises fails to pass an inspection, a reinspection fee may be charged for each subsequent inspection.
- (D) *Standards.* A short-term rental permit shall be issued only upon a finding that the owner has demonstrated compliance with all of the goals, policies, and standards of this ordinance and, in particular, with the standards in section 4-3, standards for specific uses.
- (E) *Conditions of approval.* In approving a short-term rental permit or renewal permit, City Council or the administrator may impose restrictions and conditions on the approval, the proposed use, and the premises to be used, as are required to ensure compliance with the general goals and policies of this chapter or with particular standards of this ordinance to prevent or minimize adverse effects from the proposed short-term rental on surrounding lands. The restrictions and conditions imposed must be related in both type and scale to the impact that the short-term rental would have on the public and surrounding properties. All conditions imposed shall be expressly set forth in the permit.
- (F) *Effect.* A short-term rental permit shall authorize the owner to operate only the particular short-term rental approved in the permit. A short-term rental permit shall not be transferred to another property or owner.

- (G) *Expiration.* A short-term rental permit shall expire on the last day of the month one year after the date of issuance. No short-term rental permit may be renewed without a completed renewal application submitted by the owner.
- (H) *Renewal of permit.* An application for a short-term renewal permit may be filed beginning 30 days prior to expiration of a current permit. Every complete application for a short-term rental renewal permit shall include updates, if any, to the information contained in the original permit application or any subsequent renewals. The permit holder shall sign a statement affirming that there is either no change to such information, or that any updated information is accurate and complete. The administrator may require such certifications deemed necessary and proper to ensure continuing compliance with this chapter.
1. An application for a short-term rental renewal permit submitted after the expiration of the most immediate permit for the premises shall be treated as an application for a new permit as described in subsection (C)(1) of this Section.
 2. If a complete application for a short-term renewal permit is submitted less than 15 days prior to expiration of the current permit, the administrator in his or her sole discretion may grant a one-time extension of the current permit not to exceed ten days.
- (I) *Revocation of permit.*
1. *Grounds.* Any permit issued hereunder may be revoked by the administrator if the permit holder has:
 - a. received more than two citations for violations of this chapter or any other provision of the Code of the City of Perry within the preceding 12-month time period; or
 - b. failed or refused to comply with an express condition of the permit and remains in non-compliance ten days after being notified in writing of such non-compliance; or
 - c. knowingly made a false statement in the application; or
 - d. otherwise become disqualified for the issuance of a permit under the terms of this chapter.
 2. *Notice.* Notice of the revocation shall be given to the permit holder in writing, with the reasons for the revocation specified in the notice, served either by personal service or by certified United States mail to their last known address. The revocation shall become effective the day following personal service or if mailed, three days from the date of mailing.
 3. *Appeal.* The permit holder shall have ten days from the date of such revocation in which to file notice with the administrator of their appeal from the order revoking said permit. The appeal shall follow the procedures of section 2-2.1. An appeal shall not stay the denial or revocation of a permit unless otherwise directed by the administrator.
 4. *One year waiting period.* In the event an owner's short-term rental permit is revoked by the administrator, a renewal permit shall not be issued for a short-term rental on the premises for one year of the date such permit was revoked. During the waiting period, a short-term rental permit may be issued to the owner of property located within 1,000 feet of the premises of the revoked permit.
- (J) *Discontinuance.*
1. The owner of a short-term rental unit legally established prior to August 1, 2023, shall obtain a renewal permit pursuant to this section or discontinue the short-term rental use no later than December 29, 2023. The owner shall demonstrate compliance with the standards in section 4-3.5.
 2. If the short-term rental permit is not renewed, the owner shall discontinue the use no later than the date on which the existing permit or any extension thereof expires.

2-3.7. *Variances.*

- (A) In reviewing a proposed application for variance, the planning commission shall find that the application meets all the following standards:
- (1) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations

would result in peculiar or unusual, practical, difficulties to or exceptional or undue hardship upon the owner of such property;

- (2) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions;
- (3) Such variance can be granted without substantial impairment to the intent, purpose, and integrity of this chapter and/or the comprehensive plan or other master plan adopted for the property;
- (4) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.

- (B) Nothing herein shall permit the commission to grant a variance to any setback or yard requirements for property zoned for commercial or industrial purposes when such property abuts or immediately adjoins any property zoned for residential purposes unless such residential property is proposed for commercial or industrial use in the Comprehensive Plan.
- (C) Variances cannot be granted for use of land or structures not permitted or prohibited, or to increase the density of development for a tract beyond that permitted by the zoning district.
- (D) If the hardship invoking the provisions of this section was the result of the applicant's intentional disregard or willful failure to comply with the terms of this ordinance, the commission may refuse to grant a variance.

2-3.8. Certificate of Appropriateness.

2-3.8.1. Downtown Development District.

