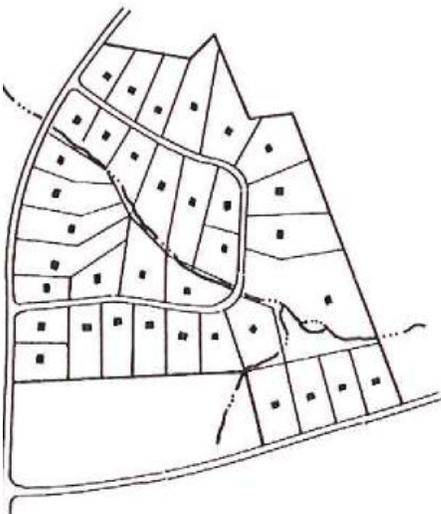


ARTICLE XI - CONSERVATION SUBDIVISIONS

Section 1101: Purpose and Intent.

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

1. Minimize the environmental and visual impacts of new development on critical resources and historically and culturally significant sites and structures.
2. Contribute to an interconnected network of permanent open space in the community and provide for undivided or relatively undivided open spaces within new developments.
3. Create a greater diversity of living environments than is possible with conventional residential subdivision developments.
4. Foster informal social interaction among neighborhood residents in common open spaces.
5. Reduce the demand on public expenditures for open space, parkland, play fields, and other areas for active and passive recreation.
6. Encourage compact patterns that reduce capital costs by requiring less linear footage distances of roads and utilities than conventional subdivision development.
7. Offer greater opportunities to implement environmentally sensitive sewage treatment and disposal systems.



Conventional Subdivision



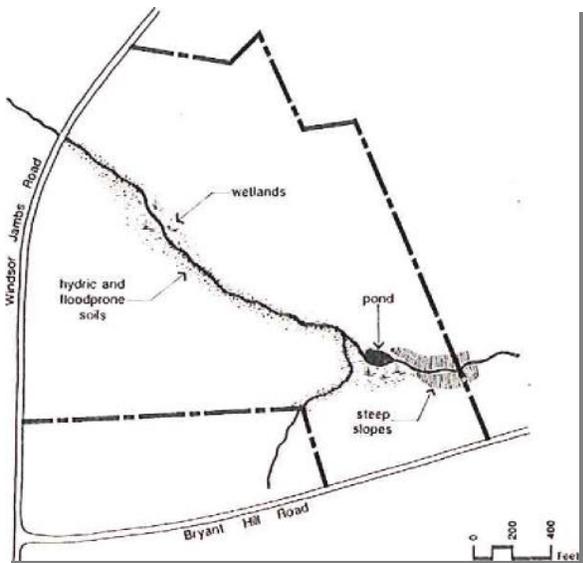
Conservation Subdivision

Section 1102: Relationship to Subdivision Regulations.

Conservation subdivisions shall be considered and processed in accordance with preliminary and final plat requirements as specified in this ordinance, except that in addition the criteria for approval and grounds for disapproval as provided in this Article shall also apply to decisions on preliminary plats. Conservation subdivisions shall meet the improvement requirements of this ordinance. Where design considerations for lots and blocks are more specifically recommended in this Article, they shall be considered applicable recommendations in lieu of those found in other Articles of this ordinance which would otherwise be applied.

Section 1103: Primary Conservation Areas.

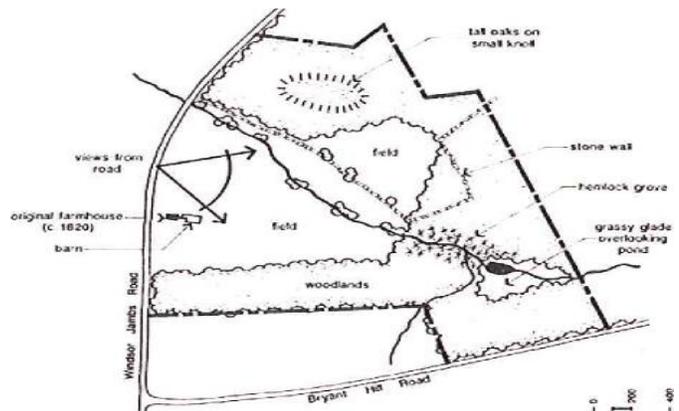
Primary conservation areas on lands in conventional subdivisions are permitted to be platted and included in adjacent residential lots. In contrast, a conservation subdivision incorporates, and shall include, all primary conservation areas into undivided or relatively undivided, permanent, open spaces. Primary conservation areas, as defined by this Article, include the following: habitats for endangered or threatened species, wetlands, groundwater recharge areas, flood plains, water bodies, shorelines, and adjacent riparian zones or upland buffers, historic, cultural, and archaeological sites, and steep slopes.



