

ARTICLE VI. CONSERVATION SUBDIVISION

A. Purposes of Conservation Subdivision

1. To promote efficient uses of the land to protect and preserve environmentally sensitive areas and Auburn's portable water supply source.
2. To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, watersheds, woodlands and wildlife habitat.
3. To permit clustering of buildings and structures on less environmentally sensitive soils in order to reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.
4. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
5. To promote interconnected greenways and corridors throughout the community.
6. To provide flexibility to allow for creativity in developments .
7. To encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features.
8. To protect water quality in the Lake Ogletree Subwatershed.
9. To reduce cost associated with infrastructure (roads, sidewalks, and utilities) and land preparation required by compact conservation designs (Mohamed, 2006; Fowler & Wenger, 2001; Arendt, 1996).

B. General Regulations

1. Applicability of Regulations. From and after the effective date of the Conservation Subdivision Regulations, all divisions of land in the subdivision jurisdiction which lie within the Lake Ogletree Subwatershed that are ten (10) acres or more, and where the division creates more than four lots, shall have the option of being prepared and presented for approval in accordance with these regulations. These regulations shall also be available as an option in other areas of the planning jurisdiction. Land within the corporate limits must be zoned as Conservation Overlay District (COD) to apply the conservation subdivision regulations (See the City of Auburn Zoning Ordinance, Section 518, Conservation Overlay District). Applicant shall comply with all other provisions of the zoning ordinance in zoned areas and all other applicable laws, except those that are incompatible with the provisions contained herein.
2. Minimum Land Area for a Conservation Subdivision. The minimum land area for a conservation subdivision is 10 contiguous acres. The Planning Commission and/or City Council may consider smaller parcels, greater than or equal to five acres but less than 10 acres, if the applicant can demonstrate one of the following: (1) the proposed Open Space provides a connection between unconnected existing open space, greenspace, or other protected natural resource areas and will not result in isolated fragments of open space; or (2) the proposed Conservation Subdivision would ensure a unique natural or historical significant area will be protected.
3. Housing Density Determination. The maximum number of lots in the Conservation Subdivision shall be determined by the density of the underlying zoning district or by dividing the gross area of the proposed conservation subdivision by the minimum lot size allowed for a subdivision within the Planning Jurisdiction or the watershed as set forth in Article IV, Section E (2) of these regulations.

The maximum density for property zoned as Limited Development District (LDD) within the Lake Ogletree Subwatershed shall be based on conventional residential standards (See Table 4-2 of the City of Auburn Zoning Ordinance).

C. Application Requirements

1. Site Analysis Map. Prior to the submission of a Concept Plan, the applicant shall prepare and submit a Site Analysis Map to the Planning Department for review and approval in accordance with these regulations. The purpose of the Site Analysis Map is to ensure that important site features have been adequately identified prior to the creation of the site design, and that the proposed Open Space will meet the requirements of this article. The following information shall be included on the Site Analysis Map.
 - a. Delineation of Primary Conservation Areas (see Section D(1) of this Article) by type including acreage. The source of this information shall also be indicated.
 - b. Delineation of Secondary Conservation Areas (see Section D(1) of this Article) by type including acreage. The source of this information shall also be indicated.
 - c. Items (b), (c), (d), (e), (f), and (g) of Article III, Section B, Lot Layout.

Information included on the site analysis map must be based on existing data sources (i.e. USGS maps, FIRM maps, etc.) and field inspections. All data shown on the Site Analysis Map shall be certified by a professional engineer.

2. Concept Plan. A Concept Plan, as described herein, shall be submitted and approved by the Planning Director prior to the submission of a preliminary plat.
3. Open Space Maintenance Plan. An open space maintenance plan, as described herein, shall be prepared and submitted prior to the initial final plat approval.
4. Instrument of Permanent Protection. An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant, and as described in Section E (5) and approved by the City Attorney, shall be placed on the Open Space prior to the filing of the initial preliminary plat.
5. Other Requirements. Applicant shall adhere to all other applicable requirements of any underlying zoning and the Auburn Subdivision Regulations.

