

OXFORD PLANNING COMMISSION

AGENDA

SEPTEMBER 1, 2020 – 7 PM (Via Teleconference)

Meeting Access Information:

Online: [Click Here](#)

Mobile Number: 1-646-558-8656

Meeting ID: 915 6934 9934

Password: 333974

1. **Opening** – Jonathan Eady, Chair
2. * **Minutes** – We have attached the minutes for August 11, 2020.
3. * **Recommendation on Rezoning Parcels** – The Planning Commission will discuss a recommendation to rezone seven parcels located along the eastside of Emory Street/SR 81 and E. Clark Street. The parcels are currently zoned as Town Center. We have attached a map of the properties under consideration.
4. * **Discussion on Amendments to Chapter 40** – The Planning Commission will discuss amendments to different sections of the city’s zoning ordinances. We have attached a list of code sections that the Planning Commission will begin reviewing during the meeting.
5. **Adjournment**

* Attachments

OXFORD PLANNING COMMISSION

Minutes – August 11, 2020

MEMBERS: Jonathan Eady, Chair; Zach May, Vice Chair; Juanita Carson, Secretary; Mike Ready, Mike McQuaide, and Kibbie Hatfield.

STAFF: Matthew Pepper, City Manager and Zoning Administrator.

GUESTS: Troy and Brenda Willis; Stuart McCanless; Helen Griffin.

OPENING: At 7:02 PM, Mr. Eady called the meeting to order and welcomed the guests.

MINUTES: Upon motion of Mr. Ready, seconded by Mr. McQuaide, the minutes for the meeting of July 13, 2020 were adopted. The vote was 6-0.

TROY AND BRENDA WILLIS DEVELOPMENT PERMIT APPLICATION (1306 Emory Street): The Commission reviewed the development permit application to construct a home on the property located at 1306 Emory Street. During the discussion, the Commission confirmed that the location and type of fencing that will be installed is in accordance with the city's fence ordinance. In addition, Mr. Willis confirmed that a section of an existing wood privacy fence near the back-property line would be removed as part of the project.

The Commission also discussed the proposed garage apartment located behind the home. The Commission confirmed that the apartment would contain two bedrooms, a bathroom, and a small kitchen area. The Commission concluded that the apartment fits the definition of a separate dwelling unit as outlined in the city's code. The Commission recommended that Mr. and Mrs. Willis consider enclosing the breezeway connecting the two structures to ensure that it meets the city's permissible dwelling unit requirements. Further, the Commission explained that the city's building inspector may specify a distance requirement between the home and garage apartment.

Upon motion of Mr. Ready, seconded by Mr. McQuaide, the Planning Commission approved the development permit application to construct a home and install a new driveway and fencing on the property located at 1306 Emory Street. The vote was 6-0.

STUART MCCANLESS DEVELOPMENT PERMIT APPLICATION (1106 Wesley Street): The Commission reviewed the development permit application to replace an existing storage shed on the property located at 1106 Wesley Street. During the discussion, the Commission confirmed the distance of the proposed shed from the existing house and the side and rear setbacks. In addition, the Commission stated that the city's building inspector may require that Mr. McCanless bury the power line running from the house to the proposed shed.

Upon motion of Ms. Hatfield, seconded by Mr. May, the Planning Commission approved the development permit application to replace an existing shed located at 1106 Wesley Street. The vote was 6-0.

HELEN GRIFFIN DEVELOPMENT PERMIT APPLICATION (103 E. Watson Street): The Commission reviewed the development permit application to complete interior and exterior renovations to the existing dwelling located at 103 E. Watson Street. During the discussion, the Commission reviewed the survey of the lot depicting the location of the existing house. The Commission explained that, based on the survey, the house encroaches on the front setback. The setback encroachment triggers the city's nonconforming use provisions of the city's ordinance. The Commission further explained that the house

was built in conformance with the ordinances in place at that time, making it a permitted non-conforming use.

In addition, the Commission explained that, according to the city code, the structure is considered a non-conforming building, situation, and use. The Commission also reviewed the Discontinuance or Abandonment and Repair provisions listed under Section 40-575. The Commission explained that the Service Assessment Inspection Report stated that the amount of repair work necessary to bring the house into a livable condition is above the 50 percent threshold stated in the Repairs provision of Section 40-575. The Commission further explained that the Discontinuance or Abandonment provision precludes individuals from re-establishing a non-conforming use after one year.

