

Planning in a Fast Growth Environment



ATLANTA REGIONAL COMMISSION

Tools for Managing Development in a Fast Growth Environment

Table of Contents

I. Understanding the Region's Growth

- I. Introduction
- II. The Effects of Growth from a Regional Perspective
- III. The Effects of Growth from a Local Perspective

II. Identifying the Tools

- A. Comprehensive Planning and its Role in a Fast Growth Environment
- B. Zoning
- C. Capital Improvements Element
- D. Impact Fees
- E. Adequate Public Facilities Standards
- F. Development Moratoria
- G. Conservation Easements
- H. Transfer of Development Rights
- I. Current Use Value
- J. Historic Preservation
- K. Land Acquisition
- L. Square Footage Limits
- M. Conservation Subdivisions for would-be scenic land owners

III. Case Studies

- 1. City of Roswell
- 2. City of Peachtree City
- 3. Fulton County/Chattahoochee Hill Country
- 4. City of Senoia

IV. Appendices

- 1. Enabling legislation and legal references for tools
- 2. City of Roswell Impact Fee Table
- 3. List of Land Trusts Currently Operating in Georgia
- 4. Ordinance Limiting Square Footage for Retail Space, Peachtree City, GA; Walpole, NH

Introduction:

Finding the balance between what a community is today and what it has the potential to become tomorrow is at the heart of community development in the Atlanta region. **How can a community benefit from the region’s large scale economic growth while still maintaining the quality of life enjoyed by current residents?**

The short answer is: “By being prepared for growth before it happens, because it will happen.” By virtue of being located within the Atlanta region, the likelihood that a community will experience rapid growth in the coming decades is almost guaranteed. If the community accepts that future, and then manages the growth in a way which protects existing community resources and creates new amenities, the community will have taken advantage of growth without being destroyed by it.

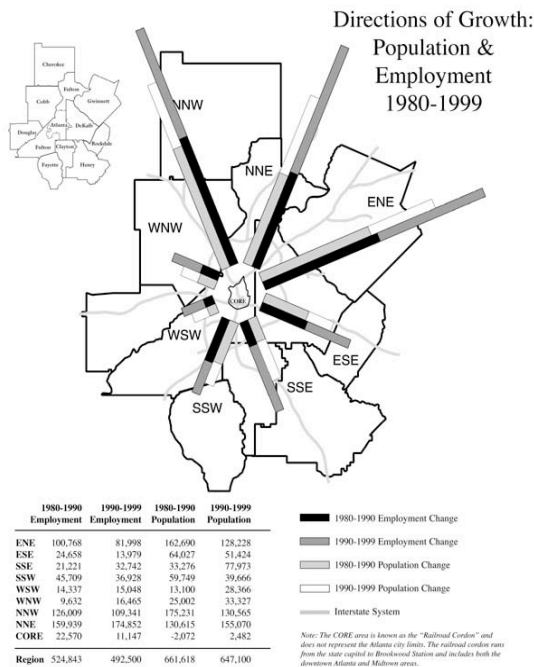
The long answer to that question is the reason for this tool, and will occupy the next 30 or so pages of this document. After a brief exploration of the nature of growth in the Atlanta region, the following pages will explore 13 different approaches that a city or county government can use to make sure that future economic growth doesn’t diminish the community’s existing quality of life.

Growth in the Atlanta Region:

The Effects of Growth from a Regional Perspective:

The Atlanta region is in the middle of a protracted population and business boom. The 2000 population of the extended 13 county Atlanta Region was approximately 3.7 million

people. The ARC’s Regional Development Plan predicts that the region’s population will increase by roughly 40% to 6 million people by 2030. Over the same period, the number of jobs in the region is expected to rise from 2.5 million to 4.2 million. The growth that has taken place thus far has brought a great deal of good to the region; Mean household incomes for the Atlanta Metropolitan Statistical Area in 2002 were over \$11,000 higher than the state average, and the region has significantly higher high school graduation rates and college degree completion rates than is the state average. Atlanta was also identified as the top large city in the country in which to do business by Inc. magazine. Atlanta’s Hartsfield-Jackson International Airport is the main transportation hub of the Southeast, and



it between 1998 and 2003 it held the title of “busiest airport in the world,” moving more passengers than even Chicago’s O’Hare International Airport.

Of course, there is a trade-off for all of these many advantages. For example, the Atlanta region is now dealing with an air quality crisis that brings 20 counties in the Metro area into violation of federal air quality guidelines. This means that area residents breathe in more sulfur dioxide, nitrogen dioxide, ozone and/or particulate matter than the EPA finds to be healthy. These high levels of air pollution have already translated into millions of dollars in fines and a loss of access to certain federal transportation dollars, and could continue to do so if the situation does not improve by 2005.

Another closely related quality of life concern which has resulted from the region’s high levels of growth is the average commute time for area workers. The average commute time for the Metro Atlanta region is 31.2 minutes, up from 26 minutes in 1990. That was the biggest increase of any metropolitan area during the same period.

The reason for this increase is that new residents in the area are predominantly choosing to settle near the region’s interstates, and usually commute to one of the region’s 5 major job centers. Even those workers whose destinations are not in the City of Atlanta often still need to use the same interstates to get to their jobs in different parts of the region. This results in very heavy usage of the Atlanta region’s interstate highway system, making regional mobility during rush hour a serious concern for residents.

As the above graphic shows, the majority of the new development which took place during the past 20 years has been in the region’s Northern suburbs. However, because the region lacks any major physical boundaries such as mountains, large lakes or oceans, there is no insurmountable reason why development could not just as easily spread to the South. The same interstates, I-20, I-75 and I-85, pass through the Southern counties that pass through the Northern counties.

Another example of how the region’s sudden growth has had serious consequences can be found in the form of the region’s looming drinking water shortage. The region relies on the Chattahoochee River Basin for over 80% of its water needs. Of this water, 98% is surface water, meaning that there are no large underwater aquifers from which region can draw its water. The Chattahoochee is not a large river, and as it is the primary source of the region’s drinking water, Metro Atlanta has one of the smallest supplies of fresh water of any major urban area in the United States. Because of this, the future will likely hold higher water bills, tighter regulations, and hopefully more efficient use of the region’s water resources than has been the case thus far.

These three examples provide some insight into the kind of problems that can result from sudden, unexpected growth. Each of these problems, while being regional in scope, ultimately influence the quality of life enjoyed by individual residents at the local level. The region’s air quality problems result in outdoor exercise becoming unhealthy for certain groups, and its traffic may make visiting friends or going to local vacation spots more difficult, or the water shortages might require higher bills and restrictions on how water may be used inside and outside of the home.

The Effects of Regional Growth at a Local Level:

While the negative effects listed above are ultimately felt at the local level, the region's growth has also contributed positively to many aspects of community life in Metro Atlanta as well. It has meant more jobs for local residents, more commerce for local businesses and more tax revenues for local governments. It has meant improvements to roads, schools and the opportunity to modernize or create other public facilities. These are the effects that many policy makers, planners, and community members expect of economic growth, and for many communities in the Atlanta region, these are the effects that have been brought.

