

ARTICLE XI

EXCEPTIONS AND MODIFICATIONS

Section 110B. Height Limits.

Chimneys, water, fire, radio, and television towers, church spires, domes, cupolas, state towers and scenery lofts, cooling towers, roof signs, elevator bulkheads, smokestacks, flag poles, parapet walls, sills, granaries, windmills, and similar structures and their necessary mechanical appurtenances may be erected above the height limits herein established.

Section 111. Planned Unit Development (PUD).

Permitted uses for Planned Unit Development Districts are established in Section 84 of this Ordinance. Use, area, bulk, and height requirements shall be determined by the procedures set forth in this section.

111.1. Specific Requirements. In order to qualify for a Planned Unit Development District zoning classification a proposed development must first meet the following specific requirement:

111.1.1. The area proposed shall be in one (1) ownership or management, or if in several ownerships, the application for amendment to this Ordinance shall be filed jointly by all of the owners of the properties included in the plan.

111.2. Procedure for Approval of a Planned Unit Development (PUD) District. The filing of a plan for a Planned Unit Development shall constitute a request for an amendment to this Ordinance and shall meet the requirements specified in this Ordinance. In addition, the following regulations shall apply:

111.2.1. Two (2) copies of a preliminary site plan shall be submitted to the Commission.

111.2.2. 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, accessways, curbcuts, traffic control, height and setback of buildings, to protect adjoining uses, or to protect the PUD from adjacent uses.

111.2.3. Approval by the Council subsequent to a public hearing constitutes creation of the Planned Unit Development (PUD) District.

111.3. Preliminary Site Plan Required. The preliminary site plan which accompanies an application for approval of PUD shall show the following:

111.3.1. The proposed title of the project and the name of the engineer, architect, designer, or landscape architect, and the development.

111.3.2. The north point, scale, and date; the scale of the site plan shall be as follows:

- (1) For projects containing fifty (50) acres or more, not more than one hundred feet (100') to one-inch (1").
- (2) For projects containing less than fifty (50) acres, not more than fifty feet (50') to one-inch (1").

111.3.3. Existing zoning and zoning district boundaries and proposed changes in zoning.

111.3.4. 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.

111.3.5. The location and size of existing and proposed streets, alleys, driveways, curbcuts, entrances and exits, loading areas (including number of parking and loading spaces), and outdoor lighting systems.

111.3.6. The location of proposed lots, setback lines, and easements, and proposed reservations for parks, parkways, playgrounds, school sites, and open spaces.

111.3.7. The location and height of all proposed main and accessory buildings for all structures except single and two family dwellings.

111.3.8. Location, height, and material of all fences, walls, screens, plants and landscaping.

111.3.9. Proposed location, intended use, and character of all buildings. For residential structures, show type and number of dwellings.

111.3.10. Location, character, size, and height and orientation or proposed signs.

111.3.11. A location map showing the position of the proposed development in relationship to the surrounding area.

111.3.12. 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.

111.3.13. 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.

111.3.14. A detailed legal description of the location of the site.

111.3.15. 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.

111.4. 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 (1) of the final site plan maps shall include topographical contour lines at intervals no less than five feet (5').

111.5. 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.

111.5.1. The plan shall conform to the purpose of this resolution as stated in Article I.

111.5.2. Access to all developed property shall be sufficient to provide for an acceptable level of fire protection.

111.6. Miscellaneous Provisions.

111.6.1. 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.

111.6.2. Deed Restrictions. The Commission may require filing of deed restrictions to help carry out the intent of this resolution subject to the same penalties as established in Article XVI.

111.7. Site Design Requirements.

111.7.1. Location of District. A PUD District may be established anywhere within the City of Perry, Georgia.

111.7.2. Site Design, General. The proposed development must be designated so as to produce an environment of stable and desirable character not out of harmony with it's surrounding neighborhoods. The review by the Commission shall consider the following design elements:

111.7.2.1. Privacy. Personal and individual privacy shall be maintained and balanced with the provision of public and common areas.

111.7.2.2. 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.

111.7.2.3. 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 66 so that the vehicles are substantially hidden from the street.

111.7.2.4. 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 Health Department determines that an increased area or width is necessary for health reasons.

111.7.2.5. Setbacks. The Commission will establish setback requirements for all structures.

111.7.2.6. 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 worthy of preservation.

111.7.2.7. Street Standards. All streets in the PUD Plan should be standard streets.

111.7.2.8. Other Building Requirements. The Commission shall determine other development standards.

Section 112. Yard Requirements.