D. Open Space

1. Standards for Determining and Designing the Open Space
 - a. The minimum Open Space shall comprise at least 50% of the gross area of the Conservation Subdivision.
 - b. Primary Conservation areas are environmentally sensitive areas such as wetlands and floodplains regulated by state and federal law. Primary conservation areas form the core of the open space to be protected. These areas are required to be included as open space. These areas must be covered by some provision for permanent protection. The following are considered Primary Conservation Areas and shall be included within the Open Space, unless the strict application of these standards would be counter to the purposes of these regulations:
 - i. The 100-year floodplain
 - ii. Stream buffer zones along all perennial and intermittent streams

- iii. Slopes above 15% of at least one-acre contiguous area
 - iv. Wetlands and associated buffers that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act
 - v. Existing and proposed greenways that connect the conservation subdivision to neighboring areas
- c. Secondary conservation areas include unprotected elements of the natural landscape such as mature woodlands, prime farmland, meadows, and scenic views. Secondary conservation areas consist of undeveloped but buildable land and protected land. These areas are recommended and desirable for conservation open space and may be covered by the provisions for permanent protection.

Secondary conservation areas shall include any vegetated areas adjacent to or in close proximity to Primary Conservation areas.

- d. Lots not adjoining the Open Space shall be provided with safe, convenient access to the Open Space.
- e. Pedestrian access to the open space should be provided wherever possible and reasonable. The Open Space shall have access to one or more public right-of-way via a pedestrian trail. See Item G, Design Standards, for recommended trail standards.
- f. All Open Space shall be a part of a larger, continuous and integrated open space system within the development site. Whenever possible, open space shall connect with existing open space or designated greenways on adjacent parcels.
- g. All facilities and improvements proposed for construction or installation by the developer in the designated Open Space must be completed and available for use within a time frame determined by the Planning Commission. Such determination shall be based upon completion of a defined percentage of the total dwelling units in the development or by development phases as delineated on the Concept Plan and/or indicated in the written report.
- h. If the Conservation Subdivision is divided into development phases, all required Open Space shall be identified on the initial preliminary and final plat.

2. Exclusions from Designated Open Space Requirements

Excluded from meeting the minimum open space requirement are the following (Also see what constitute primary and secondary conservation areas):

- a. Residential yards
- b. Required bufferyards where such bufferyards are located inside residential lots.
- c. Areas that have been cleared of vegetation, excavated, filled, or otherwise altered from their natural states unless such alteration is consistent with the permitted use of the open space parcel.
- d. No existing lake, pond, or other permanent water body shall constitute more than 25 percent of the total open space requirement for the development site.
- e. Impervious surfaces in recreation areas, except as specified in Section D (3)(e).

- f. Land devoted to public or private streets or driveways or any land that has been, or is to be, conveyed to a public agency via a purchase agreement for such uses as parks, schools, or other public facilities.

3. Permitted Uses of Open Space

- a. Conservation of natural, archeological or historical resources;
- b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- c. Walking or bicycle trails, provided they are constructed of pervious materials;
- d. Passive recreation areas, such as open fields (See Definitions, passive recreation);
- e. Active recreation areas provided that they are limited to no more than 10% of the total required Open 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 the designated required Open Space (See Definitions, active recreation);
- f. Existing agriculture, horticulture, silviculture or pasture uses, as of the date of the conservation subdivision application, provided that all applicable Best Management Practices are used to minimize environmental impacts and such activities are not conducted within Primary Conservation Areas. Planning Commission may consider a waiver if the proposed agricultural, horticulture or silviculture use is located and designed in such a way that the impact of the use upon the natural resources is substantially minimized;
- g. Easements for drainage, access, and underground utility lines;
- h. Other conservation-oriented uses compatible with the purposes of these regulations and approved by the Planning Commission.