To a certain extent, the story of Gwinnett County is the story of the Atlanta region. In recent years, Gwinnett County has been one of the fastest growing counties in the United States. It has seen the number of business establishments inside its borders rise from 16,423 to 18,360 in just three years between 1998 and 2001, the last year for which this data is available. The County's economic growth has allowed its budget to increase from roughly \$800 million in 1996 to over \$1.4 billion in 2004 while the county's millage rate has steadily decreased from 14.95 mills to 11.5 mills in the same period of time. While the declining millage rate reflects an effort to offset the taxes residents would pay as property values in Gwinnett increase, it is certainly worth noting that the rate is decreasing, rather than increasing.



The Gwinnett Center

Because of its larger budget, a local option sales tax, and its AAA bond rating among other reasons, Gwinnett has been able to improve the lives of its community members through improved public facilities. As one example, between 1998 and 2004, the Board of Commissioners approved the purchase of more than 4,650 acres of passive parkland, at a cost of approximately \$87 million. Those purchases and others more than quadrupled the amount of park acreage the County owns, increasing total acreage from 1,500 to 7,343 today. Other noteworthy developments in Gwinnett include the construction of the Gwinnett Center Complex, which includes a 13,000 seat sports arena, a 50,000 square foot convention center, and a 702 seat performing arts center, all of which provide cultural, recreational, and business opportunities for the County's residents.

As the above example shows, there are many local benefits to the region's growth. The contrasting views of the same economic growth provided by the regional and local perspectives given above should underscore the importance of finding middle ground between the "no growth" and the "go growth" crowds. Inevitably, as a community is faced with sudden economic and population growth, both voices will become much louder than they may have been previously. The important thing for policymakers and planners to recognize is that there is truth in what both groups have to say. It becomes their job, then, as decision makers, to engineer a solution that will both reap the benefits of growth, while not losing sight of the long term livability of the community.

Clearly, the growth pattern that characterizes the Atlanta region's recent boom has extraordinary potential to change the character of communities in the region. And clearly, since this growth shows all indications of continuing into the near future, it is something with which policy makers and planners will have to come to terms. The question before the region's communities is not whether or not they will change, but how they will change.

If communities in the region choose not to plan for growth, it will still come, but it will come in the form that is easiest to build. Greenfields are easier to develop than greyfields, cookie cutter housing and strip developments are easier than pedestrian friendly or mixed use development, and it is easier to build solely for the automobile than for multi-modal transportation.

When communities adopt a vision, and are aware of the tools that can harness market forces to create that vision, the picture becomes significantly different. Open space can be protected, demand for different types of housing can be met, the goals of the business and commercial sectors can be realized, existing infrastructure can be reused and the community can become a better place for growth having occurred. The discussion that follows is designed to give public officials a basic understanding of some of the tools available to help them plan in a fast growth environment. They range from tools in common use to tools which, if enacted, could place a city or county on the cutting edge of planning practice. It should be stated, however, that before a jurisdiction embarks upon a program implementing the tools listed below, the city or county's lawyer should be consulted to make sure that all of the tools are used in their proper, legally permissible sense.

II. Tools

The following section will explain in detail 13 planning tools that can be used to manage growth in a way that best reflects the community's goals. The first two tools are in fairly common use, though they are not always used or understood as well as they perhaps should be. The remaining tools will hopefully expose planners and policy makers to new concepts which they can take and apply to their own communities as they see fit.

The Comprehensive Plan

The comprehensive plan is probably the most common of the planning tools which will be discussed in this document, and in fact all local governments in the Atlanta region have some form of a Comprehensive Plan. The Comprehensive Plan is essentially a policy document which identifies the goals of the community with respect to at least the following five areas, though based on community size and other considerations additional areas may be required by the Department of Community Affairs: *Economic Development, Natural and Historic Resources, Community Facilities and Services, Housing, and Land Use.*

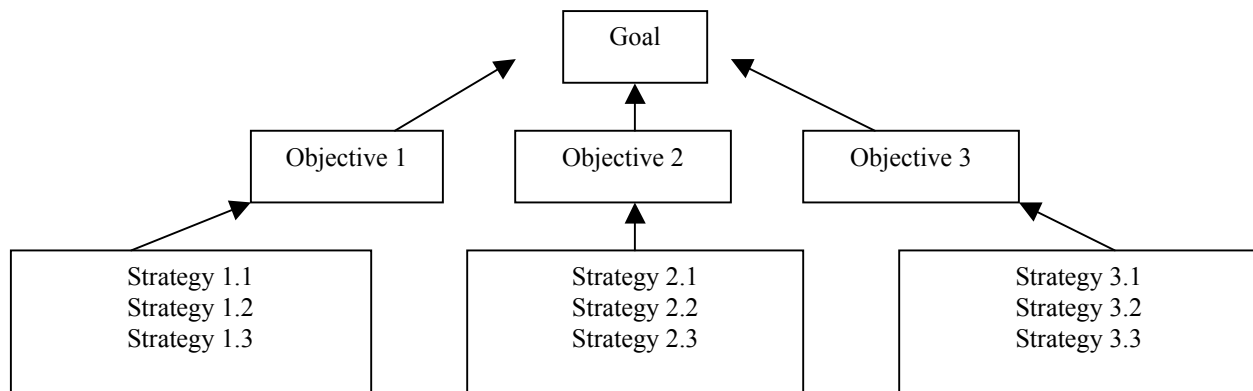
The basic process for developing a Comprehensive Plan involves a community and its local government identifying goals, objectives and strategies for each of the abovementioned areas. To adopt policies that support those goals should become official city or county policy, and development which conforms to those policies should be encouraged, while development which is not in accordance with the plan is discouraged. The comprehensive plan is also particularly useful to communities in a fast growth environment because it also provides a framework into which most of the development approaches discussed in this tool can be fit. The plan can identify community goals, and enacting Conservation Subdivisions or promoting Current Use Assessment, for example, can be strategies used to achieve those goals.

Understanding how the "vision" part of the comprehensive plan translates into actions can become a little bit confusing, but understanding that connection is very important. Each policy area (Economic Development, Natural and Historic Resources, Community Facilities, etc...) should have its own goal, such as "To increase the level of economic activity in the City of Anycity." That goal obviously changes with the policy area so that there is something similar for Natural and Historic resources, Community Facilities, Land Use etc.... Sticking with Economic Development, the goal should be broken into various component objectives, which all contribute to the goal of increasing the city's economic activity. Three examples of objectives could be: To improve levels of entrepreneurship in the city; To attract new businesses from outside Anycity; and To make the downtown area more attractive to business.

Now that the economic development component has several objectives, the city officials and community members writing this element have to come up with the "how" part; they

have to come up with several strategies. Strategies are basically the actions that the city will take in order to realize the objectives. For example, one of the objectives was to increase levels of entrepreneurship in the city. In order to do that, the city could create an educational program offering a limited amount of start-up capital for participants who complete a small-business 101 type of class. That would be one strategy. Another strategy could be to offer tax incentives to entrepreneurs in their first two or three years in business. A third strategy might be to hire staff to provide small business services, such as legal counsel, or people with accounting backgrounds who can help business owners when they have questions. These three strategies each would be helping to achieve the objective of improving entrepreneurship levels in the city, and achieving this objective would help to realize the Economic Development Goal of increasing economic activity in the town.