Yard requirements shall be modified subject to the following conditions:

112.1. On double frontage lots, the required front yard shall be provided on each street.

112.2. Whenever a rear property line of a lot abuts upon an alley one-half (1/2) of the alley width shall be considered as a portion of the required rear yard.

112.3. An unroofed porch shall project into a required front yard for a distance not exceeding ten feet (10').

112.4. The front and side yard requirements may be waived where dwellings occupy space above commercial uses upon approval of the Commission.

Section 113. Access to Streets.

Access to streets shall be maintained in accordance to the following requirements:

113.1. Each principal use shall be located on a lot or parcel which provides frontage on a street having a right-of-way of not less than thirty feet (30').

113.2. Any additional dwelling shall have access to a street by means of a passageway open to the sky at least fifteen feet (15') in width. Sec.113-Rev.12.2.03

Section 114. Lots of Record.

Where the owner of a lot of record or his successor to the title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance, the following exceptions may be allowed:

114.1. Land Use. Where a lot, tract or parcel of land is an area or width that does not conform to the requirements of the district in which it is located, the lot may be used for a single-family dwelling in the Residential Districts, (R-1, R-2, R-3, R-MH). A two-family dwelling may be constructed in an R-2 or R-3 Residential District provided the lot to be used has a minimum area of five-thousand (5,000) square feet and a minimum lot width at the building line of fifty feet (50') and provided that it is connected to a public sewer.

114.2. Re-platting. When two (2) or more adjoining and vacant lots with continuous frontage are in a single ownership at the time of application and such lots have a frontage or lot area less than is required by the use district in which they are located, such lots shall be platted or re-parceled so as to create one (1) or more lots which conform to the minimum frontage and area requirements of the use district.

114.3. Improvements. Buildings or structures located on sub-standard lots of record may be improved only when the addition of adequate plumbing is required by the laws and ordinances of the Council, provided that the yard requirements in Section 91 are adhered to.

114.4. Side Yard Requirements. The side yard requirements for sub-standard lots of record may be improved only when the addition of adequate plumbing is required by the laws and ordinances of the Council, provided that the yard requirements in Section 91 are adhered to.

114.5. Expansion of Existing Dwelling on Sub-Standard Lots of Record. Where a residential lot is an area or width that does not conform to the requirements of the district in which it is located, and said lot has an existing dwelling, said dwelling may be improved or expanded provided the following requirements are met:

- (1) Proposed improvements or expansions comply with current setback requirements.
- (2) Total lot coverage including proposed improvements or expansions do not exceed current allowable maximum coverage.

Section 115. Setbacks.

115.1. Front and Side Yard Setbacks for Dwellings. The setback requirements of this Ordinance for side yards on corner lots and/or front yards shall not apply to any lot where the average setback on developed lots located, wholly or in part, 100 feet on each side of such lot and within the same block and zoning district and fronting on the same streets as such lot, is less than the minimum required setback. In such cases, the setback on such lot may be less than the required setback but not less than the average of the existing setbacks on the existing developed lots.

115.2. Zero Side Yard Setbacks. Upon review and approval by the Commission, the side yard setback requirement for single-family dwelling lots may be reduced to allow a zero side yard setback on one side of a lot providing the following conditions are met.

115.2.1. Any reduction in one yard requirement shall result in a corresponding increase in the side yard requirement for the opposite side yard. In this manner the overall side yard requirement of the district shall be met.

115.2.2. Front yard, rear yard and corner side yard requirements of the district shall not be modified.

115.2.3. Side yard setback requirements shall not be modified for an individual lot unless it is part of a block in which each lot's side yard setback is to be modified. The arrangement of modified side yard requirements shall allow for an open yard area between each dwelling unit.

115.2.4. The developer of a subdivision for which modifications to the side yard setback requirements are requested shall furnish to the Commission a copy of

proposed deed restrictions, conditions, or covenants. Such covenants shall include at a minimum, provisions for:

- (1) A maintenance easement which will allow for the maintenance of exterior dwelling walls facing a zero setback line.
- (2) A requirement that dwelling walls facing a zero setback be windowless.

115.2.5. The developer of a subdivision for which modifications to the side yard setback requirements are requested shall be fully responsible for constructing the development in compliance with the approved final plat. Therefore, the applicant shall place a disclaimer in black ink on each page of the final plat which boldly states: **“The City of Perry assumes no responsibility or liability for any changes to this final plat made during construction or any material defects in construction of the development resulting from noncompliance with the requirements of this final plat that were not expressly authorized by the Perry Planning Commission.”** No final plat for a development utilizing the zero side yard setback option that does not contain the aforementioned disclaimer shall be approved by the Commission.