Primary Conservation Areas

Section 1104: Secondary Conservation Areas.

Secondary conservation areas on lands in conventional subdivisions are rarely identified and conserved. In contrast, a conservation subdivision identifies, and shall identify secondary conservation areas and shall integrate all or a portion of them into undivided or relatively undivided, permanent, open spaces.



Secondary Conservation Areas

Section 1105: Required Open Space Specifications.

1. Minimum Percent of Site Area. Each conservation subdivision shall provide a minimum of twenty percent (20%) of its total land area as open space, as defined by this ordinance. Areas of above-ground utility right-of-way must be excluded from the minimum.
2. Minimum Size. The minimum amount of open space required to qualify for an open space conservation subdivision shall be one and one-half (1.5) contiguous acres. The purpose of this minimum open space acreage is to avoid development proposals that provide only small, scattered open spaces that would not functionally contribute to the overall open space network of the surrounding area.
3. Permitted Uses. In the case of farmland conversion, part of the open space within a conservation subdivision may be permitted to be retained in the hands of the original farmer/landowner or leased to a farmer for agricultural, pasture, or horticulture uses, so long as the activity is undertaken using best management practices to reduce environmental impacts to the extent possible. Open space may not be used for golf courses, roadways, or water impoundments. No more than 25% of the open space may be used for active recreation spaces. Uses not expressly authorized via the preliminary plat review and approval process are prohibited.
4. Open Spaces Shall Be Named. Each open space shall be given a name appropriate to its purpose and design. Acceptable identifying types of names for open spaces include but are not limited to "Common," "Park," "Green," "Meadow," "Woods," "Farm," and "Historic Site."

Section 1106: Conservation Easement Required.

All primary conservation areas, and all secondary conservation areas shown on the preliminary plat and required or proposed to be retained as open space, shall be permanently protected from further subdivision, development, and unauthorized use by a conservation easement. A conservation easement, as defined, shall be approved by the City and 1) co-signed by the City and

donated to a conservation organization or land trust; or 2) co-signed by the City, donated to a homeowners association and co-signed by a conservation organization or land trust; or 3) donated to the City if accepted by the City and co-signed by a conservation organization or land trust. In the case of farmland conversion, part of the open space within a conservation subdivision may be permitted to be retained in the hands of the original farmer/landowner if subject to a conservation easement meeting the requirements of this Article.

Section 1107: Guidelines for Drafting Conservation Easements.

The following guidelines are offered for drafting conservation easements and may be required by the City of Cornelia:

1. The easement recognizes and describes in a statement of purpose the special qualities of the property subject to the easement. The easement must include a map of the tract noting all significant features within the area. The easement clearly identifies 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 co-signer.
2. The easement specifically and clearly identifies the boundaries of the property subject to the easement, preferably by metes and bounds legal description and survey plat.
3. The easement contains restrictions as to what the owner may do with the property and specifically delineates 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.
4. The easement provides for the right of the easement holder and co-signer to inspect the property to assure observance of restrictions. It also provides for enforcement procedures.
5. The easement provides for the maintenance of property.
6. The easement contains 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 any co-signers.

Section 1108: Homeowners Association.

Open spaces may be owned and managed in common by a homeowners association, subject to compliance with the provisions of this Article and the following requirements:

1. The developer of the conservation subdivision shall provide to the Administrative Officer for approval, prior to the approval of a preliminary plat, a description of the homeowners association, including bylaws and methods for maintaining open space. The developer of the conservation subdivision shall provide a property management plan or an estimate of the costs and staff requirements for the maintenance, operation, and insurance of the open space and any facilities it includes in the description of methods for maintaining the subdivision's open space.
2. The homeowners association shall be established by the conservation subdivision developer and endowed with a financial subsidy from the developer prior to the

- approval of a final plat on the property involving a conservation subdivision.
3. Homeowners' association membership of each non-open space lot owner in the conservation subdivision shall be mandatory (required) and automatic.
 4. Unless maintenance is assigned to a conservation organization or land trust, the homeowners association shall be responsible for maintenance, insurance, and taxes on the open space within the conservation subdivision. In such cases, the association shall be required to assess dues for the maintenance of open space, 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 open space maintenance as indicated in bylaws. The association shall be empowered with the legal ability to place liens on non-open space lot owners for failure to pay association dues.
 5. Said homeowners association shall not be dissolved without the consent of the Governing Body. If common ownership of open spaces by a homeowners association is proposed and approved, then open spaces shall be subject to permanent deed and final plat restrictions or covenants on the future use, development, and subdivision of open spaces, in addition to the requirement of a conservation easement.
 6. The Governing Body may, upon recommendation of the City Attorney and the City Engineer, require that the homeowners association establish a minimum amount of funds to be initially deposited and maintained in a maintenance account.

