

ARTICLE XVI
MODEL CONSERVATION SUBDIVISION /
OPEN SPACE DEVELOPMENT ORDINANCE

16.1 PURPOSE

This Article is intended to provide for residential subdivisions that are designed based first and foremost on the provision of open space, but that accommodate the entire amount of development that would otherwise be legally possible under conventional subdivision designs, and that:

- 16.1.1 Minimize the environmental and visual impacts of new development on critical resources and contribute to an interconnected network of open space in the City.
- 16.1.2 Provide for undivided or relatively undivided open spaces within new developments.
- 16.1.3 Create more attractive and pleasing living environments than is possible with conventional house lot and street developments.
- 16.1.4 Foster informal social interaction among neighborhood residents in common open spaces.
- 16.1.5 Reduce the demand on public expenditures for open space, parkland, play fields, and other areas for active and passive recreation.
- 16.1.6 Are built in compact patterns that reduce capital costs by requiring less linear front footage distances of roads and utilities than conventional subdivisions.
- 16.1.7 Meet design requirements and guidelines for the protection of conservation areas, the subdivision of land, the location and orientation of homes and structures, and the installation of improvements.
- 16.1.8 Are permitted only by grant of a Special User Permit by the Mayor and Council after a recommendation by the Planning Commission.

16.2 DEFINITIONS

- 16.2.1 **Conservation areas, primary** means any property qualifying as conservation use property under O.C.G.A. Section 48-5-7.4; and any flood plains, wetlands, water bodies, upland buffers around wetlands and water

bodies, critical wildlife habitat, and sites of historic, cultural, or archaeological significance.

16.2.2 **Conservation areas, secondary** means natural meadows, mature woodlands, farm fields, localized aquifer recharge areas, and lands containing scenic views and sites, passive recreation areas including pedestrian bicycle and equestrian trails, picnic areas, community commons or greens, and similar areas. Active recreation areas and facilities, including playing fields and playgrounds, impervious surfaces and golf courses are excluded and not counted as conservation areas.

16.2.3 **Conservation subdivision** means a subdivision where open space is the central organizing element of the subdivision design and that identifies and permanently protects all primary and all or some of the secondary conservation areas within the boundaries of the subdivision.

16.2.4 **Open Space** means the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the open space are restricted in perpetuity through the use of a legal instrument approved by the City Attorney.

16.2.5 **Person** means any natural person, corporation, partnership, trust, foundation, nonprofit agency, or other legal entity.

16.2.6 **Yield plan** means a residential site plan, drawn to an engineering scale, which shows the maximum number of lots and the layout of streets, blocks, and lots that can be obtained on the proposed development site by applying the minimum lot size, minimum lot width, and other dimensional requirements and applicable provisions of this zoning ordinance for the zoning district in which the subject property is located. A yield plan approved by the Department of Planning and Zoning of the City shall establish the base density of the subject property (not including any density incentive which may be approved pursuant to Section 16.3.1 of this Zoning Ordinance).

16.3 DENSITY

The density of a conservation subdivision shall be the number of lots derived on the approved yield plan for the property proposed to be subdivided, as defined by this Article, plus an additional density incentive not to exceed ten (10) percent. In the event the additional density incentive results in a fraction, the fraction shall not be counted as an allowance for an additional lot.

16.3.1 Density Incentive

The additional density incentive shall be allowed only where additional open space has been provided which exceeds the minimum amount required in this Article. For each additional percent of open space of the total acreage of the proposed project in excess of the minimum amount required a one-half percent increase in the total number of lots as determined by the approved yield plan shall be allowed.

²16.3.2 Maximum Density and Other Mandatory Requirements

Notwithstanding any other provision of this ordinance, the maximum density allowed for the new development shall not exceed a development which complies with the following requirements:

A. SPACE LIMITS:

Minimum lot area: 7,500 square feet for residential uses.

Minimum lot width: sixty (60) feet;

Minimum front yard: thirty-five (35) feet

Minimum rear yard: twenty (20) feet

Minimum side yard: five (5) feet. This minimum side yard requirement is mandatory. No structure of any type shall be allowed to be built on the side of a residence in this zoning classification which intrudes into in any way the five 5 foot minimum side yard requirement. Builders shall submit house location plans prior to the issuance of a building permit. Side yard setback shall be measured from the edge of footing.

Minimum side yard if on street: twenty (20) feet

Maximum ground coverage: seventy-five percent (75%)

Minimum house size: Single family residence- one (1) story, 1,800 square feet; two (2) story, 2,000 square feet with a minimum of one thousand (1,000) square feet on the main level. The square footage requirements listed herein are for heated space.

Minimum development size: Any applicant seeking to zone property to the Conservation Subdivision shall be developing a minimum of ten (10) acres of property outside of the Open Space.