115.2.6. If during construction of an approved development for which modifications to the side yard setback requirements were approved, the need for changes to the final plat arise, the applicant shall petition the Zoning Enforcement Officer in writing for approval of said changes prior to construction in accordance with the proposed changes. A written petition for amendment of an approved final plat shall contain a clear written description of the requested change, a revised final plat illustrating the requested change, an assessment of all properties that would be affected by the requested change (including properties within the development and adjacent to the development), and a rationale outlining the specific need for the requested change. The Zoning Enforcement Officer may approve or disapprove changes that will not affect overall development densities or result in a significant change to the overall development concept. All other requested changes shall be referred by the Zoning Enforcement Officer to the Commission for approval or disapproval. If the requested changes will affect any property abutting the development, the Commission may require a public hearing on the proposed change. The Commission may further require that the developer submit a copy of the written petition for final plat amendment (absent a copy of the revised final plat) via certified mail, return receipt requested to the owners of each affected abutting property at least fifteen (15) days prior to the scheduled public hearing.

115.2.7. The developer of a subdivision for which modifications to the side yard setback requirements are requested shall prepare an “As-Built” plat for approval by the Commission after construction improvements have been completed and

prior to recording of the Final Plat. The “As-Built” plat shall indicate the true location of all construction improvements, property lines, and maintenance easements as determined by a transit survey of the development as constructed. If the Commission determines that any changes to the final plat have been made during construction without Commission approval as specified in Section 115.2.6, the developer may be required to repair any such unauthorized changes prior to recording of the final plat.

Section 116. Additional Dwellings on a Single Lot.

The Commission, after a review of an application and public hearing thereon, may grant a special exception to permit one additional single-family dwelling, or manufactured home on the same lot or parcel of land as that of the main dwelling provided that:

116.1. Each additional dwelling conforms to the minimum lot area, minimum width and maximum lot coverage requirements for such dwellings as set forth in Section 90, and conforms to the setback requirements as set forth in Section 91.

116.2. The arrangement of such additional dwellings are in such a manner that if the lot or parcel of land is ever subdivided, no nonconforming lots or nonconforming buildings are created; and

116.3. Each additional dwelling or manufactured home has access to a public street by means of an unobstructed passageway of at least fifteen feet (15’) in width.

116.4. Special exceptions to permit manufactured homes as an additional dwelling on a single lot shall be effective for a period of one (1) year and may be renewed by the Commission.

Section 117. Animals in a Residential District.

Sec-117-Rev.1.05.10

Animals may be kept in the residential districts subject to the district regulations and the following conditions:

117.1. It shall be unlawful for there to be more than six (6) dogs and/or cats, or any combination thereof, on any residential lot subject to the following exceptions:

(1) Pet owners in compliance with any prior ordinance limiting the number of animals shall be allowed to continue to keep said number of animals.

(2) A litter of puppies or kittens will be permitted to remain on property for a period of 12 weeks after their birth.

(3) Limitation does not apply to licensed foster care home operators, breeders, or other individuals who have been granted a waiver by the Mayor and Council consistent with the procedures and criteria outlined in City Code Section 4-40.

117.2. Animals may be kept in the residential districts subject to the district regulations and the following conditions:

(1) The minimum lot area upon which a horse or pony may be kept in a residential district is one (1) horse per one (1) acre.

(2) The minimum lot area upon which fowl may be kept is one (1) acre. The maximum number of fowl that may be kept is ten (10) fowl per one (1) acre.

Section 118. Fences and Walls.

A fence or wall not exceeding a height of six feet (6') shall be permitted in all districts without a permit from the Commission. Any fence or wall exceeding six feet (6') in height except for such fences or walls located in M-1, Wholesale and Light Industrial; and M-2, General Industrial District, or fences or walls serving public utility or recreational areas must have the approval of the Commission. Any fence or wall allowed may extend up to and adjacent to a public right-of-way, except for arterial or collector streets where the setback shall be ten feet (10') so long as the allowed fence or wall does not interfere with vision clearance of vehicular traffic or constitute an obstruction to vision which, in the discretion of the Zoning Enforcement Officer, would create a condition hazardous or dangerous to the general public. All fences or walls shall also meet the approval of the city engineering department and shall be removed at the owner's expense when required for public improvements to rights-of-way.

Section 119. Conservation Subdivision Option.

Section 119 – Created - 8.1.06

119.1. Purpose. The purpose of the conservation subdivision is to:

1. Preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat;
2. Preserve important historic and archaeological sites;
3. Permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development;
4. Reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development;
5. Promote interconnected greenways and corridors throughout the community;

6. Promote contiguous greenspace with adjacent jurisdictions;
7. Encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of parks and community facilities as focal points in the neighborhood;
8. Promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles;
9. Conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of conservation space; and
10. Protect prime agricultural land and preserve farming as an economic activity.