Section 1109: Fee Simple Dedication to the City.

Dedication in fee-simple ownership to the public for recreational and/or open space use is a possible mechanism for the permanent retention and maintenance of open spaces within the conservation subdivision, at the sole discretion of the Governing Body, and subject to the following in addition to other applicable provisions of this ordinance:

1. Dedication to the City shall only be approved if the Governing Body finds that the size, shape, location, type of open space, or cost of development or maintenance of such open space or the availability of open space would make public ownership desirable or necessary.
2. The decision to accept open spaces for fee simple public ownership shall be at the sole discretion of the Governing Body but guided by recommendations of the Administrative Officer, Municipal Planning Board, and the comprehensive plan as it pertains to open space acquisition.

The Governing Body may require a maintenance bond or other financial security with duration of twelve (12) months following public acceptance in an amount sufficient to ensure that such lands do not cause unwarranted public expenditures because of faulty conditions or construction. The Governing Body shall have authority to cash said bond in the event substandard conditions are evident. Otherwise, following the one-year period following public dedication, with satisfactory performance, the Governing Body shall upon request return the performance bond to the subdivider.

In addition to the required conservation easement, a deed for open space lands in a form acceptable to the City Attorney in favor of the City shall be signed and recorded prior to the approval of any final plat pertaining to land within the conservation subdivision.

Section 1110: Application.

As a part of the preliminary plat application, the applicant for a conservation subdivision shall in addition to the requirements for preliminary plats specified in this ordinance, submit an analysis of existing features on the site, which shall at minimum include the following:

1. Significant wildlife habitats, if any. If information on habitats is not available, the wildlife potential of various soil types on the site shall be identified and examined.
2. Soils, including analysis of suitability for septic tanks, erosion potential, prime farmland, and identification of hydric soils.
3. Wetlands.
4. Floodplains. Areas of 100-year flood plains as identified on flood hazard boundary maps or flood insurance rate maps developed by the Federal Emergency Management Agency.
5. Steep slopes and protection mountain and hillside areas.
6. Historic, archaeological, and cultural features.
7. Tree cover/woodlands.
8. Views into and out from the site, and any scenic qualities.
9. Groundwater recharge areas.
10. Protected river corridors.
11. Water supply watersheds.
12. Property boundaries.
13. Existing roads and structures.
14. Greenspaces and trails traversing or adjacent to the site.
15. Planned boundaries of open space.

Section 1111: Consideration.

Approval or denial of a preliminary plat for a conservation subdivision shall, be based on the extent to which the plat meets the following criteria:

1. All primary conservation areas are protected as permanent open space.
2. A sufficient amount of secondary conservation areas are protected as permanent open space, as opposed to being devoted to lots and other uses.
3. The configuration of the open space tract is contiguous and undivided, or open space is provided in relatively undivided tracts that cannot reasonably be reconfigured into one contiguous, undivided tract.
4. The conservation subdivision meets the regulations specified in this Article.

Section 1112: Justifiable Grounds for Denial.

Reasons for the denial of a preliminary plat of a conservation subdivision include but are not limited to the following:

1. The application fails to fully identify primary and secondary conservation areas.
2. The proposed method of sewage treatment is inappropriate for the site or found to be potentially dangerous to public health.
3. One or more of the lots within the conservation subdivision are too small to be in character with residences on adjoining or nearby properties.
4. One or more of the lots are significantly large or wide, such that their design contributes to an unnecessary decrease in the amount of open space retained on site.
5. The street configuration does not provide for connectivity, or preserve natural features, or it is found to be inconsistent with the open space character of the subject property and its surroundings.
6. The proposed open space network is divided, not functional, inconsistent with open space plans of the City, or does not provide for the protection of the most valuable secondary conservation areas on the site given the natural and scenic properties inherent on the site.
7. The proposed open space network fails to maximize the length of the common boundary between conservation areas on site and conservation areas or parkland abutting the conservation subdivision.

End Article XI