B. MINIMUM RESTRICTIVE COVENANT REQUIREMENTS:

As part of the planning process for the development of an Conservation Subdivision, the developer shall propose at the time of the request for rezoning restrictive covenants to be attached to the development of the property and to be recorded in the deed records of the Superior Court of Gwinnett County either as written restrictive

covenants or on the plat for development of the subdivision. In addition to the restrictive covenants requested by the developer, the following minimum covenants shall be applied to the property:

- (1) All vehicles shall be parked on a subdivision lot on a paved surface. Parking a vehicle outside of a residential lot is precluded. No parking shall be allowed on the street within the subdivision.
- (2) Driveways constructed within the subdivision shall have a minimum width of sixteen (16) feet.
- (3) No inter-parcel driveways.
- (4) Each lot on which a single family residence is constructed shall have a two (2) car garage as a minimum requirement. Garages may not be converted into heated interior space without being replaced with another garage within the building of the property subject to the terms of this Ordinance.
- (5) All four (4) sides of the single family residence constructed in this district shall be brick. Stone accents and trim will allowed provided it does not exceed 25% of each façade, and shall not be used in the gable.
- (6) Chimney and fireplaces constructed on single family residences within this district shall have brick exteriors but may be constructed with prefabricated interiors. No portions of the chimney shall extend into any setback.
- (7) No plumbing or heating vents shall be placed on the front side roof of any single family residence within this district.
- (8) Maximum height of any structure constructed within this Conservation Subdivision single family residence district shall be thirty-five (35) feet.
- (9) Accessory buildings and storage buildings shall be prohibited.
- (10) Provide for a landscaped earthen berm, no less than six (6) feet high, to be maintained by the homeowner's association. This berm shall be located on the exterior road frontage of the property and shall be constructed to traverse the entire length of the road frontage. In addition to this berm a fence shall be erected along this berm. The fence shall be supported by columns of stacked stone a minimum of six (6) feet high not greater than 30

feet apart, with decorative railings (to be determined at the subdivision plat approval meeting). The fence may be placed in front of the berm towards the street or along the top of the berm. Along the other property lines where a residence of the CSO neighborhood yard abuts another subdivision lot, a black chain link fence shall be constructed no less than six (6) feet high. A single row of Nellie Stevens Holly or an approved alternative (to be determined at time of rezoning) located on the interior side of the fence spaced a distance of ten (10) feet on center. These berms and fences shall be located on the exterior property lines of the development and shall be completed prior to any building permit being issued by the City of Lawrenceville.

- (11) A grading setback of thirty (30) feet along all exterior property lines shall require the steepness of any grading not to exceed a 5:1 (H:V) slope.
- (12) The berms shall not be required in paragraph 10 above on properties where the exterior property line crosses a FEMA floodplain, the owner is relieved of the responsibility of constructing a berm only in the area reserved as within the FEMA floodplain. In the area of the FEMA floodplain, the owner/applicant shall submit to the Director of Planning and Zoning of the City of Lawrenceville an architectural and landscape architectural design to blend the berm into the FEMA floodplain area and create an appropriate barrier for the protection of the neighborhood, and for the protection of the floodplain area. Approval of this plan shall be subject to appeal for review to the Mayor and Council.
- (13) Non-ornamental street trees with a four (4) inch caliper dbh will be planted on thirty-five (35) foot centers along the street.

C. STREET CONSTRUCTION STANDARDS:

The following special street construction standards shall apply to this district:

- (1) The right-of-way width of streets that serve fifty (50) lots or less shall be forty-four (44) feet.
- (2) The right-of-way width of streets that serve more than fifty (50) lots shall be a minimum of fifty (50) feet.
- (3) The pavement width of streets that serve more than fifty (50) lots shall be a minimum of twenty-two (22) feet.

- (4) The pavement width of streets that serve more than fifty (50) lots shall be a minimum of twenty-four (24) feet.
- (5) The pavement width of one (1) directional traffic shall be a minimum of twelve (12) feet.
- (6) The right-of-way width of cul-de-sacs shall be fifty (50) feet.
- (7) The right-of-way width of cul-de-sacs, if there is center landscaping, shall be sixty (60) feet.
- (8) The pavement width of cul-de-sacs shall be a minimum of forty (40) feet.
- (9) The pavement width of cul-de-sacs, if there is center landscaping, shall be a minimum of twenty-five (25) feet, with a maximum radius of center landscaped island being twenty-five (25) feet.
- (10) All streets within the Conservation Subdivision zoning classification shall be dedicated to the City of Lawrenceville and may not be blocked or restricted by gates at the entrance to the premises.
- (11) Sidewalks on both sides of all streets including cul-de-sacs shall be required as set forth in the subdivision regulations of the City of Lawrenceville.
- (12) The term “pavement width of streets” as used in this Ordinance shall be defined as from back of curb to back of curb.
- (13) The City encourages the use of safe landscaped medians where possible.