- (A) *Application.* Application for a Downtown Development District Certificate of Appropriateness shall be made to the office of the administrator on forms provided therefore, obtainable from the office of the administrator. Each application shall be accompanied by such sketches, drawings, photographs, descriptions, or other information showing the proposed sign, exterior alterations, additions, changes of new construction as are reasonably required for the administrator.
- (B) *Action on application for certificate of appropriateness.* The administrator shall receive the application, together with the supporting information and materials, and act upon the application within 45 days after filing thereof; otherwise, the application shall be deemed to be approved and a Certificate of Appropriateness shall be issued. Nothing herein shall prohibit an extension of time where mutual agreement has been made. The administrator shall present the application for a Certificate of Appropriateness to the Main Street Advisory Board of Review and the Board may advise the administrator and make recommendations in regard to the appropriateness. If the administrator approves the application, a Certificate of Appropriateness shall be issued. If the Certificate of Appropriateness is issued, the application shall be processed in the same manner as applications for building permits. If the administrator disapproves the application, a Certificate of Appropriateness shall not be issued. The administrator shall provide the reasons in writing to the applicant.
- (C) *Appeal provision.* Any person adversely affected by any determination made by the administrator relative to the issuance or denial of a Downtown Development District Certificate of Appropriateness may appeal such determination to the Planning Commission.

2-3.8.2. Historic Properties and Historic Overlay Districts. See Section 2-3.4.4.

2-3.9. Sign Permit.

- (A) *Purpose.* The purpose of this subsection is to provide a mechanism for reviewing applications for sign permits to ensure all signs within the City comply with the standards of section 6-9. Signs.
- (B) *Applicability.* No sign, except those exempted pursuant to subsection 6-9.13, shall be erected, installed, displayed, structurally altered, or otherwise changed without the sign installer/owner having first obtained a sign permit from the administrator pursuant to this section and the standards of section 6-9. Signs.
- (C) *Procedure.*
 - (1) Application for sign permit shall be submitted in the form established by the administrator.
 - (2) The administrator shall review and act on an application for sign permit consistent with the procedures and requirements of subsection 2-1.5, duties and powers of the administrator.
- (D) *Standards.* A sign permit shall be approved upon a finding that the application complies with the standards of section 6-9. Signs.

- (E) Conditions. In approving a sign permit, the administrator may impose conditions on the permit as may be necessary to ensure compliance with the standards of section 6-9. Signs.
- (F) Appeal. An applicant may appeal the decision of the administrator with respect to the issuance of a sign permit pursuant to the provisions of subsection 2-2.1.
- (G) Inspection. Upon completion of the sign authorized by the permit, the applicant shall contact the administrator to inspect and verify compliance with the provisions of this chapter and the conditions of the permit.
- (H) Expiration. If the activity authorized by a sign permit has not begun within six months from the date of issuance, the sign permit shall automatically and immediately be rendered invalid.
- (I) Amendments. A sign permit may be amended, extended, or modified only in accordance with the procedures established for its original approval.

2-3.10. Mural permit.

- (A) *Purpose.* Because murals on exterior walls become de facto public art, the purpose of a mural permit is to provide a reasonable process of review that safeguards both the interests of the community and those of the individual building/property owner. The standards for evaluating murals are designed to assure that murals within the City of Perry enhance the community's appearance, promote its history, economic development, and Agri-tourism, without confusing drivers and pedestrians or causing any other negative impact on public safety or welfare.
- (B) *Authority.*
 - (1) *Main street advisory board.* The main street advisory board is authorized to review and decide on an application for a mural permit pursuant to this section when the mural is to be in the downtown development overlay district.
 - (2) *Administrator.* The administrator is authorized to review and decide on an application for a mural permit pursuant to this section when the mural is to be located outside the downtown development overlay district.
- (C) *Procedures.*
 - (1) *Initial submission of application.* Application for mural permit shall be submitted to the administrator in the form established by the administrator.
 - (2) *Review and action by the main street advisory board.* The main street advisory board shall consider an application for mural permit at a regularly scheduled meeting of the board, or a meeting called for such purpose. The main street advisory board shall consider the application, the relevant support materials, the staff report, and information presented at the meeting. The main street advisory board shall approve, approve with modifications, approve with conditions, or disapprove the application based on the standards in subsection 2-3.14(D), standards.
 - (3) *Review and action by the administrator.* The administrator shall review and act on the application for mural permit consistent with the procedures and requirements of subsection 2-1.4, duties and powers of the administrator and on the standards in subsection 2-3.14(D), standards. The administrator may solicit advice from individuals, boards, or other organizations as he deems necessary to carry out the provisions of this section.
- (D) *Standards.* A mural permit shall be approved only upon a finding that the applicant has demonstrated all the following standards are met:
 - (1) *Content, design, and location.*
 - (a) A mural shall not be a sign which includes words, letters, figures, symbols, or logos which advertise, identify, direct, or attract attention to a business, institution, organization, person, idea, product, or service. Directional elements, such as super graphics, signage and color-coding shall not be allowed, except where these elements are an integral part of the work of art. Work that portrays school, team, corporate or organizational mascots, and art that has singularly religious or sectarian purposes shall not be allowed. The mural artist's signature may appear, if it is not so prominent as to detract from the mural display.
 - (b) Murals shall have relevance to the building, the neighborhood or to Perry, its values, culture, and people, and contribute to the fabric of the city. Murals should be based on the natural beauty of Perry and its surroundings; Perry's history or historic figures; local agriculture; or other relevant themes.
 - (c) Murals must be of appropriate scale. Mural size shall be determined by the wall surface to be covered. Smaller walls may be completely covered. On large walls, murals should be large enough to dominate the wall surface, but not so large as to overwhelm the local streetscape.