During the discussion, the Commission explained the variance process. Given the criteria for a variance and the condition of the house, the Commission explained that it would be difficult for them to recommend a variance to the City Council given the amount of money that would need to be invested in the non-conforming structure. Based on their analysis, the Commission concluded that Ms. Griffin should consider demolishing the existing house and build a new home within the setbacks. They also stated that the building theoretically could be moved to a location on the lot that meets the setbacks but did not recommend it.

The Commission also reviewed the lot size and width and minimum floor area requirements for the R-15 zoning designation. They also explained the documentation required to build a new home. The Commission took no action on the development permit application.

CONVERSATION WITH KELLY ELLIS (814 Emory Street): Mr. Ellis was not able to attend the meeting to discuss in person the development options that are permissible under the Town Center zoning designation. Consequently, the Commission deferred discussion on this item.

OTHER BUSINESS: Mr. Pepper reported that the City Council reviewed the Commission's proposed Minor Variance amendment. He explained that the City Council is in favor of giving authority to the Commission to make reasonable accommodations in a variety of contexts (e.g. – flexibility in permitted non-conforming uses, minor variances, etc.). In addition, Mr. Pepper shared that the city is supportive of the Commission making policy recommendations on amendments to the city's zoning code. The city will explore hiring a third-party to draft modifications to the ordinance under the Commission's direction.

In addition, the Commission discussed the reasoning and implications of assigning the Town Center zoning designation to six properties located on the east side of Emory Street. The Commission will make a recommendation to the City Council to rezone those properties.

The Commission will plan to hold a special called meeting to discuss the zoning code amendment and the rezoning recommendation.

ADJOURNMENT: Mr. Eady adjourned the meeting at 8:12 PM.

Submitted by:

Juanita Carson, Secretary



W Clark St

81

81

E Clark St

81

George St

81

81

E George St

3

4

6

5

2

1

7

List of Sections in Chapter 40 - Zoning

Article IV. Nonconformities

- Sec. 40-575. (4) Repair

Article V. Planning Commission

- Sec. 40-614. Powers and Duties of the Planning Commission

Article VIII. Variances

- Minor Variance Option (not currently included in zoning code)

Article XII. Permits and Certificates

- Sec. 40-841. Development Permit

ARTICLE IV. - NONCONFORMITIES

Sec. 40-573. - Nonconforming lot.

A lot of record, as defined in section 40-3, that does not conform to minimum road frontage requirement or the minimum lot size or minimum lot width requirements for the zoning district in which it is located may be used as a building site, provided that the height, buffer, setback, and other dimensional requirements of the zoning district in which the lot of record is located are complied with or a variance is obtained, and, provided further, that in the case of a lot not served by sanitary sewer the lot area and width meet the current standards and requirements of the Newtown County Health Department for septic tank use.

(Code 1997, § 40-801; Ord. of 2-6-2012, § 1(40-801))

Sec. 40-574. - Nonconforming building or structure.

A nonconforming building or structure, as defined in section 40-3, may be expanded, enlarged, or extended if such expansion, enlargement, or extension is for a use that conforms to the use requirements for the zoning district in which the building or structure is located. Any such expansion, enlargement, or extension of a nonconforming building or structure shall meet the minimum yard, setback, buffer, height, bulk, and other dimensional requirements for the zoning district in which the nonconforming building or structure is located, and all other requirements of this chapter.

(Code 1997, § 40-802; Ord. of 2-6-2012, § 1(40-802))

Sec. 40-575. - Nonconforming use.

A nonconforming use may be continued even though such use does not conform with the use provisions of the zoning district in which the use is located, except as otherwise provided in this section.

- (1) *Change of use.* A nonconforming use shall not be changed to another nonconforming use. A change in tenancy or ownership shall not be considered a change to another nonconforming use, provided that the use itself remains unchanged.
- (2) *Discontinuance or abandonment.* A nonconforming use shall not be re-established after discontinuance or abandonment for one year. Vacancy or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance or abandonment under this subsection. If a business registration is required for the nonconforming use and the business registration pertaining to the use has lapsed for more than six months, the lapse of business registration shall constitute discontinuance.
- (3) *Expansion.* A nonconforming use shall not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except for a use which complies with the zoning district in which the use is located.
- (4) *Repair.* A nonconforming use shall not be rebuilt, altered or repaired after damage exceeding 50 percent of its replacement cost at the time of damage as determined by the Building Inspector, except for a use which conforms with the zoning district in which the use is located, and provided such rebuilding, alteration or repair is completed within one year of such damage.

(Code 1997, § 40-803; Ord. of 2-6-2012, § 1(40-803))

Sec. 40-576. - Nonconforming sign.

See section 40-935 for city sign regulations for provisions regarding nonconforming signs.