D. EXTERIOR STREET RESTRICTIONS:

All single family residences constructed within this zoning district shall face interior streets and no driveway shall have access to exterior streets.

E. UTILITY RESTRICTIONS:

All utilities shall be located underground.

16.4 PROCEDURES FOR CONSERVATION SUBDIVISION PLAT APPROVAL

16.4.1 In addition to the application requirements for preliminary and final plats, as specified in the subdivision regulations of the City of Lawrenceville as part of an application, the applicant for preliminary plat approval of a conservation subdivision shall submit the following:

- A. Existing features and site analysis. The applicant shall submit an analysis of existing natural features and characteristics of the site, for the purpose of identifying and retaining the most environmentally suitable areas for conservation. At minimum, the existing features and site analysis shall identify primary conservation areas and secondary conservation areas, as defined by this Article.
- B. Yield plan. The application requires the submittal of a yield plan, as defined by this ordinance, that has been approved by the Planning & Zoning Director. The Planning & Zoning Director is hereby authorized to establish an administrative process for reviewing and approving yield plans. A yield plan shall remain part of the preliminary plat file for the conservation subdivision and shall be available for review by the Planning Commission at the time it considers preliminary plat approval for the conservation subdivision.
- C. Letter of intent with development standards. Said application for a conservation subdivision shall be accompanied by a written text that describes the percentage of the total land area that will be retained as primary and secondary conservation areas, the amount of land area that qualifies as open space, minimum and average lot sizes, minimum and average lot widths, maximum lot coverage, minimum yard setbacks, and other minimum dimensional requirements as may be applicable to the proposed conservation subdivision..

16.4.2 Dedication of Land to the City

- A. Resolution. If the conservation subdivision includes conservation areas to be dedicated in fee simple title to the City of Lawrenceville, the preliminary plat shall not be considered approved until the Lawrenceville City Council approves a resolution consenting to the dedication of the conservation area or areas to the City.
- B. Acceptance criteria. The decision to accept conservation areas for fee simple ownership by the City shall be at the sole discretion of the Lawrenceville City Council. Dedication to the City shall only be approved if the City Council finds that the size, shape, location, type of open space, or cost of development or maintenance of the conservation area or the availability of the conservation area would

make public ownership desirable or necessary. The City Council may consult the Planning Commission in making decisions regarding the acceptance in fee simple title of conservation areas, provided that Council shall make a decision on whether to accept ownership of the conservation area within sixty days of the date of the public hearing of the Mayor and Council of the conservation subdivision.

C. Action. If the City Council approves the acceptance of the conservation area for fee simple ownership by the City, through the passage of a resolution, then the preliminary plat containing the conservation area shall be confirmed. If the City Council denies or fails to approve the request for the transfer of fee simple ownership of a conservation area, then the preliminary plat and the transfer of development rights shown therein shall be determined to be denied. At the sole discretion of the Lawrenceville City Council the Conservation Subdivision and the preliminary plat containing the conservation area may be approved by the Council with the condition that the Conservation Area be owned by the Homeowners Association in fee simple title.

16.4.3 Procedures

Procedures for considering conservation subdivisions shall be the same as for preliminary and final plats, as specified in the subdivision regulations of the City of Lawrenceville except that a public hearing shall be held by the Planning Commission and a public hearing shall be held by the Mayor and City Council and except as otherwise provided in this Article.

A. Notice for any proposed Conservation Subdivision shall be provided to the community by the requirements for notice of public hearings as provided in Article XIII of the 2005 Lawrenceville Zoning Ordinance.

B. The hearing held by the Planning Commission shall be advisory only.

C. The Mayor and Council shall hold a hearing on the requested Conservation Subdivision and render a decision to approve or deny such residential subdivision within sixty-five (65) days of the public hearing held thereon. The Mayor and Council may impose reasonable conditions on approval of the requested Conservation Subdivision. This hearing and separate vote shall be such hearing as required under Section 36-66A-2 of the Code of Georgia for the Transfer of Development Rights.

D. The boundaries of any Conservation Subdivision approved by the Mayor and City Council shall be shown on the "Official Zoning Map, City of Lawrenceville, Georgia."