- (d) A mural must be composed of one cohesive design, not disparate elements. Generally, only one mural will be permitted per structure.
- (e) Colors, though vibrant, should be complimentary and harmonious with the exterior colors of the building structure, as well as consistent with the chosen theme. Neon, fluorescent, or reflective-type paints or materials are discouraged. In the Downtown Development Overlay District colors should complement the approved color palette for this district.
- (f) A mural shall be an original work of art. If the artwork is a multiple, it will only be accepted if it is a limited edition. Reproductions; unlimited editions; decorative, ornamental, and functional elements of architecture shall not be allowed.
- (g) Relationship to the building on which a mural is proposed. A mural, by its design, construction, and location, shall not obscure or detract from the significant architectural features of the building structure; nor should the building's architecture be altered to accommodate the mural. A mural should not obscure windows or entranceways.
- (h) A mural may be painted on an appropriate substrate and attached to the building. A mural should not be painted on a brick or stone wall that has not been previously painted.
- (i) A mural, by its design, construction, and location, shall not have an adverse impact on adjacent properties or permitted uses. It should not be so large as to overwhelm adjacent architecture or become a visual distraction.
- (j) A mural shall not be in a residential zoning district.
- (k) A mural should be in a site where it will enhance and activate the pedestrian and the streetscape experience. The proposed site should be one with high levels of pedestrian traffic and is part of the city's circulation paths or should help to create a place of congregation and activity. A map of appropriate locations for murals may be provided by the city.
- (l) A mural should not cause distraction for pedestrians or drivers, nor should it cause any other negative impact on public safety and welfare.

(2) *Construction and Maintenance.*

- (a) The mural shall be designed and painted by a qualified artist/muralist with a successful track record of construction and installation of murals.
- (b) Murals shall be well designed and incorporate high-quality materials that enhance the overall appearance of the site. Materials may include paint or other media appropriate for exterior use, such as tile or mosaic. Materials shall be long-lasting and graffiti-resistant to the greatest extent possible.
- (c) Consideration of the structural and surface soundness, operational costs, and inherent resistance to nuisance, vandalism, weathering, and excessive maintenance of the artwork.
- (d) If a substrate material is proposed, the material shall be appropriately weather resistant, and the method of attachment shall not permanently damage the building.
- (e) An acceptable plan for routine maintenance shall be submitted. Routine maintenance of an artwork becomes the responsibility of the owner of the building on which the artwork is located. The artist should develop a maintenance program in coordination with the building owner for the proper long-term care of the artwork.

(E) *Conditions of approval.* In approving a mural permit, the decision-making body may impose restrictions and conditions on the approval and the premises to be altered pursuant to such approval as are required to ensure compliance with the general goals and policies of this chapter or with standards of this chapter to prevent or minimize adverse effects from the mural on surrounding lands. The restrictions and conditions imposed must be related in both type and scale to the impact that the proposed mural would have on the public, the structure, and surrounding lands. All conditions imposed shall be expressly set forth in the permit approval.

(F) *Inspection.* Upon completion of the mural authorized by the permit, the applicant shall contact the administrator to inspect and verify compliance with the provisions of the ordinance and the conditions of the permit.

(G) *Effect.* Issuance of a mural permit shall authorize only the mural that is approved in the permit. The mural permit shall authorize the approved mural for three (3) years from the permit approval date. The decision-making body may extend the permit in increments not exceeding three (3) years based on condition and maintenance of the mural.

- (H) *Expiration.* The decision-making body may prescribe a time limit within which the mural authorized by the permit shall begin or be completed, or both. If a time limit is not prescribed by the decision-making body, the mural authorized by the permit shall be completed within ninety (90) days of the permit approval date.
- (I) *Appeal.* An applicant, or other aggrieved party, may appeal the decision of the decision-making body with respect to the issuance of a mural permit to City Council. A written statement documenting the basis of the appeal shall be submitted to the administrator within 30 calendar days of the date of the decision.
- (J) *Maintenance.* If, for whatever reason, the mural falls into disrepair, including but not limited to, graffiti, peeling paint, or fading, the building owner shall be notified of the violation in writing and required to make necessary repairs within thirty (30) days. If the repairs are not made within the specified time, the city reserves the right to repair or remove the mural at the building owner's expense. The process found in Section 10-6.4 will be followed.
- (K) *Amendment.* A mural permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

2-3.11. *Site plan permit.*

- (A) *Purpose.* Site plan review is required to ensure that the layout and general design of proposed development is compatible with surrounding land uses and complies with:
 1. Article 5, measurements and dimensional standards;
 2. Article 6, development and design standards;
 3. Article 7, Stormwater management requirements and controls;
 4. The design and specification manual; and
 5. Other applicable provisions of this chapter.
- (B) *Applicability.* All development, unless exempted pursuant to subsection 2-3.11(C), Exemptions, shall be required to obtain a site plan permit pursuant to this section prior to issuance of a building permit.
- (C) *Exemptions.* Internal construction that does not increase gross floor area, increase the intensity of use, affect parking requirements, or require correction of nonconforming landscaping, buffering/screening, or parking shall be exempt from the requirements of this section.
- (D) *Procedures.*
 1. *Submission and review of application.* Site plans shall be submitted digitally for review by the administrator.
 2. *Action by administrator.* The administrator shall review and act on the application for site plan permit consistent with the procedures and requirements of subsection 2-1.4. If a land disturbance permit (subsection 2-3.12) is required for the development, submission and review shall occur concurrently with the site plan permit. Both the site plan permit and the land disturbance permit, whenever required, must be approved, or approved with comments prior to issuing a building permit, as applicable to the scope of the work.
- (E) *Standards.* A site plan permit shall be approved only upon a finding that the applicant demonstrates all the following standards are met:
 - (1) *Compatibility.* The development and uses proposed in the site plan are allowed by right in the zoning district in which it is proposed, or the applicant has obtained a special exception permit or conditional use permit.
 - (2) *Zoning district supplemental standards.* The development and uses in the site plan comply with section 4-3, standards for specific uses.
 - (3) *Development and design standards.* The development proposed in the site plan and its layout and design comply with all standards in articles 5, 6, and 7, and the design and specification manual, or the applicant has obtained a variance.
- (F) *Expiration.* The site plan permit shall expire twelve months from the date of issuance, unless the work authorized by the site plan permit has commenced and continues at a reasonable time schedule to completion, as determined by the administrator.
- (G) *Amendments.* A site plan permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

