

Article 23: Conservation Subdivision

23.1 Purpose

It is the purpose of this ordinance to provide flexibility in ensuring preservation of open space within a master-planned residential development. A conservation subdivision design preserves open space while maintaining the pro-rated density of residential units for the overall site area. *Neutral density* is achieved by allowing smaller individual owned residential lots in neighborhoods that are surrounded by aesthetically and ecologically important areas. The goal of the design process is to identify and set aside conservation open space areas prior to the delineation of transportation and residential pod layouts. Open space areas include wetlands, river buffer zones, woodlands, playing fields, and meadows, depending on the resources of the land.

The intent of the conservation subdivision regulations is to:

1. Preserve significant areas of land for ecological, recreational, and agricultural purposes in perpetuity;
2. Encourage more efficient development of land consistent with public health, safety, and general welfare;
3. Afford greater flexibility of design and placement of buildings and structures;
4. Preserve and protect exceptional terrain, natural beauty, or sites of historic interest from inconsequential placement of homes, roadways, utilities and appurtenances;
5. Preserve the Etowah River and its streams and tributaries as natural resources;
6. Prevent flooding, erosion, and water pollution, and protect the quality and quantity of drinking water;
7. Preserve wetlands, aquifers, topographical or soil features, marine and wildlife habitat; and other features having conservation values, including views, vistas, and indigenous vegetation;
8. Promote a less sprawling form of development.

23.2 Procedure

Conservation subdivisions are allowed as a permitted right in accordance with the requirements set forth in this section, Article 23, of the Cherokee County Zoning Resolution. Also, the conservation subdivision regulation is a floating zone, which is allowed within residential zoning districts.

23.3 Density

The number of lots created shall be density neutral. Density neutral is defined as maintaining the number of lots so as not to exceed the number that can be created with the conventional minimum area and width, requirements of the zoning district designation of the subject property (Refer to Table 23-1)

Table 23-1: Conservation Subdivision Density and Lot Size Requirements

EXISTING ZONING DISTRICT	MAXIMUM DENSITY DUA	MINIMUM LOT SIZE WITH SEPTIC SYSTEM	MINIMUM LOT SIZE WITH SEWER SYSTEM
AG	0.5	40,000 sqft	20,000 sqft
R-80	0.5445	40,000 sqft	20,000 sqft
R-60	0.75	30,000 sqft	20,000 sqft
R-40	1.089	25,000 sqft	15,000 sqft
R-30	1.452	25,000 sqft	15,000 sqft
R-20	2.178	N/A	10,000 sqft

Source: Cherokee County Planning and Zoning, 1998.

23.4 Open Space

Open space is defined as the undeveloped land resulting from reductions in the minimum size of lots, which is set aside permanently for common use by the residents of the subdivision (See recommendation for preservation of open space areas in Appendix 23-I).

A Disposition and Preservation of Open Space

Open Space land shall be preserved and maintained solely for the purposes specified in Section 23.1 and 23.2. The method for effectuating such preservation and maintenance may be one of the following:

1. Establishment of a mandatory Home Owners Association (HOA) to own and maintain the land in common for the open space purposes intended according to the following provisions (See suggestions for the HOA in Appendix 23-II)
 - a) With their application for a permit to build a conservation subdivision, developers will create and submit minimum requirements and structure for the HOA before the first lot is sold.
 - b) The HOA will maintain, pay taxes, and own the open space. (In some communities the local government has agreed to maintain the open space.)
 - c) Membership in the HOA is mandatory for all homeowners, and dues are uniform.
 - d) The HOA, by law, will stipulate that a third party, such as the local government, may enforce the maintenance of the open space through legally enforceable liens.
2. Dedication of legally described and platted "open space" to the Cherokee County Board of Commissioners or the Cherokee County Parks and Recreation Authority.

3. Dedication of legally described and platted "open space" to a Land Trust established in compliance with the requirements of Georgia law and shall be for conservation purposes.

B Open Space ownership and maintenance

The Commission shall require the owner or owners of open space land to execute, acknowledge, and file in the land records of Cherokee County, including documents and maps which effectively create a conservation easement or other legal conveyance approved by the County or its designee. These records (See suggestions for open space in Appendix 23-III):

- will be binding on all future owners of the open space land;
- may be enforced by the adjoining property owners, the county, or a land trust by appropriate court action for equitable relief in the form of an injunction;
- will assure appropriate maintenance by the homeowners' association or as otherwise herein provided, of open space land to the satisfaction of the County;
- will provide that if maintenance, preservation, and/or use of the open space land no longer complies with the provisions of the easement, the County may take all necessary action to effect compliance and assess the costs against the owners in default;
- will provide that such easement may not be modified, altered, or amended.