(Code 1997, § 40-804; Ord. of 2-6-2012, § 1(40-804))

Sec. 40-577. - Prior nonconformities.

This article shall not be construed as extending the time period for allowance to reestablish a nonconforming use which was nonconforming at the time the ordinance from which this chapter is derived was adopted, as established under the previous zoning ordinance of the City. Nor shall it be construed to grant any other type of relief to a nonconforming use, nonconforming building, or nonconforming situation which did not conform to the city's zoning ordinance as previously adopted.

(Code 1997, § 40-805; Ord. of 2-6-2012, § 1(40-805))

Sec. 40-578. - Correction of nonconforming situations.

- (a) *Intent.* It is the intent of this section to require the complete correction of nonconforming situations at the time of any building addition or significant modification of a use or development on a given parcel of land, if such nonconforming situation can physically be made to comply with the requirements of this chapter. It is the intent of this section to require the reduction in the extent of nonconforming situations at the time of any building addition or significant modification of a use or development on a given parcel of land, if such nonconforming situation cannot be physically be made to comply entirely with the requirements of this chapter. It is the intent of this section to provide authority to the Zoning Administrator to administer the provisions of this section in a manner that meets these intentions, and that the Zoning Administrator shall exercise that authority, subject to more specific guidance as provided in this section.
- (b) *Determination of nonconforming situations.* For any proposed building or development, or modification of a building or development, it shall be the duty of the Zoning Administrator to identify the extent to which the improvements on land on which the building or development is proposed constitutes a nonconforming situation, as defined in section 40-3. The Zoning Administrator shall conduct a review and identify such nonconforming situations at the time plans for such proposed building or development are submitted for review, and at any earlier opportunity, if presented. In the event that one or more nonconforming situations are found to exist by the Zoning Administrator, they shall be documented and notice of the need to correct or reduce the nonconforming situations shall be provided by the Zoning Administrator to the building or development applicant.
- (c) *Correction of nonconforming situations.* In determining the need to completely correct or reduce the noncompliance of nonconforming situations, the Zoning Administrator shall be guided by the following standards:
 - (1) *Strict compliance.* A standard of strict compliance (complete correction of all nonconforming situations) shall be applied by the Zoning Administrator where physical standards can clearly be made in the subject development proposal without significant alteration of the development as proposed.
 - (2) *Reasonable progress toward compliance.* In lieu of strict compliance, a standard of reasonable progress toward compliance shall be applied by the Zoning Administrator in cases where complete correction or compliance with the nonconforming situation would require undue hardship, practical difficulty, or might unreasonably reduce the size, scale, or other significant aspect of the development proposal to a point where strict compliance would jeopardize the building or development proposal. In applying a standard of reasonable progress toward compliance, the Zoning Administrator shall have authority to approve the building, development, or improvement even though it does not meet a standard of strict compliance, if the relief granted is the minimum necessary to effectuate the building, development, or improvement.
 - (3) *Proportionality.* Whenever something less than strict compliance is authorized by the Zoning Administrator, in determining the amount or extent of compliance required, he shall apply a standard of "proportionality," meaning that the scope, scale, extent and cost of requirements to

correct nonconforming situations are more or less the same as the scope, scale, extent and cost of the improvement or development proposed.

- (4) *Development permit required.* Where building size, setbacks, or other regulated conditions are to be modified in the correction of a nonconforming situation, a development permit approval by the Planning Commission, according to the provisions of this chapter, shall be required.

(Code 1997, § 40-806; Ord. of 2-6-2012, § 1(40-806))

Secs. 40-579—40-604. - Reserved.

ARTICLE V. - PLANNING COMMISSION

Sec. 40-605. - Composition.

The Planning Commission shall be comprised of six members, who shall be residents of the City.

(Code 1997, § 40-902; Ord. of 2-6-2012, § 1(40-902))

Sec. 40-606. - Term of office and vacancies.

Members of the Planning Commission shall be appointed by the Mayor and City Council to three-year terms. Members may be appointed for successive terms without limitation. Any vacancy in the membership of the Planning Commission that occurs prior to the expiration of a term of appointment shall be filled by the Mayor and City Council by appointing another member to serve during the unexpired term.

(Code 1997, § 40-903; Ord. of 2-6-2012, § 1(40-903))

Sec. 40-607. - Compensation.

Members of the Planning Commission shall serve without pay or compensation; provided, however, the members may be reimbursed for travel and training expenses in specific connection with their role as members of the Planning Commission, subject to budget limitations. This provision shall not obligate the City Council from a budgetary standpoint.

(Code 1997, § 40-904; Ord. of 2-6-2012, § 1(40-904))

Sec. 40-608. - Officers.