2-3.12. *Land disturbance permit.*

(A) *General.*

- (1) *Purpose.* The purpose of this subsection is to ensure that no development or development activity disturbs or alters the surface of land in the city without a land disturbance permit approved pursuant to this section.
- (2) *Authority.* The administrator is authorized to approve, approve with conditions, or disapprove an application for a land disturbance permit. Conditions imposed by the administrator shall be reasonable to ensure compliance with the requirements of applicable regulations.
- (3) *Applicability.* No development activity, unless exempted pursuant to subsections 7-1.4(A)(3), 7-2.2 and or 7-3.4(E), shall disturb or alter, for any purpose, the surface of land in the city without a land disturbance permit.
- (4) *Action by administrator.* The administrator shall review and act on the application for a land disturbance permit.
- (5) *Pre-construction meeting.* After issuance of the site plan permit and land disturbance permit, the applicant's contractor and civil engineer shall attend a pre-construction meeting with the city prior to beginning any work authorized by such permits.
- (6) *Responsibilities of the applicant.*
 - (a) During any land-disturbing operation the applicant shall be responsible for carrying out the proposed work in accordance with the permit, approved plan, specifications, and time schedule in compliance with all the requirements of this chapter and any other state or federal permit.
 - (b) The applicant shall always maintain on-site the stamped and approved set of plans from the city for the permitted land-disturbing activity.
- (7) *Inspection.*
 - (a) Representatives of the city are authorized to enter upon any land or water to inspect development activity, to verify the existing conditions of a development site, and to verify compliance with this chapter whenever the city deems necessary.
 - (b) The applicant shall contact the administrator to inspect and verify compliance with the provisions of this chapter and the conditions of the permit prior to initiating any activity, once construction is complete, and any other time as determined by the administrator, design and specifications manual, city specifications, or the regulations of this chapter.
 - (c) All public infrastructure or work within the right-of-way must be approved by the administrator or be replaced to the standards of the design and specifications manual, city specifications, or the regulations of this chapter.

2-3.13. *Subdivisions.* The Commission shall be the official platting authority.

- (A) *Pre-application review.* Whenever the subdivision of a tract of land within the jurisdiction of the commission is proposed, the subdivider should consult early and informally with the administrator for advice and assistance. The subdivider may submit sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout and development of the subdivision. The administrator shall return within fifteen (15) days the submitted sketch to the subdivider and shall inform the subdivider where the plans do not comply with the regulations set forth in the ordinance. No fee shall be charged for the pre-application review and no formal application shall be required.
- (B) *Modification of subdivision requirements.* Modifications of the provisions set forth in the subdivision regulations may be authorized by the Commission in specific cases when, in its opinion, undue hardship may result from strict compliance; provided only such determination shall be based fundamentally on the fact that unusual topographical and other exceptional conditions require such modifications will not adversely affect the general public or nullify the intent of these regulations; provided further that any such modifications granted by the Commission shall be made in writing to the subdivider and also made a part of the Commission's records and the plat. Application for any modifications must be filed in writing with necessary supporting documents with the reasons and facts supporting the application.

2-3.13.1. *Minor subdivisions.* Notwithstanding the provisions stated elsewhere in this ordinance the administrator is hereby delegated the authority to give preliminary and final approval in the name and on behalf of the Commission to applications for approval of a subdivision not exceeding five (5) lots in size provided no new street is involved; the required certifications have been approved by the appropriate agent; no variances are involved; and all the requirements set forth in this ordinance are met. Final approval may be given by the administrator on a plat that was preliminarily approved by the Commission.

2-3.13.2. *Preliminary Plats.* Prior to issuance of a site plan permit and land disturbance permit for construction of subdivision improvements, the subdivider shall submit to the Commission a preliminary plat of the proposed subdivision in accordance with the following.

- (A) *Application for preliminary plat approval.* Applications for preliminary plat shall be submitted digitally to the administrator pursuant to established application submittal schedules included in the Administrative Manual.
- (B) *Review of preliminary plat.* The administrator shall check the plat for conformance to the rules and regulations of this ordinance and report his findings and recommendations to the Commission, which shall afford a hearing on the preliminary plat.
- (C) *Preliminary approval.* Following the hearing of the preliminary plat and other related material the Commission may express preliminary approval noting the conditions of such approval on three (3) copies of the preliminary plat with one (1) copy being returned to the subdivider, one (1) copy to the administrator for the Council and one (1) copy to be added to the records of the Commission. Approval of a preliminary plat does not constitute approval of a final plat. It indicates only approval of the layout as a guide to the preparation of the final plat.
- (D) *Automatic approval.* Failure of the Commission to act on the preliminary plat within thirty (30) days after submission thereof, without due cause, shall be deemed to be approval of the plat and a certificate of preliminary approval shall be issued by the Commission on demand, provided, however, that the subdivider may waive this requirement and consent to an extension of time.
- (E) *Disapproval.* Following the hearing of the preliminary plat and other related material, the Commission may find reasons detrimental to the public safety, health, and general welfare, or in conflict with adopted plans of the Commission which required the disapproval of the preliminary plat. A statement of the reasons for disapproval shall be made on two (2) copies of the preliminary plat with one (1) copy being added to the records of the Commission. The applicant may reapply for preliminary plat approval in accordance with section 2-3.13(A) herein.
- (F) *Expiration time.* Preliminary approval shall expire and be of no further effect twelve (12) months from the date of the preliminary approval unless a site plan permit and land disturbance permit have been issued to construct at least one phase of the subdivision.