A good way to visualize the strategies-objectives-goals process is to think of a pyramid with the strategies on bottom. Strategies would go on bottom because there will always be many more strategies than objectives, and there will always be more objectives than goals. When all of the strategies have been completed, the objectives will have been met, and the goal on top will have been reached.



At least that is how the plan works in theory. In the real world some strategies will fail to attain any positive results. This is why it is so important to track the progress made by strategies towards reaching their objective. This can be done by means of indicators. Indicators are specific, quantifiable measurements of how things are going for a strategy. Continuing the example above, an indicator for the strategy of providing small business classes could be the number of students who have taken classes, or the amount of start-up capital distributed. By tracking these numbers, the city will know whether its strategy is working or not. If the number of students who have completed the class is high, they have been successful. If it is low, they have not been successful and they need to figure out why.

In addition to indicators tracking progress of the strategies, the city should track the progress of the objectives as well. Since the objective that we have been following was to improve local levels of entrepreneurship, one indicator would be to track the number of new businesses that have opened up. Another might be to track the profits of new

businesses that have started up. Both of these would give the city a pretty good idea of whether or not it is improving local levels of entrepreneurship.

Returning to the topic of how this is relevant to a community in a fast growth environment, while the comprehensive plan outlines the community vision and steps the government should take to get there, it is not legally binding for developers. The zoning ordinance, however, is. When there is a discrepancy between the goals stated in the plan and the technical requirements of the zoning ordinance, the zoning ordinance is usually what developers will follow. The local government must make sure that the requirements stated in the zoning ordinance and Future Land Use Map reflect the goals stated in the comprehensive plan. If the city or county does not take this step to bring the major documents in line, the comprehensive plan with respect to land use will likely become nothing more than a wish list.

The process for developing a comprehensive plan has been the subject of countless planning books, but a good introduction has been prepared by Linda C. Dalton, Charles Hoch, and Frank S. So titled *Practice of Local Government Planning* published by the International City/County Management Association. Additionally, the American Planning Association website www.planning.org, provides a wealth of information on comprehensive planning and can put interested officials in touch with other jurisdictions who have experienced problems similar to those that they may be going through.

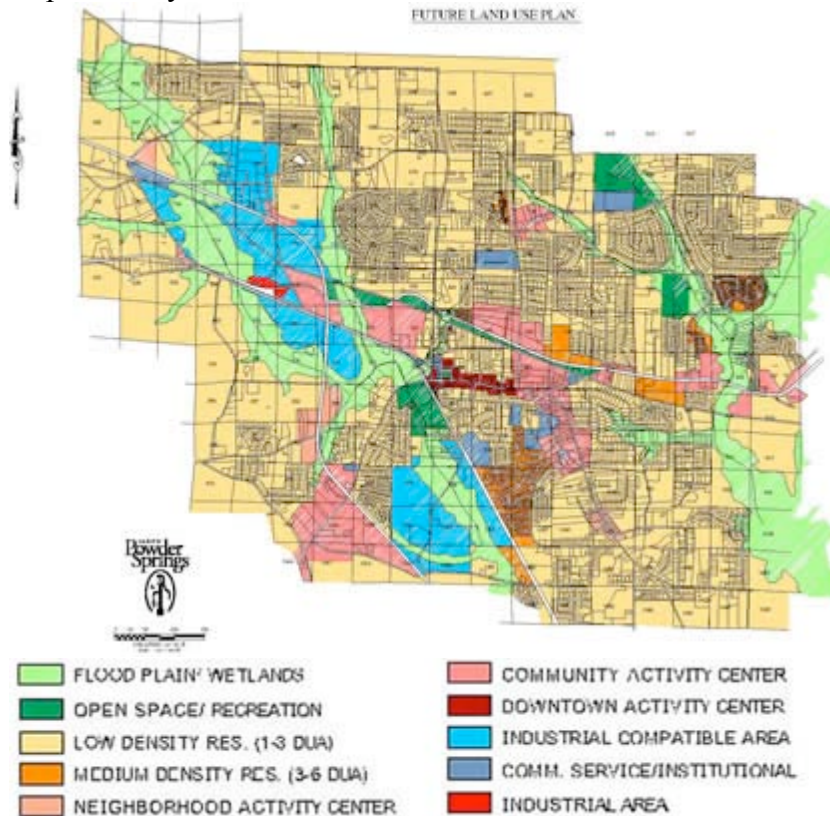
Zoning

Zoning is by far the most common approach to regulating land use both in the United States and in Georgia. Zoning sorts the land within a jurisdiction into different categories, and prescribes rules for how the land in those categories can be used. Some of the most common zoning designations are Residential, Commercial, Industrial, and Agricultural, though there are usually various degrees within each type of zoning designation which would allow single or multi family residential for example, or heavy or light industrial.

The original intent of zoning was to prevent incompatible uses from coming into conflict with each other, the classic example being that no one would want to put a tannery or a garbage dump in a residential neighborhood. Zoning allows a city or county to prevent this kind of undesired mixing of uses, and it also gives public officials a great deal of power to determine the shape and character of their community. For example, if officials decide to give land that is currently in agriculture a commercial zoning designation, the value of that land as commercial property will increase and eventually it will probably be developed by its owner for commercial purposes. Conversely, if a community wants to keep a piece of land from being developed, it can create and use some kind of “Conservation” zoning designation for that land, which will prohibit any kind of undesired development.

Obviously, zoning can become a very contentious issue because of its ability to dictate how a land owner can use his or her land. Property rights issues have to be carefully understood before a community changes a parcel’s zoning designation. In the case

mentioned above, if a municipality zones a farmer's land as conservation land, he will not be able to sell it for nearly as much as he would if it remained as agricultural land or if it were zoned for commercial uses. It could be that selling his land was his retirement plan, and he will now have to make due with substantially less than he had been expecting. It is important for public officials to remember that zoning designations are more than simple colors on a map; they change how the land can be used and that is a very serious responsibility.



The Future Land Use Map for the City of Powder Springs, GA shows a few interesting twists on traditional zoning categories. A Flood Plain zoning designation could be one way to discourage construction near waterways.

It is also important for officials to be aware of the variety of zoning designations that are available. The abovementioned four basic zoning designations are relatively basic, and over the years new variations on those themes have been developed to meet new needs. For example, conservation subdivisions, which are explored in greater detail in the ARC's *Conservation Subdivision Community Choices* tool, can balance the desire of the land owner to develop the land with the desire of the community to preserve much of its rural character. If such a concept was in line with the community's comprehensive plan, a Conservation Subdivision zoning designation could be developed and applied to that land.