The officers of the Planning Commission shall consist of a chairperson, vice-chairperson, and secretary, elected by the members of the Planning Commission. All officers shall have voting privileges and obligations as members of the commission. The term of office for officers shall be one year or until their successors are elected. An officer that has served a full one-year term may succeed himself without limitation. In the event of the resignation or removal of any officer, the commission members shall elect an individual from the commission to fill the remainder of the unexpired term. Unless otherwise determined by the commission, election of officers will normally take place during the first regular meeting in January of each calendar year.

(Code 1997, § 40-905; Ord. of 2-6-2012, § 1(40-905))

Sec. 40-609. - Duties of officers.

The chairperson shall preside at meetings of the Planning Commission, decide all points of order and procedure, represent the Planning Commission at official functions, appoint committees to investigate and report on matters which may come before the commission, and be responsible for carrying out policy decisions. In the absence of the chairperson, those duties shall be vested in the vice-chairperson. The secretary, or his designated agent, shall maintain the records of the Planning Commission.

(Code 1997, § 40-906; Ord. of 2-6-2012, § 1(40-906))

Sec. 40-610. - Records.

- (a) The Planning Commission shall keep a record of its resolutions, transactions, findings, determinations, recommendations, and actions. All records of the Planning Commission shall be public record.
- (b) A summary of the subjects acted on at meetings and those members present at a meeting of the Planning Commission shall be written and made available to the public for inspection within no more than five business days of the adjournment of a meeting of the Planning Commission.
- (c) The secretary of the Planning Commission or designee shall cause summary minutes of the Planning Commission's proceedings to be kept. The minutes of a meeting of the Planning Commission shall be completed as promptly as possible, and such records shall be open to public inspection once approved by the Planning Commission, but in no case later than immediately following the next regular meeting of the Planning Commission.

(Code 1997, § 40-907; Ord. of 2-6-2012, § 1(40-907))

Sec. 40-611. - Meetings.

All meetings of the Planning Commission shall be open to the public. The Planning Commission shall hold regular meetings unless it is notified by the secretary or Zoning Administrator that there is no business to conduct, in which case the chairperson may cancel the regular meeting. No meeting shall be held unless 48 hours' notice thereof has been provided to each member. If special meetings are called by the chairperson, the purposes of the special meeting shall be stated and no other business may be conducted at such special meeting.

(Code 1997, § 40-908; Ord. of 2-6-2012, § 1(40-908))

Sec. 40-612. - Quorum.

A quorum shall be required to be present for the Planning Commission to function and decide matters that come before it. A quorum shall consist of a majority of the members of the commission.

(Code 1997, § 40-909; Ord. of 2-6-2012, § 1(40-909))

Sec. 40-613. - Rules.

The Planning Commission may adopt rules for the conduct of its activities as long as they do not conflict with any of the provisions of this chapter, the City Charter, or the this Code. Furthermore, such rules shall not be inconsistent with any applicable state laws. Such rules may establish regular meeting dates, procedures for calling special meetings, and other meeting matters. In the absence of such adopted rules, or in cases where adopted rules do not govern a given procedural question at hand, the Planning Commission shall follow the most recent edition of Robert's Rules of Order.

(Code 1997, § 40-910; Ord. of 2-6-2012, § 1(40-910))

Sec. 40-614. - Powers and duties of the Planning Commission.

The Planning Commission shall have all those duties necessary and reasonably implied as being necessary to carry out its duties as specified in this chapter. The powers and duties shall specifically include, without limitation, the following:

- (1) To adopt and amend rules, without the need to amend this article.

- (2) To cooperate with the federal, state, or local, public or semi-public agencies or private individuals or corporations, and carry out cooperative undertakings with the agencies, individuals, or corporations.
- (3) To prepare or cause to be prepared a comprehensive plan or parts thereof, for the development of the City or parts thereof, which shall be subject to the approval of the City Council.
- (4) To prepare and recommend for adoption to the local governing body with jurisdiction a plat or plats, or a corridor map or maps, showing the location of the boundary lines of existing, proposed, extended, widened or narrowed streets and linear open spaces and recreational areas, together with regulations to control the erection of buildings or other structures within such lines, within the jurisdiction or a specified portion thereof.
- (5) To make, publish, and distribute maps, plans and reports and recommendations relating to the planning and development of the City to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens.
- (6) To recommend to the City Council programs for capital improvements.
- (7) To prepare or cause to be prepared, and recommend for adoption by the City Council zoning ordinances, regulations for the subdivision of land, and any other land use regulations appropriate to manage development in the City.
- (8) To administer zoning and other land use regulations in whatever role is delegated to it by the City Council or as provided in this chapter. The Planning Commission shall specifically have authority and responsibility to review applications for zoning map amendments, applications for conditional use approval, applications for variances, and other related applications and provide a recommendation to the City Council.
- (9) To review and approve, conditionally approve or disapprove subdivision plats; provided, however, that if the Planning Commission is given authority to grant approval of final plats, the approval shall not constitute acceptance of public improvements which is a power reserved by the City Council over the subdivision plat.
- (10) To review and approve, conditionally approve or disapprove applications for site design and architectural review, as more fully specified in this chapter, subject to applicable appeal provisions of this chapter.
- (11) To establish one or more committees, including but not limited to a permit review committee to review administrative applications.
- (12) To review development, building and sign permit applications and consult with the Zoning Administrator and Building Inspector regarding compliance with the provisions of this chapter.
- (13) To exercise, in general, such other powers as may be necessary to enable it to perform its functions and promote the planning of its jurisdiction.