2-3.13.3. *Final Plats.*

- (A) When construction of the subdivision or a recordable portion of the subdivision has been completed (except for items for which a performance guarantee can be accepted), the subdivider may apply to the administrator for Final Plat approval, using an application form provided by the administrator.
- (B) A final plat shall be submitted digitally, along with as-built drawings of streets, water, sewer, gas (if any) and stormwater facilities. If any streets, lands, or easements are shown on the Final Plat for dedication to the City, a Warranty Deed or deeds transferring title to said streets, lands or easements in fee simple, in a form acceptable to the City, shall be submitted with the Final Plat application.
- (C) The administrator shall indicate on a review copy of the plat or in a written memorandum all comments related to compliance of the Final Plat with this ordinance, conditions of zoning approval, and the regulations of other City departments and State agencies as appropriate. The administrator shall have final staff authority to determine the applicability of any and all comments under this ordinance or conditions of zoning approval.
- (D) The administrator may not approve any Final Plat whereon is shown or by which is otherwise created a lot that would present particularly severe and unusual difficulties for construction of a building, which would clearly require a variance to be reasonably usable, or which is otherwise "unbuildable" due to the presence of floodplain, unusual configuration, lack of public utilities, or for any other reason.
- (E) The subdivider shall be responsible for compliance with all codes, regulations, zoning requirements and for the satisfaction of all the comments of the administrator.
- (F) Final approval by the administrator shall not be shown on the Final Plat until all requirements of these and other applicable regulations have been met, and the administrator has received a completed request for Approval of Development Conformance and an executed Development Performance and Maintenance Agreement, prepared in accordance with the requirements of Sections 2-3.14 and 2-3.15.
- (G) The administrator shall further determine that either:

- (1) All improvements to the subdivision required for approval of the Final Plat under the rules and regulations of the City of Perry have been completed in accordance with the appropriate specifications; or
 - (2) All the required improvements have been completed except final grassing, pavement topping, required landscaping, or sidewalks, in which case, a performance guarantee meeting the requirements of Section 2-3.17 shall have been filed by the subdivider with the Development Performance and Maintenance Agreement.
- (H) Payment of the required plat recording fee shall be made to the City prior to approval of the Final Plat.
- (I) Once the administrator has approved the Final Plat and all other affected departments and agencies of government as required have certified compliance in writing, the administrator shall sign the final plat, certifying that all the requirements of this ordinance and the conditions of zoning approval have been met, and that all other affected departments and agencies having jurisdiction have, if required, approved the plat. The Final Plat shall not be deemed approved until it has been signed by the administrator.
- (J) Recordation of Approved Final Plat.
- (1) The administrator will forward the executed deeds for the streets, lands, and easements as well as the Development Performance and Maintenance Agreement and documents required under Section 2-3.15, to the City Council for approval.
 - (2) Once the final subdivision plat has been certified and the City Council approvals have been granted, it shall be recorded by the administrator, or by the applicant with the administrator's approval, with the Clerk of the Superior Court.
 - (3) If recorded by the applicant, one copy of the recorded plat shall be filed by the applicant with the records of the Community Development Department, showing the map book and page numbers where the plat is recorded.

2-3.14. *Certificate of Development Conformance.*

(A) *Pre-requisite to Final Plat or Certificate of Occupancy Approval.*

- (1) Approval of a Certificate of Development Conformance for any part of a project included in a site plan permit shall be a prerequisite to the approval of a final plat for a subdivision or issuance of a certificate of occupancy for any part of a project included in a site plan permit, except for single-family and two-family residential structures.
- (2) The approval shall reflect the owner's certification that all site work and construction has been accomplished according to the terms of approved plans and permits, and that all facilities or improvements required by this ordinance comply with appropriate standards, regulations, codes, and ordinances. Such approval shall be revoked in cases of fraud or whenever unauthorized changes are made to the site without the benefit of required permits.

(B) *Submission Requirements.*

- (1) Upon completion of the project or a phase of the project as authorized for construction by the site plan permit, the owner shall file a Certificate of Development Conformance with the administrator along with record "as-built" drawings of the water system, sanitary sewer improvements, natural gas facilities, if any, all stormwater facilities and modifications to the limits of the 100-year floodplain (if any), along with deeds for all streets, stormwater ponds, easements, and other lands intended for dedication to the public.
- (2) The Certificate of Development Conformance shall be accompanied by a Development Performance and Maintenance Agreement completed in draft form. If the owner is a corporation, the documents shall be signed by the President or other authorized officer, and either the corporate secretary shall attest to the signature and affix the corporate seal, or a Certificate of Corporate Resolution shall also be submitted. See Administrative Manual for examples of such instruments.

- (C) *Approval.* Following final inspection and approval of all record "as-built" drawings, the administrator shall approve the Certificate of Development Conformance.