All permitted uses of the Open Space shall be clearly noted on all subdivision plats and legal documents.

4. Ownership of Open Space

Open space within a conservation subdivision shall be owned and administered by one or a combination of any of the following methods.

- a. *Homeowners' Association.* The protected open space shall be held in common ownership in perpetuity by a homeowners' association representing all owners of the Conservation Subdivision. Membership in the association shall be mandatory and automatic for all property owners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues and special assessments from all members. The responsibility for maintaining the Open Space and any facilities located thereon shall be borne by the homeowners' association.

The homeowners' association bylaws or the declaration of covenants of the homeowners' association shall contain the following information:

1. The legal description of the common land including any working agricultural uses as appropriate.
2. A description of common facilities.
3. The restrictions placed upon the use and enjoyment of the lands or facilities in accordance with the Conservation Subdivision regulations.
4. Persons or entities entitled to enforce the restrictions.

5. A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes, and insurance premiums.
6. The conditions and timing of the transfer of ownership and control of land and facilities to the association.
7. A provision for amendments to the restrictions placed on the Open Space only with permission from the City of Auburn and by majority vote of the property owners. Amendments shall be filed with the City of Auburn and recorded with the Judge of Probate of Lee County.
8. Any other matter the developer deems appropriate.

The applicant shall provide the City with a copy of the Certificate of Incorporation from the Alabama Secretary of State for the homeowners' association, including its by-laws. The Certificate shall be included with the Open Space Maintenance Plan.

- b. *Transfer to a Private Conservation Organization.* The owner of the conservation subdivision may transfer the open space to a private, nonprofit organization among whose purpose it is to conserve open space and/or natural resources, provided that:
 - i. The organization is a bona fide conservation organization with perpetual existence;
 - ii. The conveyance contains provisions agreed to between the owner and the organization.
- c. *An individual or trust.* The protected open space may be held by an individual or trust through fee simple title to the land. The individual or trust must use the land for open space purposes as provided by a conservation easement.
- d. *Dedication to the City.* The protected open space may be offered to the City of Auburn as a public land dedication. Dedication shall take the form of a fee simple ownership. The initial final plat shall not be considered approved until the Auburn City Council approves a resolution accepting the dedication of the conservation area or areas.

The City of Auburn may, but is not required to accept protected open space. If the City declines the offer of dedication, then one of the other forms of ownership must be provided. If the City agrees to accept the dedication, the City must be provided access to the Open Space in order to maintain such land. In addition, such land shall be accessible to all residents of the City of Auburn.

5. Legal Instrument for Permanent Protection

- a. The Open 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:
 1. 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, and if the entity accepting the easement is not the City of Auburn, then a third right of enforcement favoring the City of Auburn shall be included in the easement.
 2. A permanent restrictive covenant for conservation purposes in favor of a governmental entity.

3. An equivalent legal tool that provides permanent protection, subject to approval by the City Attorney.
- b. The instrument for permanent protection shall (1) include the boundaries of the property by survey and metes and bounds legal description; (2) clearly delineate primary and secondary conservation areas; (3) clearly list restrictions on use of the Open Space, including all restrictions contained in these regulations, as well as any further restrictions the applicant chooses to place on use of the Open Space; (4) specify how the property may be transferred as in the case of dissolution of the organization (i.e. homeowners association and conservation organization); and (5) provide for maintenance of the property.

6. Maintenance of Open Space

Applicant shall submit a Plan for maintenance of Open Space and common facilities that:

- a. Designates the ownership of the Open Space and common facilities in accordance with Section D(4) of this Article.
- b. Establishes and allocates regular and periodic operation and maintenance responsibilities of the Open Space (including signage) and any common facilities located thereon.
- c. Establishes and estimates the on-going funding and funding source for the operation and maintenance of the Open Space and common facilities.
- d. Includes a long-term management plan for common open space lands. The Maintenance Plan shall include a narrative describing:
 1. Existing conditions of all natural, cultural, historic, and scenic elements in the Open Space.
 2. Proposed modification and improvement of natural features in accordance with requirements specified in this subsection.
- e. Provides for implementation of the Maintenance Plan.

Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes, as recommended by natural resource professionals and in compliance with an approved vegetation restoration plan, as described in Section 413.12 of the City of Auburn Zoning Ordinance or found in the Appendix. Any modifications to the natural features shall be designed to ensure that the purpose of the Conservation Subdivision continues to be met. Permitted modifications may include:

- (1) Woodland management.
- (2) Reforestation.
- (3) Meadow/Pasture management.
- (4) Wetlands management.
- (5) Stream bank management
- (6) Trails management

In the event the ultimate owner responsible for maintenance of the Open Space fails to maintain all or any portion in reasonable order and condition, the City of Auburn may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of

extended maintenance. All costs of such maintenance shall be charged to the owner, or to the individual property owners that make up the homeowners' association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

7. Tax Assessment of Open Space

Once a legal instrument for permanent protection has been placed upon the Open Space, the Lee County Tax Assessor shall be notified of the reduction in development rights of the Open Space in order to initiate reassessment of the Open Space at a value that reflects its permanent limited uses.

E. Approval Process

The procedures for considering a conservation subdivision shall be the same as those for preliminary and final plats, except for the following:

- (1) No Lot Layout plan shall be required; instead, the applicant shall submit a Site Analysis Map (See Section C(1)).
- (2) A Concept Plan shall be submitted and approved by the Planning Director prior to the submission of any preliminary plats (See Section F below).

F. Concept Plan

A Concept Plan is a generalized plan that depicts the layout of lots, buildings, streets, Stormwater management appurtenances, and open space of the proposed conservation subdivision. The Concept Plan must be submitted prior to an initial preliminary plat for the conservation subdivision. Using the information provided in the Site Analysis Plan and applying the design standards specified in this Article for conservation subdivision, the applicant shall submit a Concept Plan containing the following information:

1. Subdivision name, boundaries, name of the owner and/or developer and registered land surveyor or engineer, date of the plan, a north arrow and scale.
2. A vicinity map showing the general location of the property, development and any incorporated city boundaries within 3 miles of the development.
3. Outer boundary lines or perimeter of the overall development site.
4. Proposed sizes of the various types of lots or parcels to be developed (acreage or square footage).
5. Approximate building footprint of all dwelling units and other structures.
6. Location and acreage of all primary and secondary conservation areas and labeled accordingly.
7. Location and acreage of all active and passive recreation areas including access.
8. The location of existing streets, buildings, railroads, bridges, sanitary sewers, drainage facilities, water mains, and any public utility easements on both the land being subdivided and on the adjoining land.
9. Location and percentage of impervious surfaces.
10. Overall gross density for the development site, as well as, density for each individual stage or phase.

11. Survey data showing the dimensions and bearings of the boundaries of the subdivision; section and corporate lines; and contours at five (5) foot intervals based on City of Auburn Datum or National Geodetic Survey Sea Level Datum, unless required by the City Engineer to submit contours at lesser intervals. In some cases, the City Engineer may require spot elevations in sufficient number to provide necessary drainage information.
12. Name or numbering of phases.

The Concept Plan shall be accompanied by a written report describing the following:

- (a) Total acreage of the development site;
- (b) Total acreage and percentage of Open Space;
- (c) Acreage and percentage of the total land that will be retained as primary conservation areas;
- (d) Acreage and percentage of the total land that will be retained as secondary conservation areas;
- (e) Acreage and percentage of Open Space used as active recreation (See Section D (1)(e) of this Article);
- (f) Acreage and percentage of Open Space used as passive recreation (See Section D (1)(d) of this Article);
- (g) Acreage and percentage of Open Space that qualifies as greenspace in accordance with the City of Auburn Greenspace Plan;
- (h) Proposed use and improvements in the Open Space such as trails, agriculture, etc.
- (i) A narrative describing the ownership and method of protecting the Open Space. If the Open Space shall be owned by more than one entity, state the total acreage that shall be allocated to each entity;
- (j) Total number of buildable lots;
- (k) Average lot sizes;
- (l) Minimum front yard setbacks;
- (m) Average size of dwellings (including ISR tabulation);
- (n) Area of impervious streets, sidewalks, and trails;
- (o) Where pervious materials will be used;
- (p) Overall projected impervious surface ratio (ISR) for the development site;
- (q) Maximum ISR per lot; and
- (r) Development Schedule, indicating the approximate date when construction of the various development phases will begin and end.