C Septic Systems, Wells, and Storm Water Management Systems

Easements will allow designated open space to be used for community sewer system drip lines or individual septic system secondary drain lines, wells, and storm water management structures designed to promote on-site infiltration and/or treatment of runoff.

D Significant Structures

Structures of historic, architectural, or cultural significance existing prior to development of the subdivision may be retained within the open space, subject to approval indicating that these structures are compatible with the Cherokee zoning regulations.

23.5 Road Specification

Design standards for road construction in a conservation subdivision shall be consistent with those set forth in the Cherokee County Development Regulations Chapter 1, Development Ordinance, Section 4.05 (See Appendix 23-III).

23.6 Area and Yard Requirements; Locations and Structures

A Placement

The placement of all principal buildings shall provide for safe, quiet, and harmonious grouping as well as adequate privacy by providing adequate front, side, and rear yards (Refer to Table 23-2).

B Location

Structures shall be placed so as to fulfill the objectives of Section 23.1 and 23.2 to minimize any adverse effect on the environment and to take advantage of ecological conditions (Refer to Table 23-2).

Table 23-2 Conservation Subdivision Setback Requirements

DENSITY	ALLOWABLE	SETBACKS			ALLOWABLE
DUA	Minimum Lot Size	Front	Side	Rear	Minimum Lot Width
0.5	40,000 sqft	35'	15'	30'	100'
0.5	20,000 sqft	30'	10'	30'	90'
0.5445	40,000 sqft	35'	15'	30'	100'
0.5445	20,000 sqft	30'	10'	30'	90'
0.75	30,000 sqft	35'	15'	30'	100'
0.75	20,000 sqft	30'	10'	30'	90'
1.089	25,000 sqft	30'	10'	25'	85'
1.089	15,000 sqft	25'	10'	25'	80'
1.452	25,000 sqft	30'	10'	25'	85'
1.452	15,000 sqft	25'	10'	25'	80'
2.178	10,000 sqft	25'	10'	25'	75'

Source: Cherokee County Planning and Zoning, 1998.

23.7 Architectural and Building Standards

A Architectural Standards

Architectural and building standards shall be consistent with section 7.4 of the Ordinance.

B Building Standards

Buildings may be varied in design and placement to avoid a row effect.

23.8 Buffer Requirements

Where property to be developed as a conservation subdivision abuts property under conventional zoning and subdivision requirements, the conservation subdivision shall have a fifty (50) foot minimum buffer along the exterior property boundary, which shall be landscaped naturally or through plantings consistent with section 10.6-2 of the Ordinance.

Appendix 23-I

Recommendations for areas of primary conservation importance, adapted from 1998 Cherokee County Comprehensive Plan:

1. Water Supply Watersheds: It is recommended that Cherokee County develop local watershed regulations to protect natural resources.
2. Groundwater Recharge Areas: It is recommended that Cherokee County adopt Part V of the Environmental Regulations of the Georgia Department of Natural Resources for Groundwater Recharge Areas.
3. Wetlands: Existing state and federal regulations with regards to wetlands are sufficient.
4. Flood Plains: It is recommended that Cherokee County adhere to existing regulations for flood plains promulgated by NFIP and FEMA.
5. Protected River Corridors: It is recommended that Cherokee County adhere to the local regulations requiring a one hundred and fifty (150) foot buffer on either side of the Etowah River Corridor, the source of water and electrical power for the community in North West Georgia and North East Alabama, and the Little River Corridor. Other recommendations include adding buffers to protect scenic resources and wildlife habitat and provide water-related recreation; acquiring passive recreation sites along the Etowah; and developing the Etowah River Greenway in accordance with the minimum regulations for river developments under Department of Natural Resources regulations.
6. Lake Allatoona: It is recommended that Cherokee County adhere to the existing Army Corps of Engineers Protection Zone Regulations and Requirements.
7. Yellow Creek Reservoir: It is recommended that Cherokee County develop watershed regulations addressing lot size requirements and impervious surface requirements.
8. Lithology: This category recognizes the importance of bedrock for groundwater recharge. It is recommended that Cherokee County adopt Part V of the Environmental Regulations of the Georgia Department of Natural Resources for groundwater recharge areas, by which the Environmental Health Department would oversee enforcement.
9. Soil Types: The criteria set forth in Part V of the Georgia Department of Natural Resources Environmental Regulations are sufficient.
10. Steep Slopes and Protected Mountains: Concerning slopes with a grade of at least twenty Percent (20%), it is recommended that Cherokee County develop local steep slope regulations and continue on- going negotiations for acquisitions of the upper portions of Pine Log and Bear Mountains.
11. Prime Farmland: It is recommended that Cherokee County develop Conservation Subdivision Regulations and Transfer of Development Rights (TDR), as well as Purchase of Development Rights (PDR) and Township Planning Areas as a means of protection and preservation of prime agricultural and forest lands in Cherokee County.
12. Forest Resources: It is recommended that Cherokee County develop tree preservation regulations as a means of protection and preservation.
13. Wildlife Resources: Wildlife resources include rabbits, squirrels, deer, minks, foxes, doves, hawks, and owls native to the area. It is recommended that Cherokee County develop