16.4.4 Open Space Requirements

- A. A minimum of fifty (50) percent of the total acreage of the proposed project shall be open space.
- B. Value of primary conservation areas: because primary conservation areas are either protected or sensitive environmental areas, only 50% of the acreage of a primary conservation area may be counted as open space. However, all primary conservation areas are to be included as permanent open space.
- C. Value of secondary conservation areas: with the exception of active recreation areas and facilities, 100% of secondary conservation areas may be counted as open space. Because active recreation areas are cleared and graded and therefore reduce natural resources and wildlife habitats, only 50% of active recreation areas and facilities may be counted as open space.
- D. The configuration of the Open Space shall be contiguous and undivided.
- E. Permitted Uses of Open Space
 - (1) Primary and secondary conservation areas
 - (2) Easements for drainage, access, and underground utility lines
 - (3) Other conservation-orientated uses compatible with the purposes of this ordinance
- F. Prohibited Uses of Open Space
 - (1) Golf courses
 - (2) Parking lots and impervious surfaces
 - (3) Agricultural activities, including but not limited to, timber harvesting, raising of livestock, crop growth.

16.5 CONSERVATION AREAS AND EASEMENTS

16.5.1 Protection of Conservation Areas

All portions of land shown on the preliminary plat and required to be retained as Open Space areas shall be protected from further subdivision,

development, and unauthorized use by a conservation easement as defined by this Article, or by fee simple dedication to the city, if approved for dedication by the Lawrenceville City Council as provided in this Article. The form of any such dedication to the City shall be approved by the Lawrenceville City Attorney.

16.5.2 Conservation Easements

- A. Approval by city attorney. The form and content of the conservation easement shall be approved by the Lawrenceville City Attorney.
- B. City as co-signer. The City of Lawrenceville shall be a co-signer and shall have a third party right of enforcement in any conservation easement established for purposes of protecting conservation areas within a conservation subdivision.
- C. Holder. The holder of the conservation easement shall be either: 1) a governmental body lawfully empowered by the city to hold an interest in real property; or 2) a land trust approved by the city.
- D. Description of qualities. The conservation easement shall recognize and describe in a statement of purpose the special qualities of the property subject to the easement.
- E. Legal description and plat. The location of the land subject to a conservation easement shall be shown on a map or plat and described in writing by metes and bounds legal description.
- F. Identification of interests. The conservation easement shall clearly identify the owner of the property subject to the easement, the holder of the easement, and co-signer, and the responsibilities of the property owner, easement holder, and the co-signer.
- G. Restrictions. The conservation easement shall contain restrictions as to what the owner may do with the property and specifically delineate what may not be done with the property. Limitations may include but may not be confined to prohibitions against subdivision, earthmoving, dumping, signs, utility lines, construction, changes to existing structures, and uses made of the property.
- H. Right to inspect. The conservation easement shall provide for the right of the easement holder and the co-signer to inspect the property to assure observance of restrictions.
- I. Maintenance. The conservation easement shall provide for the maintenance of property.

J. Amendment. The conservation easement shall contain provisions governing its amendment, including provisions that the easement shall not be altered except with the express written permission of the easement holder, property owner, and the co-signers.

16.5.3 Ownership of Conservation Areas

In addition to a conservation easement, any conservation area created as a part of a conservation subdivision shall be protected through ownership either by the city, if accepted by the city in accordance with procedures established in this Article, or, by a homeowners association. If the conservation areas are proposed to be owned by a homeowners association, then the following requirements shall apply:

- A. The developer of the conservation subdivision shall provide to the Planning & Zoning Director for approval, prior to the approval of a preliminary plat, a description of the homeowners association, including bylaws with regard to conservation areas.
- B. The homeowners association shall be established by the conservation subdivision developer prior to the approval of the final plat of the conservation subdivision.
- C. Membership of each non-conservation area lot owner in the conservation subdivision shall be mandatory (required) and automatic.
- D. The homeowners association shall be responsible for insurance and taxes on the conservation areas within the conservation subdivision, and it shall be required to assess dues for purchase of insurance and payment of taxes, unless another income source is proven to be available. Members of the association shall share equitably the costs of insurance and taxes as indicated in bylaws.
- E. Unless maintenance is specifically provided for by another party via a conservation easement, the association shall be required to assess dues for the maintenance of the conservation areas. Members of the association shall share equitably the costs of maintaining conservation areas as indicated in bylaws.
- F. The association shall be empowered with the legal ability to place liens on nonconservation area lot owners for failure to pay association dues.

G. Said homeowners association shall not be dissolved unless the ownership issue of all conservation areas is addressed to the satisfaction of the Lawrenceville City Council.

¹ Ordinance to Amend Article XVI of the City of Lawrenceville 2005 Development Regulations to Replace the Existing Conservation Subdivision Ordinance was adopted on October 2, 2006.

² Ordinance to Amend Article XVI of the City of Lawrenceville's 2005 Development Regulations was adopted on February 5, 2007.