2-3.15. *Project Closeout and Continuing Maintenance.*

- (A) *Development Performance and Maintenance Agreement.* Based upon the approved Certificate of Development Conformance, the owner shall file a final Development Performance and Maintenance Agreement with the

administrator, along with any required Certificate of Corporate Resolution and performance or maintenance surety, as a prerequisite to the approval of a final plat for a subdivision or issuance of a certificate of occupancy for any part of a project included in the site plan permit, except for single-family and two-family residential structures. The Development Performance and Maintenance Agreement (see Administrative Manual for an example) shall include the following:

- (1) *Performance*: If applicable, agreement to complete required improvements yet to be completed (e.g., grassing, topping, sidewalks, required landscaping) by a date certain, and to provide performance surety to guarantee such completion in accordance with Section 2-3.17. Final landscaping shall be provided in accordance with a schedule acceptable to the administrator. The developer may be allowed up to nine months in which to finish the other designated improvements, after the date of approval of the Certificate of Development Conformance.
- (2) *Maintenance*: Agreement to maintain and repair or restore as necessary all street, water system, sanitary sewer, drainage, and landscaping improvements as required by this ordinance, whether public or private, and to provide maintenance surety to guarantee such maintenance in accordance with Section 2-3.16. Repairs shall be made for any deficiencies identified within the maintenance period or the maintenance surety shall be called to complete same.
- (3) Indemnification of the City against all liability for damages arising as a result of errors or omissions in the design or construction of the development for a period of twenty years. If liability is subsequently assigned or transferred to a successor in title or other person, a copy of such legal instrument shall be filed with the Superior Court of Houston County or Peach County, as applicable. Failure to record such instrument shall not affect the assignment of responsibility for liability indemnification.

2-3.16. *Maintenance Warranty*. The owner shall be responsible for the full cost of maintenance after completion of all improvements required by this ordinance, whether public or private, in accordance with the Development Performance and Maintenance Agreement for the project and the provisions of this Section.

(A) *Maintenance Surety Required*.

- (1) Prior to approval of a final subdivision plat, or issuance of a certificate of occupancy for a multifamily or nonresidential development project, a maintenance warranty in a form of surety as described in this Section is required for all stormwater facilities, water system improvements, sanitary sewer facilities, and for all street and stormwater drainage improvements shown on the record "as-built" surveys, and for all landscaping specifically required by this ordinance.
- (2) The provision of such surety shall not limit the owner's responsibility for the full cost of maintenance, repair, or restoration during the maintenance period of all improvements required by this ordinance and included in the pertinent Development Performance and Maintenance Agreement.

(B) *Maintenance Period*.

- (1) *Start date*: For a subdivision, the start of the maintenance period shall be the date of final subdivision plat approval. For a multi-family or nonresidential development project, the start of the maintenance period shall be the date of issuance of the certificate of occupancy.
- (2) The maintenance period shall extend for 24 calendar months from the start date, above, or from the date of completion and City approval of the last deferred improvement covered by a Performance Guarantee, whichever occurs later.
- (3) The maintenance period will be extended for staged or phased developments in those cases that meet the provisions of Section 2-3.16(E).

(C) *Maintenance Surety Standards*.

- (1) For continuing maintenance of the water system improvements, sanitary sewer facilities, stormwater facilities and for maintenance of the street and stormwater drainage improvements, the following shall apply:
 - i. The maintenance surety shall be in the form of a valid irrevocable letter of credit issued by a bank or other reputable financial institution chartered to do business in the State of Georgia. Such letter of credit must comply with the requirements of Section 2-3.16(D).
 - ii. The value of the maintenance surety shall be equal to 33% of the cost of construction of the water, sanitary sewer, stormwater facilities, street and stormwater drainage improvements shown on the as-built surveys and as estimated for deferred improvements under Section 2-3.17(B). Copies of contractor agreements or actual invoices paid, or as otherwise determined by the administrator, shall evidence the cost of construction.
 - iii. The maintenance surety shall include the estimated cost for maintenance of continuing operations of the stormwater drainage and detention pond facilities during the maintenance

period. Maintenance shall include repair of erosion controls, removal of silt from detention ponds and other items pertinent to the continuing operation of the stormwater drainage system for the development.

- (2) A maintenance surety for continued compliance with the buffer and landscaping requirements of this ordinance, as applicable, shall be in the form of a landscaping warranty. The landscaping warranty shall provide for the replacement or restoration of any or all plantings and landscape material for a period of 12 calendar months from the date of City approval following installation of such plantings and landscape material. Such warranty shall be in a form acceptable to the City (see Administrative Manual for an example).
- (3) Repairs shall be made for any deficiencies identified in the covered improvements within the maintenance period or the surety shall be called by the City to complete same.

(D) *Letter of Credit for Maintenance Surety.* The letter of credit shall be in a form acceptable to the City (see Administrative Manual for an example). The executed letter of credit shall be submitted with the final Development Performance and Maintenance Agreement and shall certify the following:

- (1) That the issuer guarantees funds as an assignment in an amount no less than the total amount determined in accordance with Section 2-3.16(C).
- (2) That the issuer guarantees that any liens or encumbrances that exist or may be placed on the improvements will not become the responsibility of the City under any circumstances.
- (3) That if the owner fails to maintain, repair, replace or restore each of the specified improvements within the maintenance period, upon written demand of the administrator the issuer will pay to the City immediately, and without further action, the full amount of the total assignment stated in the letter of credit (less the actual cost of covered improvements expended as of the date of demand and accepted by the City as to reasonableness).
- (4) That the letter of credit shall not be terminated less than 60 calendar days after the date of the end of the maintenance period as contained in the pertinent Development Performance and Maintenance Agreement, may not be withdrawn, or reduced in amount, and will be automatically renewed on a month-to-month basis until released in writing by the administrator.