Upon filing of an initial application, the Planning Department staff in conjunction with staff from Water Resource Management and Engineering Services shall review the application and concept plan. Staff from other appropriate departments, including the City Attorney, may also be requested by the Planning Director to

review the application. The Planning staff and other pertinent staff shall make the determination whether the Concept Plan is acceptable and meets all the requirements set forth in this Article. The staff shall also schedule a site visit to review the natural features of the development site as shown on the concept plan. Upon completion of the concept plan review, the Planning Director shall issue comments to the applicant to be addressed on the Preliminary Plat.

G. Design Standards for Conservation Subdivisions

1. Dimensional Standards:

Each lot shall have frontage on a public street.

Minimum Lot Area: The minimum lot size is as follows:

Within the Watershed:

Option 1: Conservation Subdivision

Minimum lot size for lots without sewer-- 1.5 acres

Minimum lot size for lots with sewer --- 10,890 square feet

Option 2: Conventional Subdivision

Minimum lot size for lots without sewer-- 3 acres

Minimum lot size for lots with sewer --- Same as the minimum lot size for specified the underlying zoning district.

Outside the Watershed:

There is no minimum lot size requirement outside the watershed area. However, the density allowed by the underlying zoning district or specified in these regulations limits the maximum site density.

Minimum Lot Width: 50 feet

Minimum Yards:

Front / Side Street: 20 feet (*porch is included*)

Side: 10 feet

Rear: 20 feet

2. Maximum Impervious Surface: The overall impervious surface ratio (ISR) of a conservation subdivision in the Lake Ogletree Subwatershed should not exceed 10 percent of the gross area. If the ISR must exceed 10 percent, then appropriate stormwater Best Management Practices (BMPs) shall be incorporated on the development site outside the required Open Space (See Item 8 under this section).

Outside the watershed areas, the overall ISR shall be determined by the underlying zoning district. If the development site is located outside the watershed but within the planning jurisdiction, there shall be no ISR requirement.

3. Street Design

Street Width: Minimum right-of-way (ROW) widths, measured from lot line to lot line; and minimum street width, measured from back-of-curb to back-of-curb, shall be as follows:

Design Factor*	Alley (one way)	Local	Cul-de-Sac	Residential Loop One Way/Two Way
B/C to B/C Width Pavement Width	Not Required	26 feet	26 feet	15 feet/27 feet
	11 feet	22 feet	22 feet	11 feet/22 feet
ROW	25 feet	50 feet	50 feet	varies
Minimum centerline radius	100 feet	200 feet	200 feet	100 feet
Maximum Grade Design Speed	15%	5%/15%	5%/15%	5%/15%
	15 mph	25 mph	25 mph	15 mph
Sidewalk Location	Not Required	Optional/ Pervious	Optional/ Pervious	Optional/ Pervious
Public/Private	Public/Private	Public	Public	Public

*Curb and gutter required where profile grades exceed 5%

All other street classifications shall conform to design requirements found in Article IV, Section C.

Street Layout: The use of interconnected streets and alleys shall be used throughout the development site. Street design such as loop streets is preferred to the use of cul-de-sacs.