(Code 1997, § 40-911; Ord. of 2-6-2012, § 1(40-911))

Sec. 40-615. - Training and education.

It is in the best interests of the citizens to strongly encourage newly appointed members of the Planning Commission during the course of their term of appointment to attend one or more courses of training and education on matters pertaining to the operations, activities, duties, and subject matters of Planning Commissions. It shall be the responsibility of the Zoning Administrator to periodically notify members of the Planning Commission of appropriate education and training opportunities encouraged in this section. The following organizations and institutions among others are determined to be appropriate:

- (1) Training programs and seminars by the University of Georgia's Carl Vinson Institute of Government, the Georgia Institute of Technology's Graduate City and Regional Planning Program, Georgia State University, or any other institution of higher learning in the state.
- (2) Training programs by the Northeast Georgia Regional Commission.
- (3) Conferences of the Georgia Association of Zoning Administrators.
- (4) Conferences of the Georgia Chapter of the American Planning Association or the American Planning Association.
- (5) Planning commissioner workshops by the state department of community affairs.

(Code 1997, § 40-912; Ord. of 2-6-2012, § 1(40-912))

Sec. 40-616. - Conflict of interest.

- (a) Should any member of the Planning Commission have a financial interest in any issue that comes before the commission, the member shall disqualify himself from participating in or considering the issue and shall not sit with the commission during deliberations. A member may raise the question of perceived conflict or actual financial conflict of interest of any other member regarding a specific issue that is before the commission.
- (b) If perceived or actual conflict is alleged, a majority vote of those without such alleged conflict shall determine if such perceived or actual financial conflict exists and whether the member with an alleged conflict should be allowed to participate.
- (c) If the majority vote is a determination that the member has an actual financial conflict of interest, the member with the financial conflict of interest shall disqualify himself from participating in or considering the issue and shall not sit with the commission during deliberations.
- (d) If it is determined by majority vote of members present that a perceived conflict of interest exists, but the conflict is one that does not rise to the level of financial interest, the individual member with perceived conflict shall have discretion as to whether he will vote on the matter in question, though the other members may make a recommendation to the member.

(Code 1997, § 40-913; Ord. of 2-6-2012, § 1(40-913))

Secs. 40-617—40-635. - Reserved.

ARTICLE VIII. - VARIANCES

Sec. 40-706. - Intent.

It is the intent of this section to permit the filing of an application for variance simultaneously with a rezoning or conditional use application, or both, and have both the concurrent variance and companion applications considered in the same cycle of review (i.e., "concurrent" variance application). It is also the intent to allow the filing of applications for variance independently of any application (i.e., "stand alone" variance application).

(Code 1997, § 40-1005(1); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-707. - Pre-application conference encouraged.

Applicants for variances are strongly encouraged but not required to schedule an applicant orientation meeting with the Zoning Administrator. An applicant orientation meeting is a time where applicants can seek a determination of the number and nature of variances required, familiarize themselves with the application requirements and processes, and gain preliminary input from staff as to the suitability of the proposed variances.

(Code 1997, § 40-1005(2); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-708. - Separate applications required when more than one section is requested to be varied.

A separate variance application, and a separate fee, shall be required for each individual section of this chapter for which a variance is requested or from which relief is sought.

(Code 1997, § 40-1005(3); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-709. - Regulations that cannot be varied.

Variances shall not be granted to minimum lot size requirements of a given zoning district; or permit a use which is not allowed in the zoning district in pertaining to the subject property (i.e., a "use" variance).

(Code 1997, § 40-1005(4); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-710. - Application submittal process.