Zoning has received significant criticism in recent years because separating the locations where people live and work has created a need to drive from point A to point B, resulting in auto-dependent development. There is certainly some truth to this, but much of the

criticism leveled against this flaw in zoning could be answered by more creative use of the tool. Rather than simply using one designation or the other, many communities are now experimenting with Mixed Use zones, which put residents within walking distance of stores, businesses and recreational opportunities. This kind of creative zoning minimizes the need for automobile travel by residents living in that zone, but it allows more traditional zoning policies to be practiced in other areas of the city or county, depending upon the desires of the residents as expressed in the comprehensive plan. For more information on this topic, see the Community Choices Tool *Mixed Use Development*.

As mentioned in the above discussion of the comprehensive plan, the connection between the zoning ordinance and the comprehensive plan is of the utmost importance. If the plan stipulates that a piece of land should stay “rural”, for example, the zoning ordinance needs to define “rural” in terms that developers can use, that land then needs to be zoned with that “rural” designation, and that designation should appear on the official future land use maps.

Capital Improvements Element

A Capital Improvements Element is an element of a comprehensive plan which identifies the infrastructural and system improvements that a local government will have to make during the period of time covered by the comprehensive plan. It also identifies a schedule for those improvements and the anticipated funding sources for each specific improvement.

The Georgia Department of Community Affairs does not require that a community include a Capital Improvements Element in its comprehensive plan, though communities who choose not to include one become ineligible for a significant number of state programs, such as impact fees. If a community does include a Capital Improvements Element, the DCA mandates that it must include the following sections: Projection of Needs, Levels of Service, Service Areas, Schedule of Improvements and Funding Sources. These sections are designed to create a clear understanding of how the proposed improvements relate to the community goals as outlined in the comprehensive plan.

Having a municipality’s public improvements planned out according to the goals of the comprehensive plan can provide the local government with a great deal of control over the shape of development in their jurisdiction. Planning these facilities out before development pressures arrive allows policy makers to steer development away from parts of the community where development would conflict with the community’s vision as identified in the comprehensive plan. More importantly, it keeps the community’s public services at a level which maintains or improves upon the quality of life enjoyed by local residents.

A Capital Improvements Element in Georgia must include:

- 1. Projection of Needs***
- 2. Levels of Service***
- 3. Service Areas***
- 4. Schedule of Improvements***
- 5. Funding Sources***

For example, a community could have stated in the comprehensive plan that it wanted new residential development to take place in a particular part of its jurisdiction. It could extend water and sewer lines to that area, thus opening it to development. Other undeveloped areas of the community into which water and sewer lines are not extended will therefore be less appealing to developers, when compared to the opened land. Or, in another situation, the community might want to make sure that its fire department grows as the population grows; it could require the number or capacity of fire stations to increase as the city's population reaches certain marks thereby improving the public safety.

While Capital Improvement Elements are very useful by themselves, they also permit communities to use other tools, such as impact fees.

By itself the capital improvements element is very useful, but it is also useful for the variety of other tools which can be used once it is in place. For example, impact fees, which will subsequently be discussed, cannot be levied in Georgia unless a capital improvements plan is in place to identify how those impact fee payments will be spent. Additionally, adequate public facilities ordinances, which will also be discussed later, logically require that a plan exist dictating when the needed infrastructure will be built. Incidentally, this type of ordinance might be more easily defended in court if the city or county can make the case that it is following a predetermined schedule to meet the community's infrastructural needs.

Impact Fees

An impact fee is essentially a one time payment which a developer is required to make to the city or county to offset the impact that the development will have on the community's infrastructure. Georgia communities must first have a capital improvements element in their comprehensive plan before they can levy impact fees. Once that CIE is in place, the developer can be required to pay for a proportionate share of the infrastructural improvements listed below. Just how that proportionate share is determined can vary somewhat from location to location, but public officials have to be able to justify the size of its impact fees by showing how those fees will be used to offset the increase in use caused by the new development. Additionally, once the fee has been assessed, the city or county government is bound to spend it on those public services which it used to determine the size of the fee. This way the occupants of the new houses or commercial properties are essentially "getting what they paid for."

The types of projects which can be financed through impact fees include:

- Water supply, production, treatment and distribution facilities
- Wastewater collection, treatment and disposal facilities;
- Roads, streets and bridges, including rights-of-way, traffic signals, landscaping, and any components of state or federal highways;
- Stormwater collection, retention, detention, treatment, and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;
- Parks, open space, and recreation areas and related facilities;
- Public Safety, including police, fire, emergency medical and rescue facilities;
- Libraries and related facilities.

The city of Roswell, GA defines and calculates its impact fees as follows:

An *impact cost* is the amount of money that must be expended, in terms of capital projects, to serve new development in the city, regardless of the source of the funding. It is the amount that it costs the city to provide the specific service facilities, at the adopted LOS standard, to keep up with the demands of new growth.

An *impact fee*, as calculated in this chapter, is the impact cost minus a credit for future tax payments toward bond issue debt service. The resulting figure is the amount of money that can be charged to new growth as a result of the services demanded by that growth. Credit is given for anticipated payments made by new growth toward the projects necessary to serve that new growth. Under the city of Roswell impact fee program, the amount of the impact cost not paid through property tax collected from new development is the impact fee.

Impact fees can become a significant source of revenue for cities experiencing rapid growth. Again, in Roswell, the city's impact fee for each new detached residential building is \$1994.90. That number was the result of \$553.08 for Public Safety facilities, \$1302.93 for Parks and Recreation facilities, \$80.79 for transportation infrastructure, and \$58.10 as an administrative fee. The city's complete impact fee table is included in the Appendix.

Since their adoption in 1990, cities from around the metro area have used impact fees to maintain the local quality of life. The cities of Atlanta and Roswell both have substantial experience with impact fees, as does Cherokee County. Rockdale County is just beginning its own impact fee program.

IMPACT FEES:

1. Keep the general tax burden low
2. Makes new residents pay for the costs of the infrastructure they require
3. Help to maintain local quality of life for local residents, both old and new

Adequate Public Facilities Standards

Adequate Public Facilities Standards (APFS) are designed to maintain existing levels of service in a community that is undergoing rapid growth. This type of standard requires that the public infrastructure be in place and functioning prior to the approval and construction of new development. This way the levels of service in the city do not suffer as a result of the new growth. If a developer wanted to construct 300 new homes, the city could tell the developer that he had to wait until there was sufficient transportation infrastructure in place to accommodate those 300 new homes and their drivers without lowering the level of service already enjoyed by the city's residents. Ideally, the city would already have anticipated this necessity and included it in a capital improvements plan. With this plan in place, the city could give the developer an expected date by which the new roads and facilities would be in place and the developer would have to wait until the new roads were in place before he could begin construction. The APFS is potentially a very effective way to make sure that new development does not hinder the city or county's ability to provide for the health, safety and welfare of local residents.

It can be misused, however. Suppose that a local government enacts an adequate public facilities standard. If it then chooses not to build the public infrastructure which it contends must be in place before new development can be permitted, but continues to deny the developer permission to build indefinitely, that government may in effect be guilty of a taking. If this is the case the city or county might be susceptible to legal action by the developer or land owner. Municipalities that include a capital improvements element in their comprehensive plan, and who stick to the timeline that they created, might be less likely to draw the ire of developers by virtue of their having a date after which the developer should be able to build on his or her property.