4. Cul-de-Sac Streets: Cul-de-sacs shall be permitted where topographic features or configuration of property boundaries prevent street connections. In such cases, a planter island shall be incorporated in the center of the terminus. The planter island shall have a minimum radius of 20 feet and shall be reinforced with a mountable rolled curb, at a minimum. Other alternatives to the cul-de-sac shall include an eyebrow or crescent with an island and a one-way loop (See Figure 1).

5. Shared Driveway: Common/shared driveways are encouraged to reduce impervious surface. All shared driveways must be constructed in accordance with standards approved by the City Engineer.

6. Sidewalk/Trail System: Sidewalks shall be installed along one side of the street within a conservation subdivision. Pedestrian trails shall also be permitted in a conservation subdivision. Sidewalks or trails must provide pedestrian access to all existing and planned bicycle and/or greenway networks that run through and adjacent to the development site.

Trails shall be planned, designed and constructed to avoid or minimize degradation of natural resources. Trails shall be soft-surface except where necessary to prevent erosion and/or resource damage. To the extent possible, trails shall provide for pedestrian, bicycle, and/or other non-motorized uses.

All trails and sidewalks shall be designed in accordance with current American Association of State Highway & Transportation Officials (AASHTO) standards. Sidewalks and trails may be constructed of pervious concrete and other porous materials provided the runoff through the material will not be directed towards the subgrade of the traveled lane portion of a roadway. Sidewalks shall be no less than four feet in width.

The City may consider the installation of an alternating sidewalk/trail system in lieu of sidewalks. Such system must incorporate well-connected sidewalks and trails that link each residential lot with on-site open space, recreational facilities, and other amenities within the development site. A sidewalk/trail plan for the entire development site must be submitted to the City Engineer for approval. The plan shall include a map depicting the proposed location of all sidewalks and trails throughout the development site. The plan shall be submitted with initial set of construction plans for the proposed development site.

7. Other Design Standards: See Article IV, Design Standards, for other street, sidewalk, block and lot standards.

8. Stormwater Treatment Design Standards.

Within the Lake Ogletree Subwatershed, each development site overall impervious surface ratio (ISR) should not exceed 10 percent of the gross area. Stormwater Best Management Practices (BMPs) shall be required for water quality control if the total ISR is projected to exceed 10 percent for the development site. For development sites with an ISR above 10 percent, stormwater treatment BMPs shall be designed and installed in a manner to achieve the targeted pollutant removal efficiencies found in the Auburn Water Resource Management Design and Construction Manual.

Outside the watershed areas, the overall ISR shall be determined by the underlying zoning district. If the development site is located outside the watershed but within the planning jurisdiction, there shall be no ISR requirement.

The applicant shall submit a Stormwater Management Plan if the total ISR for the development site is projected to exceed 10 percent. The focus of this plan is to describe how the site will be developed in order to achieve the pollutant target removal efficiencies found in manual. The project engineer shall prepare the stormwater plan that includes a water quality/water quantity report, a water quality site development analysis, the location of all structural and nonstructural stormwater treatment BMPs, procedures for implementing non-structural stormwater treatment practices along with a proper maintenance plan. All stormwater management measures shall be incorporated into the design of the conservation subdivision. Stormwater BMP measures shall be designed in accordance with standards outlined in the Auburn Water Resource Management Design and Construction Manual. The manual includes design standards and target pollutant removal efficiencies for a variety of stormwater BMPs. See of the manual for further details on BMP design guidelines.

The maintenance plan shall contain specific preventative maintenance tasks and an inspection schedule of all stormwater management techniques installed on the development site. The name of a person or persons responsible for preventative and corrective maintenance (including replacement) of the stormwater BMP techniques shall be stated in the maintenance plan. If the maintenance plan identifies a person other than the developer as having the responsibility for maintenance, the plan shall include documentation of such person's agreement to assume this responsibility. Responsibility for maintenance shall not be assigned or transferred to an owner of individual property within a conservation subdivision development, unless such owner owns the entire development.

The Stormwater Management Plan shall be reviewed as a part of the subdivision plat review process and must be submitted with the construction plans.