1 overlay zoning for trout streams and other protection measures under Georgia state law,
2 whereby the Game and Fish Division of the Department of Natural Resources would oversee
3 management.

4
5 14. Habitat Preservation: It is recommended that Cherokee County develop an
6 environmental awareness education program as a means of protecting and preserving
7 existing wildlife habitat.

8
9 15. Rare Plants and Animals: Tables five and six in the Cherokee County Comprehensive Plan
10 identify fifty-six (56) plants and sixteen (16) animals that fall into this category; of these, nine
11 (9) plants species and five (5) animal species are threatened or endangered within the state;
12 three (3) of which—Dwarf Sumac, Freckled Darter, and Amber Darter—are listed on the
13 National Endangered Species List and are protected by federal law. It is recommended that
14 Cherokee County develop environmental assessment regulations for rare and endangered
15 species as a means of protecting and preserving rare plants and animals.
16

Appendix 23-II

Suggestions for the Home Owners Association (HOA)

- At least one member of the HOA should receive training in wildlife habitat conservation, enhancement, and maintenance.
- Each homeowner should be given site specific information about indigenous habitat and diversity of species.
- The HOA should develop a long-term conservation plan for maintenance of common areas. This plan should include examples of environmentally friendly landscaping techniques for homeowners.

Appendix 23-III

Suggestions for Open Space:

- A minimum of 10% and a maximum of 50% should be used for active recreation, such as playing fields or amenity centers (swim/tennis).
- Open space in one development should be linked to open space in adjoining developments to create the largest, continuous area of open space possible.

Suggestions for Streets:

- Minimize the number of cul-de-sac streets by providing more than one entrance to the development and interconnect streets as much as possible.
- For cul-de-sac streets, minimize the amount of impervious surface by limiting the internal turning radius to twenty feet and the width of the paved lane to sixteen feet. Use grass and vegetation for the inner circle of turn-arounds, rather than paving the entire area. Declare the HOA responsible for the maintenance of the grassy area in the neighborhood bylaws.
- Omit curbs where ever possible.
- As an alternative to curbs and gutters, allow runoff from roofs and pavements to pass immediately through grass swales or infiltration basins. Use plant material that will absorb rainwater and act as a natural filter for oil and pollution.
- Utilize permeable pavement for street surfaces, driveways, sidewalks, and pedestrian and bike paths, except where steep slopes, swelling soils, and other site-specific constraints make it unfeasible. Examples of permeable pavement used in neighborhood developments include permeable crushed stone aggregate, open-celled pavers, porous asphalt, and porous concrete. Wooden decks, paving stones, and wood mulch are recommended for pedestrian areas.
- Provide marked, paved paths for nonvehicular traffic within the development and connecting to neighboring residential and commercial areas.

Acknowledgments and Special Thanks

Randall Arendt, author of Rural By Design

William McMinn, Planning and Zoning Administrator, Town of Madison, Connecticut

Kimberly Patton Miller, Landscape Architect

Robert Zoeckler, Attorney at Law

Lee Carmon, Attorney at Law

Madison County, CT, Ordinance

Hall County, GA, Ordinance

Green County, GA, Ordinance

Land Development Provisions To Protect Georgia Water Quality, prepared by The School of
Environmental Design at The University of Georgia.