The State of Florida has one of the most aggressive Adequate Public Facilities Standards in the nation, as it is mandated by the state that water and sewer, solid waste, parks and recreation, and transportation facilities, including mass transit would be required to show “concurrency,” Florida’s term describing that the facilities are in place prior to development. Under Florida’s law, local jurisdictions are allowed to include additional types of public services to this requirement as it sees fit. Unlike Florida, Georgia does not specifically have enabling legislation which would grant this authority to local governments. Many jurisdictions within the state have been able to create de facto adequate public facilities standards, however, requiring minor infrastructural improvements of developers to mitigate the impact of the new development before their subdivision plans are given approval.

Development Moratoria

A development moratorium effectively freezes all development in an area for a period of time specified by the municipality, during which time the conditions that gave cause for the moratorium should, if possible, be resolved by the municipality. Common reasons for declaring a moratorium include: preventing a potential “rush” of development applications prior to the development of a new comprehensive plan, or providing time for a community to make infrastructural improvements so as to mitigate the impact of the new development on the level of service enjoyed by local residents.

As with the Adequate Public Facilities Standard, development moratoria cannot be used as a tool to permanently prevent development. If a city or county enacts a development moratorium and does not end it when the conditions which required it in the first place are resolved, the local government might be leaving itself open to a lawsuit. Development moratoria, like all tools for planning in a fast growth environment, cannot be used to indefinitely deprive the landowner of the right to develop land without compensation.

Most moratoria last for a relatively short period of time; many states specify limits of 120 days, 180 days, or a year, with provisions for extensions in certain cases. There have been cases where moratoria last for several years, but this length of time is not the rule. Moratoria can be limited in scope, dealing with a specific geographic area, or with a specific type of development, such as single family residential. They can also cover the whole city or county, and include all types of new development, as might be the case for a moratorium designed for the creation of a comprehensive plan. Moratoria should be

seen simply as a way to buy a little bit of time during which the city or county should be fixing the problem that it thinks would be caused or exacerbated by continued building. Jurisdictions in Georgia which have used development moratoria in the above mentioned fashion include DeKalb County, Spalding County, the City of Senoia, and the City of Fayetteville among many others.

Conservation Easements

A conservation easement is a permanent, voluntary contract made between the owner of a piece of land and certain state agencies or non-profit organizations stating that no development other than what is agreed upon in the easement will ever be permitted to take place on that parcel of land. This may seem like a strange choice for a land owner to make, as it will essentially prevent the current and all future owners of the property from subdividing the land for houses, commercial development, or any other activity that would alter the shape of the land. This kind of agreement can be a major burden to subsequent land owners if they do not agree with its premise, but as the title suggests, the purpose of this agreement is to set the land aside for use as a conservation area, and this tool is probably the most permanent way of doing that.

Conservation easements have become a very popular approach to preserving open space in the United States in recent years, and Georgia is no exception. According to the 2002 Land Trust Census published by the Land Trust Alliance, by the end of that year nearly 28,000 acres of land in Georgia were under conservation easement. In fact, land under conservation easements accounts for over 75% of all environmentally protected land in the state.

It is important to recognize, however, that putting land under conservation easement does not turn it into a public park. The land owner still owns the land, he has just agreed not to build on it. The public does not have any right to trespass on the land, the owner can continue to farm, hunt, harvest timber, raise livestock, or perform any other activity that is not restricted by the terms of the easement.

Through property tax reductions, conservation easements can also result in significant financial gain for the owner, though they will be considerably lower than what he would receive had he sold the land for development. Because the land can no longer be used for development, its market value is lower, therefore property taxes are reduced. Some states, such as Virginia, give property tax rebates to those who donate conservation easements. These rebates can be sold to other property owners for slightly less than face value, providing another way for the owners of protected lands to reap modest financial benefits for their donation.

Transfer of Development Rights

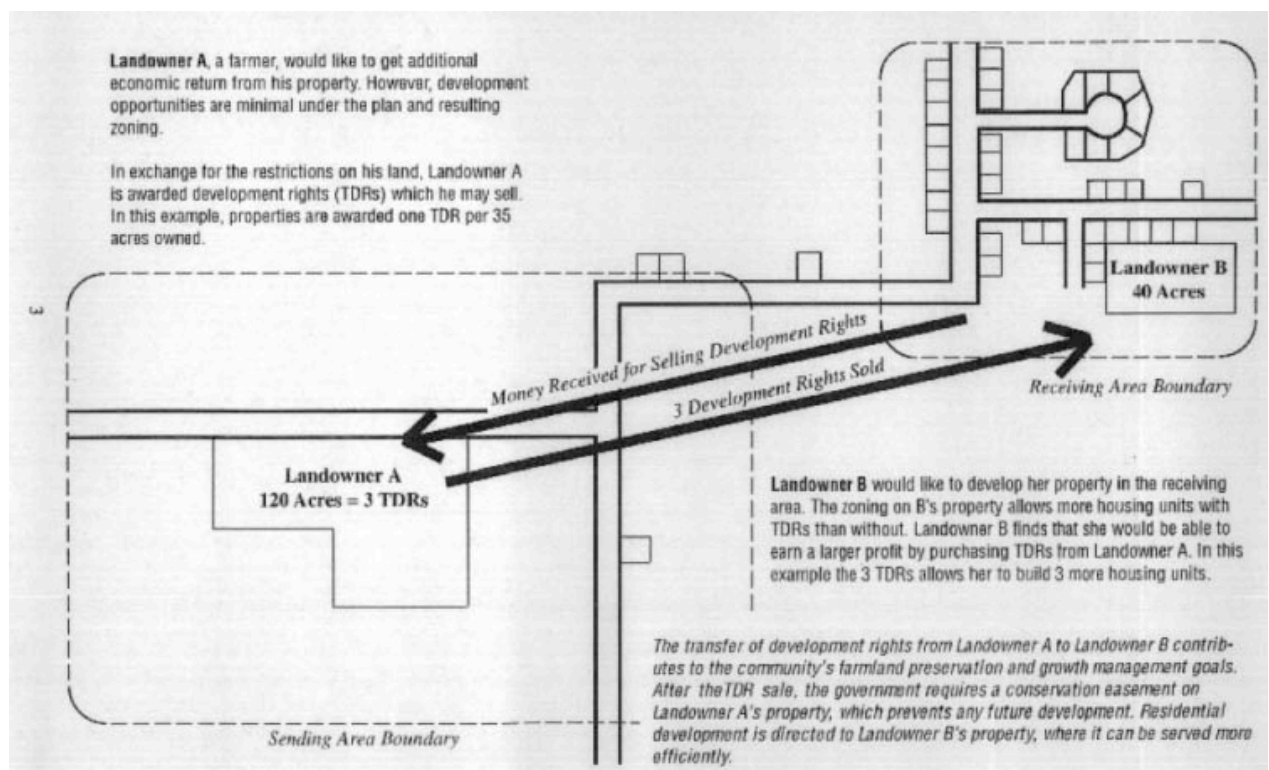
TDR programs essentially start where the Conservation Easement leaves off. While the Conservation Easement places the development rights of a parcel of land in holding with



Protected land in Hall County, GA

the city government or a non-profit group, thereby preventing that land from being built upon, TDRs transfer those development rights to a different plot of land. In Georgia, a property owner may sell his development rights to a developer who owns property in a “receiving area.” When development rights are purchased and applied to a parcel of land in the receiving area, the developer is allowed to build to densities that are higher than what would normally be allowed by the land’s “normal” classification.