Applications for a variance shall require submittal of an application fee, application form, and supporting materials specified by this section in advance by the Zoning Administrator. No application described in this section shall be processed by the Zoning Administrator unless it is found to be complete with regard to application materials, payment of fees, supportive materials, and any other application requirements specified by this section. If an application described and regulated by this section does not comply with all the submission requirements of this section, the Zoning Administrator may reject the application and refuse to process it.

(Code 1997, § 40-1005(5); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-711. - Application requirements.

No application specified in this section shall be processed by the Zoning Administrator unless it meets the requirements of this section as follows:

- (1) Application fee as established by resolution of the City Council;
- (2) Application form furnished by the Zoning Administrator, including signed and notarized signature of property owner;
- (3) Metes and bounds legal description of the property;
- (4) Boundary survey plat of the property; in the case where a building or structure was already constructed and requires a setback variance, the boundary survey shall include as-built placement of the building or structure for which the setback is requested to be varied;
- (5) Letter of intent describing the regulations to be varied (specific sections and the amount of numerical variation sought), and including analysis of how the proposed development compares favorably with one or more of the criteria for granting variances as established in this section;
- (6) If pertaining to future development, a site plan of the property and proposed development shall be submitted at an appropriate engineering scale showing the proposed use and relevant information regarding the variance request. Site plans must show information as reasonably required by the Zoning Administrator.

(Code 1997, § 40-1005(6); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-712. - Referral to and recommendation by Planning Commission.

Upon receipt of a completed application for variance or within a reasonable time thereafter, the Zoning Administrator shall refer the application to the City Planning Commission. The meeting at which the Planning Commission considers the application shall be open to the public, but the Planning Commission meeting shall not be required to be an advertised public hearing and the Planning Commission shall not be obligated to but may hold a public hearing on the application. The Planning Commission shall make a recommendation on the application within 30 days of the meeting it is first scheduled to consider the application, and its recommendation shall be submitted to the City Council. The Planning Commission may submit any additional report it deems appropriate. The applicant will be notified in writing by the Zoning Administrator of the recommendation within seven working days of the decision. The recommendation and any report shall upon publication be available upon request to the public. The recommendation of the Planning Commission shall have an advisory effect only and shall not be binding on the City Council.

(Code 1997, § 40-1005(7); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-713. - Notice of City Council public hearing.

At least 15 but not more than 45 days prior to the date of the public hearing before the City Council, the Zoning Administrator shall cause to be published within a newspaper of general circulation within the territorial boundaries of the City a notice of the public hearing on the application. The notice shall state the time, place, and purpose of the public hearing. In addition, notice shall include the location of the property and the section or sections proposed to be varied; and a sign containing the required information shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the public hearing before the City Council and which shall remain through the date of any public hearings advertised thereon.

(Code 1997, § 40-1005(8); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-714. - Criteria for variances.

One or more of the following criteria may be considered applicable or potentially applicable:

- (1) There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
- (2) A literal interpretation of the provisions of this chapter would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located.
- (3) Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.
- (4) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare.
- (5) The special circumstances are not the result of the actions of the applicant.
- (6) The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure in the zoning district in which the development is located.

(Code 1997, § 40-1005(9); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-715. - City Council public hearing and action.

The City Council shall hold a public hearing on the application as advertised and after review and recommendation by the Planning Commission. In the event that the Planning Commission has not submitted its report and the public hearing has already been advertised, the City Council may elect to proceed with the advertised and scheduled public hearing, or it may reschedule and re-advertise the public hearing for a day after which the Planning Commission's recommendation will be available. In rendering a decision on any such application, the City Council shall consider all information supplied by the Zoning Administrator and the Planning Commission, any information submitted by the applicant, any information presented at the public hearing, and the extent to which the application meets the criteria specified for conditional uses as prescribed in this section. The City Council may approve or disapprove the application as proposed, or it may place conditions of approval on the application and approve the application with conditions. The applicant will be notified in writing by the Zoning Administrator of the decision within seven working days of the decision.

(Code 1997, § 40-1005(10); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-716. - Withdrawal.

Any application for variance may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Zoning Administrator, up until the public hearing by the City Council. No refund of the required application fee or portion thereof shall be made once the application has been scheduled for public hearing.

(Code 1997, § 40-1005(10); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-717. - Limitations on the frequency of filing applications.

No application regulated by this article and affecting the same or any portion of property which was denied by the City Council shall be accepted for filing by a property owner until 12 months shall have elapsed from the date the application was denied by the City Council.

(Code 1997, § 40-1005(11); Ord. of 2-6-2012, § 1(40-1005))

Sec. 40-718. - Judicial review.