To achieve these objectives, an applicant for a permit to construct a residential development within the R-1, R-2, R-2A, R-3 and R-MH residential zones may elect, with the written consent of the Commission, to submit a subdivision plan utilizing the conservation subdivision option, subject to the provisions set forth in this section. The Commission may permit, upon determination that the proposed development complies with all requirements of this Section, variations in lot area, setbacks, and other dimensional requirements, and a variety of residential building types as necessary to ensure that the conservation subdivision design will achieve the objectives identified above.

119.2. Procedures. The procedures and submission requirements for approval of a conservation subdivision shall be the same as those for a standard subdivision as specified in Article XII of this Ordinance, except as specified below.

119.2.1. Prior to submission of an application for subdivision approval, the applicant shall request written consent to prepare a subdivision plat using the Conservation Subdivision Option from the Commission at a regular or special meeting. Such request must be submitted to the Zoning Enforcement Officer at least ten (10) days prior to a regularly scheduled Commission meeting. The Commission shall act on the request on or before the second regularly scheduled meeting following the date of submission, unless the request includes a conceptual plan review as specified in Section 119.2.3. When conceptual plan review is requested or required, the Commission shall act on the letter of consent request within forty-five (45) days of the meeting at which the Commission receives the request.

119.2.2. The Commission's letter of consent shall, at a minimum, reiterate the objectives of the conservation subdivision development option and refer the applicant to the specific Section of the Land Development Ordinance containing the required standards for conservation subdivision development. A letter of consent shall not constitute nor imply Commission approval of the development plan.

119.3. General Regulations

119.3.1. Applicability of Regulations. This Conservation Subdivision option is available with Planning Commission approval in all residential zoning districts, including R-1, R-2, R-2A, R-3 and R-MH residential districts. Applicant shall comply with all other provisions of the zoning code and all other applicable laws, except those that are incompatible with the provisions contained herein.

119.3.2. Ownership of Development Site. The tract of land to be subdivided may be held in single and separate ownership or in multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and common responsibility.

119.3.3. Housing Density Determination. The maximum net density of a Conservation Subdivision shall not exceed the following:

R-1	1.7 dwellings per acre with 30% Conservation Space 2.0 dwellings per acre with 40% Conservation Space 2.4 dwellings per acre with 50% Conservation Space
R-2 & R-2A	2.1 dwellings per acre with 30% Conservation Space 2.5 dwellings per acre with 40% Conservation Space 2.9 dwellings per acre with 50% Conservation Space
R-3 & R-MH	2.6 dwellings per acre with 30% Conservation Space 3.0 dwellings per acre with 40% Conservation Space 3.4 dwellings per acre with 50% Conservation Space

119.3.4. Development Requirements. Conservation subdivisions shall meet the following requirements:

1. Minimum subdivision size shall be ten (10) acres.
2. Minimum lot width shall be sixty (60) feet as measured at the front building line.
3. There is no minimum lot area requirement.
4. The maximum allowable lot coverage shall be fifty percent (50%).
5. The minimum right-of-way width for minor residential streets shall be forty (40) feet.
6. The minimum setbacks shall be as follows:

	<u>R-1</u>	<u>R-2 & R-2A</u>	<u>R-3 & R-MH</u>
Front	20'	20'	20'
Interior Side	8'	5'	5'
Exterior Side	20'	20'	20'
Rear	20'	20'	20'

119.4. Application Requirements

119.4.1. Site Analysis Map Required. Concurrent with the submission of a site concept plan, Applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to

ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed Conservation Space will meet the requirements of this article. The preliminary site plan shall include the following features:

1. Property boundaries;
2. All streams, rivers, lakes, wetlands and other hydrologic features;
3. Topographic contours of no less than 10-foot intervals;
4. All Primary and Secondary Conservation Areas labeled by type, as described in Section 1.4 of this Article;
5. General vegetation characteristics;
6. General soil types;
7. The planned location of protected Conservation Space;
8. Existing roads and structures;
9. Potential connections with existing greenspace and trails.

119.4.2. Conservation Space Management Plan Required. A conservation space management plan, as described in Section 119.5, shall be prepared and submitted prior to the issuance of a land disturbance permit.

119.4.3. Instrument of Permanent Protection Required. An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant and as described in Section 119.5, shall be placed on the Conservation Space concurrent with the issuance of a land disturbance permit.

119.4.4. Other Requirements. The Applicant shall adhere to all other applicable requirements of the underlying zoning and Article XII of this Ordinance.