(E) *Phased Developments.*

- (1) In cases where a second phase or any other later stage of a subdivision or site development project will utilize the streets, water system improvements, sanitary sewer facilities, or drainage facilities provided in the original or an earlier phase of the project, the maintenance surety for the second or later phase of the project shall include the streets, water system improvements, sanitary sewer facilities, or drainage facilities located in the original or earlier phase of the project for the duration of the maintenance period of the second or later phase of the project.
- (2) In cases where a second phase or any other later stage of a subdivision or site development project will utilize the same streets, water system improvements, sanitary sewer facilities, or drainage facilities as those covered by an active maintenance surety for the original or earlier phase of the project, said maintenance surety for the original or earlier phase of the project shall be extended in amount and duration to continue coverage of the original or earlier phase throughout the maintenance period of the second or later phase of the project.

(F) *Release of Maintenance Warranty.*

- (1) Prior to the end of the maintenance period, the administrator will have the improvements covered by the maintenance warranty inspected and identify any repairs, replacement, or restoration needed to maintain or return the improvements to full compliance with the "as-built" standards and requirements for such improvements required by this ordinance.
- (2) The developer shall undertake and complete all maintenance, repairs, replacement, or restoration identified in paragraph (1) of this subsection in a timely manner.
- (3) When the warranty work identified in paragraph (1) of this subsection has been completed by the developer and approved by the administrator for conformity with this ordinance, the maintenance warranty shall be released by the administrator, and written notice of such release shall be provided to the issuer of the letter of credit.
- (4) The maintenance surety shall be automatically extended by the issuer beyond the expiration date stated in such surety on a month-to-month basis if all inspections of warranty work required by paragraph (1) of this subsection have not been completed to the satisfaction of the administrator, prior to said expiration date stated in the maintenance surety, unless written demand for nonperformance is received by the issuer in accordance with Section 2-3.17(D).

2-3.17. *Performance Guarantee.* As a prerequisite to approval of a final plat for a subdivision or a certificate of occupancy for a multifamily or nonresidential development project, completion of certain improvements required under this ordinance may be deferred in accordance with the Development Performance and Maintenance Agreement for the project and the provisions of this Section.

(A) *Posting Performance Guarantee.*

- (1) The applicant may post a performance guarantee for the construction of certain deferred improvements required under this ordinance as an attachment to the Development Performance and Maintenance Agreement and of a type acceptable to the City Council.
- (2) Improvements eligible for deferral under performance surety are limited to final topping of streets, installation of sidewalks, installation of plantings and landscape materials, and grassing of street shoulders and easements, as applicable to the project. All other improvements required by this ordinance shall have been completed by the developer, inspected, and approved by the administrator, and covered by the Certificate of Development Conformance for the project.
3. Such performance guarantee shall comply with all statutory requirements and shall be satisfactory to the City as to form, sufficiency, and manner of execution. (See Administrative Manual for examples.) The period within which required improvements must be completed shall be specified in the Development Performance and Maintenance Agreement and shall not exceed nine months from the date of approval of the Certificate of Development Conformance unless an extension of an additional three calendar months has been granted by the administrator.
4. The expiration date of the performance guarantee shall be no less than 60 days following the date established in the Development Performance and Maintenance Agreement for completion of the deferred improvements. "Completion of the improvements" shall mean the final inspection and approval by the administrator, or his designee, of the improvements in accordance with the design and construction standards of this ordinance.
5. Such guarantee shall be approved by the administrator as to amount and type of surety and conditions satisfactory to the administrator. The administrator may subsequently, upon proof of difficulty, approve extension of the completion date set forth in such guarantee for a maximum period of up to three additional months.

(B) *Cost of Improvements.* The cost of the improvements to be completed shall be established based on a properly executed and binding contract between the developer and the contractor selected to perform the work and shall be supported by detailed cost estimates prepared by the contractor or a qualified design professional. Said contract and cost estimates shall be determined by the administrator to be sufficient to cover the full cost of design, surveying, construction, inspection, and preparation of as-built surveys, construction management and all other costs of the improvements.

(C) *Restrictions Pending Completion of Improvements.*

- (1) No building permit shall be issued on any lot until continuous paved road access to the lot from the public road system has been established in accordance with the provisions of this ordinance. "Established" means having received final inspection and approval by the administrator of the road in accordance with the design and construction standards of this ordinance.
- (2) For subdivisions and development projects that are staged in multiple phases, each phase must have continuous paved road access from the public road system to the boundary of the phase in accordance with the provisions of this ordinance. No phase can be approved for final plat recordation if its access depends on improvements that have not been completed in an earlier phase.