Decisions by the City Council with regard to variances are final; provided, however, any person or persons, jointly or severally, aggrieved by any decision of the City Council with regard to a decision on a variance application under the terms of this section may take an appeal to or seek judicial review by the Newton County Superior Court.

(Code 1997, § 40-1005(12); Ord. of 2-6-2012, § 1(40-1005))

Secs. 40-719—40-749. - Reserved.

ARTICLE XII. - PERMITS AND CERTIFICATES

Sec. 40-841. - Development permit.

- (a) *Required.* A development permit shall be required for any proposed use of lands or buildings, and before any improvement, grading or alteration of lands or buildings commences to indicate and ensure compliance with all provisions of this chapter and other applicable regulations in this Code. Such development activities include, but are not limited to, clearing and grubbing, grading or land disturbance, and the construction of such improvements as streets, surface parking areas and drives, stormwater drainage facilities, sidewalks, or other structures permanently placed on or in the property.
- (b) *Separate requirements for phased applications.* If the tract is to be developed in phases, then a separate development permit shall be required for each phase.
- (c) *Application.* No person shall conduct any land-disturbing or development activity within the City without first applying for and obtaining a development permit from the Zoning Administrator to perform such activity.
- (d) *Application requirements.* Applications shall be made in accordance with application requirements specified by the Zoning Administrator and this section. The application shall be checked for completeness at the time of submission. Incomplete applications will not be processed and will be returned to the applicant. All applications for a development permit shall be made to the Zoning Administrator and shall be accompanied by the following:
 - (1) Application on the form furnished by the Zoning Administrator.
 - (2) A fee as established by resolution of the City Council.
 - (3) A copy of the approved preliminary plat, if subdivision is required and preliminary plat approval has been obtained, or an application for preliminary plat approval if required.
 - (4) A sufficient number (as approved by the Zoning Administrator) of sets of plans drawn to scale, signed and stamped by one or more qualified professionals who have authority to produce such plans or portions thereof, with addresses and contact information.
 - (5) Plans requiring or involving stormwater management facilities shall require the submittal of plans containing information specified in the City stormwater management ordinance (article VI of chapter 36). Approval of a development permit containing information and requirements of article VI of chapter 36 shall constitute approval of the permit required by that chapter.
 - (6) Plans involving land within a floodplain or flood hazard area shall require the submittal of plans containing information specified in the city flood damage prevention ordinance (article II of chapter 14). Approval of a development permit containing information and requirements of article II of chapter 14 shall constitute approval of the permit required by that chapter.
 - (7) Plans requiring a land disturbance permit shall require the submittal of plans containing information specified in the city soil erosion, sedimentation and pollution control ordinance (article III of chapter 14) unless specifically exempted by the Zoning Administrator from the submission of plans in accordance with the article. Approval of a development permit containing information and requirements of article III of chapter 14 shall constitute approval of the permit required by that article, subject to other applicable agency approvals required by the article.
 - (8) Plans involving land within a wetland shall require the submittal of plans containing information specified in the city wetlands protection ordinance (article IV of chapter 14).
 - (9) Plans shall demonstrate compliance as applicable with the city tree ordinance (chapter 38) as well as Tree Maintenance Guidelines and Standards as applicable.
 - (10) For subdivisions or other major developments, Development permit applications shall require the submission of plans and information specified in the city subdivision and land development ordinance (chapter 30) and shall demonstrate compliance therewith.