119.5. Conservation Space

119.5.1. Definition. Conservation Space is the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the Conservation Space are restricted in perpetuity through the use of an approved legal instrument.

119.5.2. Standards to Determine Conservation Space.

1. The minimum restricted Conservation Space shall be determined by the zoning district and density as established in Section 119.3.3.
2. The following are considered Primary Conservation Areas and are required to be included within the Conservation Space, unless the Applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this article:
 - a. The 100-year floodplain
 - b. Riparian zones of at least 75 ft width along all perennial and intermittent streams
 - c. Slopes above 25% of at least 5000 square feet contiguous area
 - d. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act
 - e. Populations of endangered or threatened species, or habitat for such species
 - f. Archaeological sites, cemeteries and burial grounds

3. The following are considered Secondary Conservation Areas and should be included within the Conservation Space to the maximum extent feasible.

- a. Important historic sites
- b. Existing healthy, native forests of at least one acre contiguous area
- c. Individual existing healthy trees greater than 8 inches caliper, as measured from their outermost drip line
- d. Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads
- e. Prime agricultural lands of at least five acres contiguous area
- f. Existing trails that connect the tract to neighboring areas

4. Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected Conservation Space but cannot be counted towards the minimum area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface shall be excluded from the Conservation Space.

5. At least 25% of the Conservation Space shall consist of land that is suitable for building.

6. At least 75% of the Conservation Space shall be in a contiguous tract. The Conservation Space shall adjoin any neighboring areas of Conservation Space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected Conservation Space.

7. The Conservation Space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjointing lots shall be provided with safe, convenient access to the Conservation Space.

119.5.3. Permitted Uses of Conservation Space. Uses of Conservation Space may include the following:

1. Conservation of natural, archeological or historical resources;
2. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
3. Walking or bicycle trails, provided they are constructed of porous paving materials;
4. Passive recreation areas, such as open fields;
5. Active recreation areas, provided that they are limited to no more than 10% of the total Conservation Space and are not located within Primary Conservation Areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected Conservation Space.
6. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within Primary Conservation Areas;
7. Easements for drainage, access, and underground utility lines;
8. Other conservation-oriented uses compatible with the purposes of this ordinance.

119.5.4. Prohibited uses of Conservation Space.

1. Golf courses;
2. Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;
3. Agricultural and forestry activities not conducted according to accepted Best Management Practices;
4. Stormwater facilities;
5. Other activities as determined by the Applicant and recorded on the legal instrument providing for permanent protection.

119.5.5. Ownership and Management of Conservation Space.

1. Ownership of Conservation Space. Conservation space shall be owned in fee-simple by a mandatory property owner's association; or other entity approved in advance by the Planning Commission during their normal course of business. The developer shall record the deed to the conservation space prior to, or concurrent with, the recording of the first final subdivision plat. An access easement following the alignment of future public streets is acceptable. However, "pocket parks" or "neighborhood greens" may be deeded concurrent with the unit or phase of the final subdivision plat of which it is a part.

2. Management Plan. Applicant shall submit a Plan for Management of Conservation Space and Common Facilities ("Plan") that:

- a. allocates responsibility and guidelines for the maintenance and operation of the Conservation Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
- b. estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Conservation Space and outlines the means by which such funding will be obtained or provided;
- c. provides that any changes to the Plan be approved by the Planning Commission; and
- d. provides for enforcement of the Plan.

3. In the event the party responsible for maintenance of the Conservation Space fails to maintain all or any portion in reasonable order and condition, the City of Perry may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the Homeowner's Association, or to the individual property owners that make up the Homeowner's Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

119.5.6. Legal Instrument for Permanent Protection.

1. The Conservation Space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

- a. A permanent conservation easement in favor of either:
 - I. a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or

II. a governmental entity with an interest in pursuing goals compatible with the purposes of this ordinance. If the entity accepting the easement is not the City of Perry, then a third right of enforcement favoring City of Perry shall be included in the easement.

- b.** A permanent restrictive covenant for conservation purposes in favor of a governmental entity.
- c.** An equivalent legal tool that provides permanent protection, if approved by City of Perry.

2. The instrument for permanent protection shall include clear restrictions on the use of the Conservation Space. These restrictions shall include all restrictions contained in this article, as well as any further restrictions the applicant chooses to place on the use of the Conservation Space.

Section 119A. Minimum Lot Size Requirements.

The minimum lot size for residential properties (R-1, R-2, and R-3) abutting platted residentially zoned lots shall be at least 85% the size of the established lot. However, the minimum lot size shall not be more than two times the minimum size required in Section 90.1. These standards shall not apply to new or existing multi-family properties.