(D) *Failure to Complete Improvements.*

- (1) In those cases where a performance guarantee has been posted and required improvements have either not been installed within the terms of such performance guarantee or have not progressed in a timely manner such that completion within the period of the guarantee can be achieved, the administrator may thereupon declare the guarantee to be in default and require that the issuer of the performance guarantee turn over to the City such funds that are due and payable under the terms of the guarantee.
- (2) A default also shall be deemed to have occurred on the part of the owner if, in the sole judgment of the administrator, the owner has:
 - a. Abandoned or unnecessarily delayed the performance of its obligations under the pertinent Development Performance and Maintenance Agreement; or,
 - b. Renounced or repudiated its obligations under the said Agreement; or,
 - c. Clearly demonstrated through insolvency, delay or otherwise, that its obligations under the said Agreement cannot be completed within the time allotted under the said Agreement; or,

- d. Has not complied with or is not in compliance with the minimum standards of this ordinance for any one or more of the subject improvements, or,
- e. Transferred ownership of any portion of the project to a third party without assignment of the remaining responsibilities hereunder; or,
- f. Caused or experienced any damage to new or previously existing improvements creating an emergency situation.

(E) *Return of Guarantee.* When the improvements have been completed and inspected and approved by the administrator for conformity with this ordinance, the performance guarantee shall be released by the administrator.

(F) *Types of Acceptable Performance Guarantees.*

(1) *Letter of Credit.* The developer shall provide a valid irrevocable letter of credit from a bank or other reputable financial institution chartered to do business in the State of Georgia, for approval by the administrator. The letter of credit shall be in a form acceptable to the City (see Administrative Manual for an example). The letter of credit shall certify the following:

- a. That the issuer guarantees funds in an amount equal to 110% of the cost, as established under Section 2-3.17(B), of completing all required improvements.
- b. That the issuer guarantees that any liens or encumbrances that exist or may be placed on the improvements will not become the responsibility of the City under any circumstances.
- c. That if the developer fails to satisfactorily complete the specified improvements within the required period or is otherwise in default under Section 2-3.17(D), upon written demand of the administrator the issuer will pay to the City immediately, and without further action, the full amount of the total assignment stated in the letter of credit, less the actual cost of covered improvements expended as of the date of demand. Such expenditures shall be evidenced by invoices and proof of payments and shall be subject to review and acceptance by the City as to reasonableness.
- d. That the letter of credit shall not be terminated less than 60 calendar days after the date of performance completion as contained in the pertinent Development Performance and Maintenance Agreement, may not be withdrawn, or reduced in amount, and will be automatically renewed on a month-to-month basis until released in writing by the administrator.

(2) *Performance or Surety Bond.* If a developer prefers not to post an irrevocable letter of credit, the City Manager may allow the developer to post a performance bond as follows:

- a. A performance bond must be provided by a construction bonding or insurance company authorized to do business in the State of Georgia.
- b. The performance bond shall be in a form acceptable to the City (see Administrative Manual for an example).
- c. A performance bond shall certify the following:
 - i. That the bonding or insurance company guarantees funds in an amount equal to 150% of the cost, as established under Section 2-3.17(B), of completing all required improvements.
 - ii. That the bonding or insurance company guarantees that any liens or encumbrances that exist or may be placed on the improvements will not become the responsibility of the City under any circumstances.
 - iii. That if the developer fails to complete the specified improvements within the required period or is otherwise in default under Section 2-3.17(D), upon written demand of the administrator the bonding or insurance company will pay to the City immediately, and without further action, the full amount of the limit of insurance stated in the bond, less the actual cost of covered improvements expended as of the date of demand. Such expenditures shall be evidenced by invoices and proof of payments and shall be subject to review and acceptance by the City as to reasonableness.
 - iv. That the bond shall not be terminated less than 60 calendar days after the date of performance completion as contained in the pertinent Development Performance and Maintenance Agreement, may not be withdrawn, or reduced in amount, and will be automatically renewed on a month-to-month basis until released in writing by the administrator.

(3) *Cashier's Check or cash.* In lieu of a letter of credit or bond the developer may provide cash or a cashier's check drawn from a bank chartered to do business in the State of Georgia. The amount of cash or cashier's check shall be in an amount equal to 110% of the cost, established under Section 2-3,17(B), of completing all required improvements.

2-3.18. *Certificate of occupancy.* A certificate of occupancy shall be required in advance of occupancy or use of a building hereafter erected; for a building hereafter altered to affect height, or setbacks; and for a change of type of occupancy or use of any building on premises. A certificate of occupancy shall not be issued until the administrator has issued a certificate of development conformance.

2-3.19. *Interpretations by the administrator.*

- (A) *Authority.* Interpretations of this chapter shall be made by the administrator, including interpretations of the text of this chapter, interpretations of the zoning district boundaries, interpretations of whether an unspecified use falls within a use classification, use category, or use type allowed in a zoning district, and interpretations of procedures and application requirements for permits.
- (B) *Initiation.* A written interpretation may be requested by the city council, the planning commission, the historic preservation commission, any resident, any landowner, or any person having rights in contract in land in the city, or their authorized agent. The request shall be in writing and provide sufficient information and detail necessary to make an interpretation.
- (C) *Rendering of interpretation.* After the request for interpretation has been determined provide sufficient information and detail to make an interpretation, the administrator shall review and evaluate the request in light of the comprehensive plan, this chapter, the zoning district map, and other relevant codes and statutes, and the render an interpretation. The administrator may consult with the city attorney and other city staff before rendering an interpretation.
- (D) *Form.* The interpretation shall be in writing and sent to the requestor by regular mail or email.
- (E) *Appeal.* Any person aggrieved by a written interpretation by the administrator may appeal the interpretation pursuant to subsection 2-2.1, variances and appeals of administrative decisions.
- (F) *Official record.* The administrator shall maintain a record of written interpretations that shall be available for public inspection during normal business hours.