TDR programs are of substantial benefit to both the developer and the community. Where Conservation Easement programs essentially rely on the good will of the property owner, TDR programs provide a significant economic incentive for the land owner to protect his land. This essentially allows the land owner to use his development rights, albeit in a different part of the community.



In addition to experiencing the benefits of open space, the community will also benefit by having the development rights which came from that property used in a different part of town where it is more needed or where it would have a more positive effect. TDRs could allow a higher density of residential units where the community already has existing infrastructure. That could create renewed activity in a formerly dying area, and the community won't have to absorb the costs of extending facilities out into green land. Fulton County's Chattahoochee Hill Country Alliance is one of the first groups to make extensive use of this relatively new program.

Current Use Assessment

Current Use Assessment is a system of property taxation which essentially rewards land owners for not developing their land. Under most property tax systems, the land is taxed based on its “highest and best” use. This structure essentially taxes the potential of the

land to be used, rather than the use that reflects the land's current condition. For example, if a land owner owns 160 acres of farmland which has become surrounded by commercial development, and if the county or city has zoned his land commercial, then he will have to pay taxes based on the land's potential to be used as commercial land.

Of course, to a developer, 160 acres of undeveloped farmland surrounded by commercial establishments would be a quite valuable, and he would be willing to pay a great deal for that land. The fact that the developer is willing to pay so much for the land means that the farmer has to pay more in taxes, because the land's value has become so high. When the land owner, particularly if the land is still in agriculture, has to pay thousands or tens of thousands of dollars in annual taxes, he may have to sell some of the land in order to pay those taxes. When he sells, this perpetuates the loss of open space that many communities identify as being essential to their community character.

The rapid transition of farmland to commercially developed land is one of the hallmarks of fast growth. Because high property taxes often push land onto the market rather than the owner's desire to sell, communities across the country and across Georgia are using Current Use Assessment or Use Value Assessment as it is known in some states, to keep property taxes at bay in the face of rapid commercial growth. Under this system, property is taxed based on the land's actual use, rather than on its potential use. This decreases the likelihood of the land owner selling before he actually wants to. Determining the current use value of the land can become complicated, but the Georgia Property Tax division of the Department of Revenue has specially trained staff dedicated to this task.

Under Georgia law, property which is enrolled in the Conservation Use Assessment program is assessed at 40% of the Current Use Value, rather than the 40% of the Fair Market Value which is what other property owners have to pay. The state code makes provisions for other uses as well, which could help communities to take advantage of growth to further their community vision. Conservation Use, Historic Property, Agricultural use, Brownfields and Transitional areas are all eligible for some type of special tax treatment to encourage or discourage new development, if the local government adopts the current use value approach to taxation of those areas.

Historic Preservation

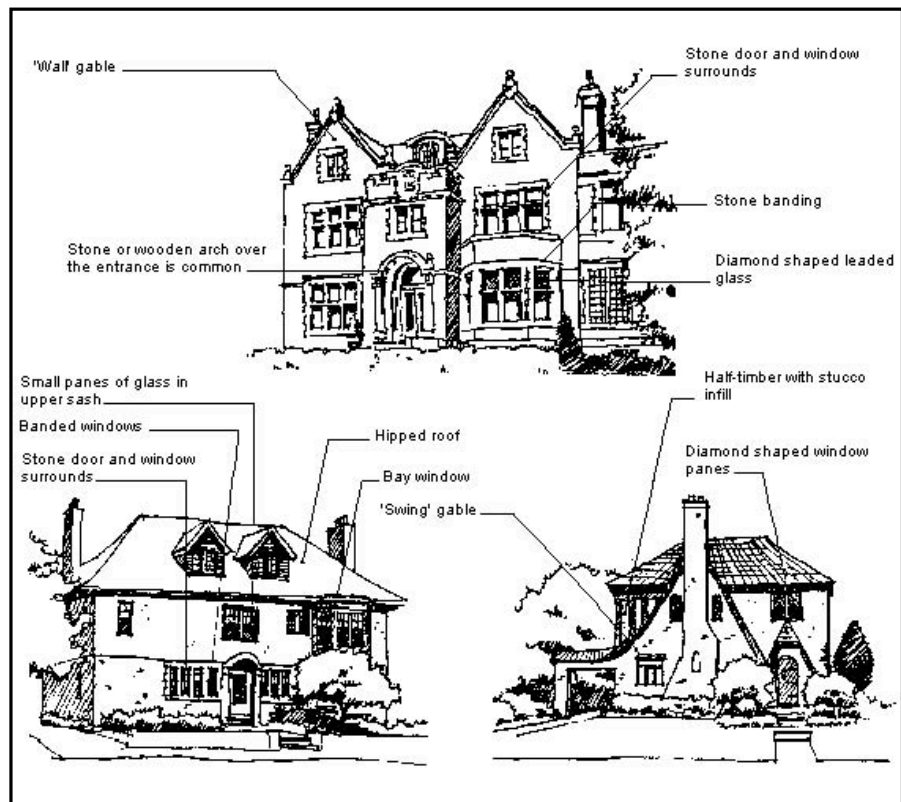


Protecting the built history of any community provides a chance for current residents to become better acquainted with the personalities, cultures, and stories of their community's past. It is that history which in many ways creates the sense of place so sought after by today's more mobile population. Unfortunately, it

is entirely possible that in the frenzy of permits, applications and rezonings that accompanies development in a fast growth environment, local historic resources could be damaged or destroyed altogether if careful thought is not employed in advance of growth. A wide variety of tools can be employed to protect that local history, and they go well beyond the simple purchase and “museumification” of one or two buildings significant in local lore. More information on how a community can approach historic preservation can be found in the ARC’s “Historic Preservation” Community Choices Tool.

One of the most popular approaches to historic preservation in recent years has been the establishment of the historic district. Historic districts identify a section of the community which has a high concentration of historically significant buildings. Through various means, the city or county government generally seeks to provide those buildings with a certain level of protection, so that their historic significance can be enjoyed by the entire community.

One common level of protection is to create design guidelines for buildings in the historic district. This way, future development in the area does not detract from the historic significance of those original buildings. Most design guidelines try to prevent owners from making drastic alterations to the façade of the building, for example, so that the most recognizably historic feature of the building is not lost. Although owning a building in a historic district does usually entail some additional red tape for the owner, this is often one of the only ways in which a community can protect its built heritage for future generations.