- (e) *Relationship to plat approval.* An application for preliminary plat approval, when required by the subdivision and land development ordinance (chapter 30), may be processed independently of, or in conjunction with, an application for issuance of a development permit. Applicants are cautioned, however, that the preliminary plat approval is discretionary with regard to compliance with the comprehensive plan and design requirements, and therefore, proceeding simultaneously with preliminary plat and development permit applications may result in the revision of engineering plans if the layout of the preliminary plat of the proposed subdivision must be modified.
- (f) *Relationship to site and design plan review.* It is anticipated and expected that applicants will proceed more or less simultaneously in pursuing site and design plan approval as required by article XI of this chapter; however, no development permit shall be approved until site and design plan review, if required, is accomplished. A development permit applicant, if not ready to submit architectural details for buildings or structures, may at his discretion divide the site and design plan review application process into a site application and building application, and seek only the site plan portion of the approval process required by article XI of this chapter, which shall be required to issue a development permit.
- (g) *Agency and zoning administrator review.* The Zoning Administrator shall forward a copy of the development permit application, including the civil plans and drawings for the project, to other city departments and government agencies or others as appropriate, for their review and comment. The applicant may be required by the Zoning Administrator to secure development approval from other agencies if they are affected by (or have jurisdiction over) the development. Development approval may be required from but is not necessarily limited to the following, as applicable: the City Engineer, the City Street or Public Works Department, the Soil and Water Conservation District with jurisdiction, the county Fire Department, the county Health Department, the county Department of Planning, Development, or Building Inspections, the State Department of Transportation, the State Department of Natural Resources, and the U.S. Army Corps of Engineers.
- (h) *Consolidation and submission of comments to applicant.* Upon receipt of comments from other city departments and external agencies as appropriate, the Zoning Administrator shall provide all comments to the applicant for resolution and as appropriate shall indicate on one or more copies of the civil drawings or in writing all comments related to compliance with applicable city regulations and agency requirements. Thereafter, the applicant shall submit revised plans to reflect all such comments.
- (i) *Issuance.* All development permits shall be issued by the Planning Commission who shall in no case grant any development permit for the use, construction or alteration of any land or building if the land or building as proposed to be used, constructed or altered would be in violation of any of the provisions of this chapter or other applicable regulations of the City. The applicant shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all of the comments of reviewing city departments, external agencies, and the Planning Commission. Although review may have been achieved, if another city department or external agency requires approval or a permit, the owner shall also be responsible for obtaining such approval or permit from all other agencies affected by the project prior to issuance of the development permit by the Planning Commission.
- (j) *Denial.* If the development permit is denied, the Planning Commission shall state in writing the reason for the denial and the applicant shall be notified of the denial. A record of all development permits shall be kept on file in the office of the Zoning Administrator which shall be a public record.
- (k) *Duration of validity.*
 - (1) A development permit shall expire two years after its issuance, subject to the following provisions:
 - a. If the work described in any development permit has not been begun within one year from the date of issuance thereof, the permit shall expire; and
 - b. If the work described in any development permit has not been substantially completed within two years of the date of issuance thereof, the permit shall expire.

- (2) Application processes shall begin anew for any expired development permit.
- (l) *Suspension or revocation.* The development permit may be suspended or revoked by the City, as to all or any portion of the land affected by the permit, upon finding that the holder or his successor in title is not in compliance with the approved development permit or is in violation of any applicable regulations in this Code.

(Code 1997, § 40-1201; Ord. of 2-6-2012, § 1(40-1201))

Sec. 40-842. - Building permit.

- (a) The Building Inspector is hereby authorized to issue building permits in accordance with all provisions of this chapter and relevant chapters of this Code, but only after the Planning Commission has issued a development permit, or if no development permit is required, after a review of the building permit for compliance with the provisions of this chapter and applicable regulations of the City.
- (b) No building or other structure shall be erected, moved, extended, occupied, or enlarged, or structurally altered, nor shall a building or structure's use be changed, nor shall any excavation, grading, or filling of any lot for the construction of any building or structure be commenced until the Building Inspector has issued a building permit for such work in conformity with the provisions of this chapter and all applicable building and related codes.
- (c) Approval of a building permit shall require an application to the Building Inspector as specified in the minimum standard codes. If the building permit is denied, the Building Inspector shall state in writing the reason for the denial and the applicant shall be notified of the denial. A record of all building permits shall be kept on file in the office of the Building Inspector.
- (d) Any building permit issued shall become invalid unless the work authorized by it shall have been commenced within 180 days of its date of issue, or if the work authorized by it is suspended or abandoned for a period of six months.
- (e) See section 6-4 for applicable provisions with regard to administration and enforcement of building permits and minimum standard codes, including reference to chapter 1 of the International Building Code, which shall govern specific procedures and submission requirements.

(Code 1997, § 40-1202; Ord. of 2-6-2012, § 1(40-1202))

Sec. 40-843. - Certificate of occupancy.

- (a) A certificate of occupancy issued by the Building Inspector is required in advance of occupancy or use, any building or structure hereafter erected, or a change in the use of an existing building or structure.
- (b) A certificate of occupancy, either for the whole or part of a building or use, shall be issued within 72 hours after the erection or structural alterations of such building, or part, or use established, is completed. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this chapter and applicable regulations of the City.
- (c) If the certificate of occupancy is denied, the Building Inspector shall state in writing the reason for the denial and the applicant shall be notified of the denial. A record of all certificates shall be kept on file in the office of the Building Inspector.
- (d) See section 6-4 for applicable provisions with regard to administration and enforcement of certificates of occupancy and minimum standard codes, including reference to chapter 1 of the International Building Code which shall govern specific procedures and submission requirements.

(Code 1997, § 40-1203; Ord. of 2-6-2012, § 1(40-1203))

Secs. 40-844—40-864. - Reserved.