There are also state and federal programs available which provide benefits for communities and individuals who undertake the rehabilitation of historic structures. The Georgia Department of Community Affairs runs two programs, the Downtown Development Revolving Loan Fund and the Georgia Cities Foundation Revolving Loan Fund, which make low-interest loans (currently 3%) of up to \$250,000 for rehabilitation efforts. Both of these programs are primarily set up to work with Downtown

Development Authorities and in some cases directly with the cities. Although they both have unique rules that must be followed in order to take advantage of their programs, they are both designed to work to preserve a community's downtown historic resources and should be seen as potential allies for communities trying to use economic growth to revive their downtowns.

The most well known federal program related to historic preservation is the National Register of Historic Places. The National Register is, in the words of the Park Service, a "list of the nation's cultural resources worthy of preservation." There are over 78,000 sites on the list, including national parks, private residences, and landmarks.

It is important to recognize, however, that being listed on the National Register does not by itself protect the property from neglect or destruction. Ultimately, bearing this status means that the property owner may become eligible for tax credits from the federal government. It may also make the building eligible for other preservation programs at the state or local level.

According to the National Register, properties must possess the following in order to be eligible for inclusion on the list:

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of persons significant in our past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded or may be likely to yield, information important in prehistory or history.

The process for nominating a building to the National Register may be initiated by contacting the State Historic Preservation Officer. In Georgia, the State Historic Preservation Officer is Mr. Lonice C. Barrett, located at 47 Trinity Ave. SW, Suite 414-H in Atlanta, GA 30334.

Another federal program is the National Trust for Historic Preservation's Main Street Program. The Main Street program provides an ideal opportunity for a community to harness economic growth for the benefit of the entire community. Georgia has an extensive history with the Main Street program, and the associated

**The National Trust
for Historic
Preservation's Main
Street Program is
made up of four
elements:**

- 1. Organization**
- 2. Promotion**
- 3. Design**
- 4. Economic
Restructuring**

Better Hometown program. Both programs focus their efforts on making downtown areas more active, attractive, and economically viable through a four part approach to downtown management. Those four parts are Organization, Promotion, Design, and Economic Restructuring. Organization means bringing all involved stakeholders into downtown revitalization efforts and working together to meet the area's needs. Promotion means creating excitement downtown, through downtown festivals, retail events, and other activities geared towards bringing people downtown. The Design element focuses on the appearance and functionality of the area by way of building preservation, lighting, pedestrian infrastructure, street and alley cleanup, and many other activities. The final element of this program is Economic Restructuring, which focuses on business recruitment, entrepreneurialism, business promotion, and other activities which will contribute to the long term viability of the community's downtown revitalization effort. Downtowns are frequently abandoned or bypassed by economic growth when businesses are encouraged to locate in new office parks or other auto-dependent establishments. Main Street programs seek to encourage economic growth by reconnecting it with the community's historic commercial heart.

Land Acquisition

One of the simplest, though most expensive ways to protect open space in a community in the face of rapid growth is to purchase the land outright when it becomes available. This allows the local government to keep land valued by the community from suddenly being developed in an unwanted manner, and it can determine how that land would best serve the needs of the community and use it accordingly. The local government could purchase land and then once it has decided how it should be used, it can sell it to a developer on the agreement that he or she would develop a certain type of project, such as low income housing, or mixed use development. While the costs of such programs may initially make them appear to be unfeasible to local governments, public/private partnerships of this sort may prevent paying for more costly solutions to community problems in the future.

The limited financial resources of most communities also means that maintaining a good working relationship with property owners is essential. In those situations where a city or county wishes to purchase property, it should avoid the temptation to reduce the property's value by downzoning, or by other mechanisms. Eminent domain is a tool which should be used very sparingly, and some states stipulate that it can not be used

simply for open space purposes. If a city or county wants to purchase the land outright, it would be wise to treat the owner with respect, gain community support, and raise the asking price.

Another approach that cities and counties may use is to partner with land conservation organizations working in the area. As the table in Appendix 3 indicates, there are currently 42 land trusts operating in Georgia, and they are

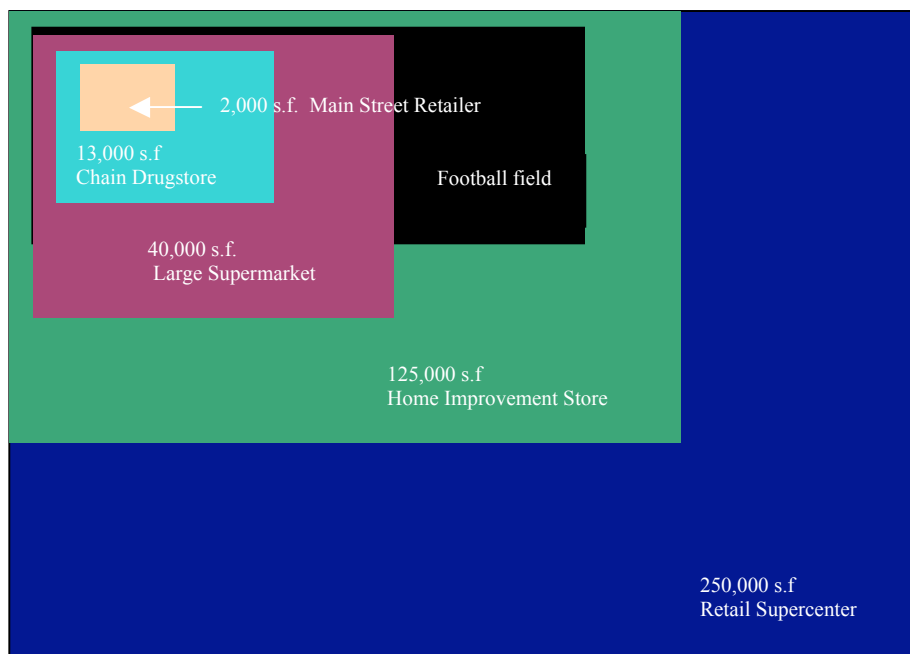


Clarks Bridge Park in Gainesville GA.

located throughout the state. The vast majority of these organizations are based locally, and deal primarily with local land conservation efforts. There are some organizations, however, which are more regional in scope and although they may be not be headquartered locally, they may be willing to help in local land conservation. Because many of these organizations exist solely for the purpose of land, wildlife, or historic preservation, they are ideal partners for local governments wishing to accomplish similar goals. While many of the organizations listed below may use conservation easements as their primary method of land preservation, many land trusts purchase properties outright as well. And of those who do not wish to become property owners, they might be able to assist the city or county in the purchase of land for public parks or recreational use.

Square Footage Limits

The rapid commercialization of the community is often what prompts local citizens and officials to realize that they are living in a fast growth environment. Square Footage Limits are designed to prevent the kind of building generally associated with large scale retailers such as Wal-Mart, Target or Lowe's. There are many reasons why a community might decide that it wants to prevent this type of building. One is for the environmental impact of the large quantities of impervious surface which are standard for this kind of building. Another reason is for the public cost of the infrastructure necessary to support these buildings. Still another is for the fact that these buildings rarely exist independently of each other; where conditions are favorable for one, they are generally favorable for more than one. This kind of repetitive, formula-following chain establishment with its lowest-common-denominator architecture and stockholder driven decision making process is usually the exact opposite of what communities want when they try to protect community character. An additional reason is for the negative effects of these enterprises on already economically stressed downtown areas and small businesses.



Adapted from www.newrules.org/retail/howbigisbig.html

The graphic shown above helps to illustrate the size of two major big-box retailers compared to several other establishments frequently found in many communities. It would be possible to fit the retail space of 125 Main Street retailers under the roof of a 250,000 s.f. Wal-Mart Supercenter. The largest store depicted below covers approximately 5.7 acres of land, not including the parking lot.

One of the primary disadvantages to allowing buildings of this size is the financial burden they pose to the local government. The infrastructure costs of buildings on this scale are not something to be ignored. In 2003, a study by the planning firm Tischler and Associates found that big box retail actually *cost* the city being studied \$468 per 1000 square feet of retail space every year. This was compared to small scale main street businesses, which was more in keeping with expectations, generated revenue for the city to the tune of \$326 per 1,000 square feet of space. According to the study, the difference between the two was a result of the high road maintenance and public safety costs associated with the big box retail. Although the actual costs and revenues generated would obviously vary from community to community depending on local tax rates, this helps to draw attention to the fact that large scale retail does not always improve the community's financial picture.

Although they have not yet been used to a great extent in Georgia, there are some local examples of retail caps, and they have been used in other parts of the country as well. Physical size caps on retail development have been enacted in Peachtree City, GA; Kansas City, MO; Easton, MD; Clermont, FL; Walpole, NH; Pike County, PA; Bozeman, MT and many other communities throughout the country from Massachusetts to California to Alaska. The ordinances do not have to be exceptionally complex or involved, but as with all zoning ordinances, it must be in place before the developers arrive in the community.

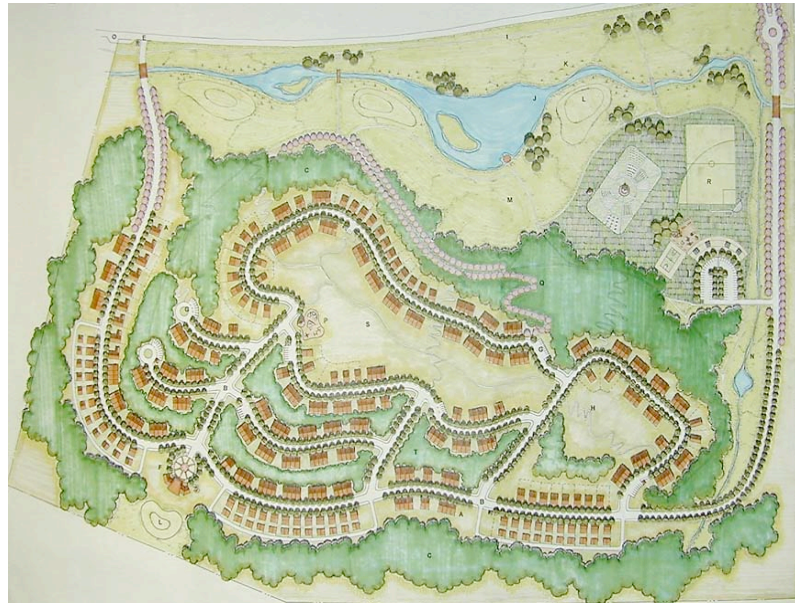
Under its General Commercial zoning designation, Peachtree City's zoning ordinance allows development up to 32,000 square feet in size, and requires that certain design elements be applied to the development as well. The city's ordinance has recently been challenged by Target, but the case was settled out of court with an agreement that decreased the size of the proposed development by 20%, and changed the locations of the store's entrances, but still allowed a 125,000 store. It is important to note, however, that the ordinance was upheld in Superior Court, and that the settlement took place before the next round of legal battle took place. A more detailed examination of Peachtree City's ordinance limiting square footage of commercial space is included at the end of the tool as a case study.

One important element in creating an ordinance limiting the size of new retail construction is that the number chosen not be arbitrary. For example, if a city or county decides to adopt such an ordinance, it shouldn't pick 50,000 square feet as the limit simply because it is a round number. The reasons for that limit should be connected to the jurisdictions for enacting the ordinance in the first place. For example, if the cited reason for the ordinance is the increased level of traffic it would bring, the jurisdiction should be able to provide evidence that stores larger than 50,000 square feet would lower

levels of service on major roads to an unacceptable level. Or if the reason for the ordinance was that large scale retail would require more public safety services than the local government can reasonably provide, it should be able to demonstrate why stores of that size and larger cost more than in public safety services than stores of 49,999 square feet and smaller.

Conservation Subdivisions

The Conservation Subdivision is essentially an approach to residential development that leaves much of a subdivision in open space by concentrating the new buildings in clusters scattered throughout the lot. This approach stands in contrast to standard subdivision practice which generally divides all of the land up into small lots, and places houses on each of those lots.

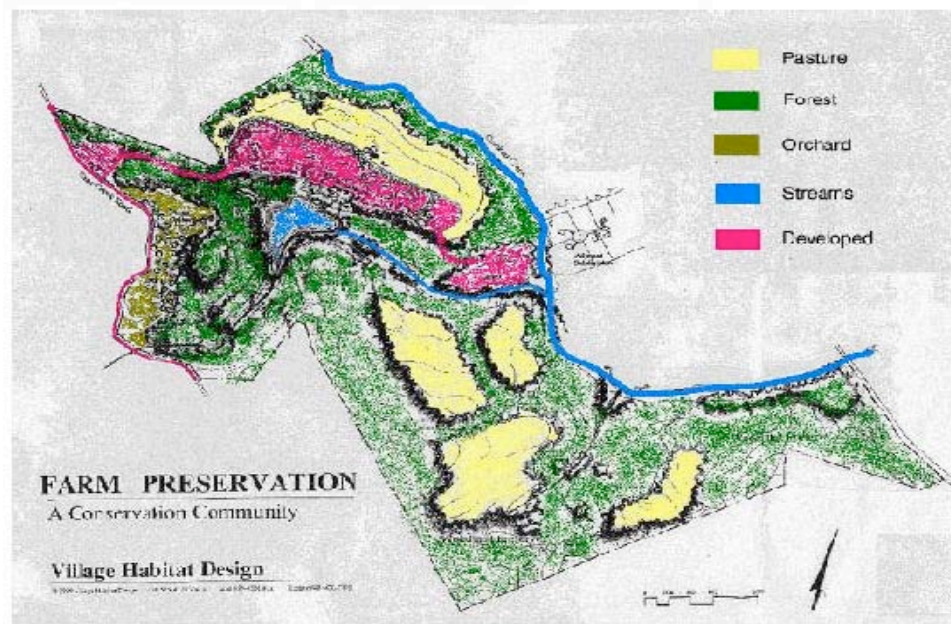
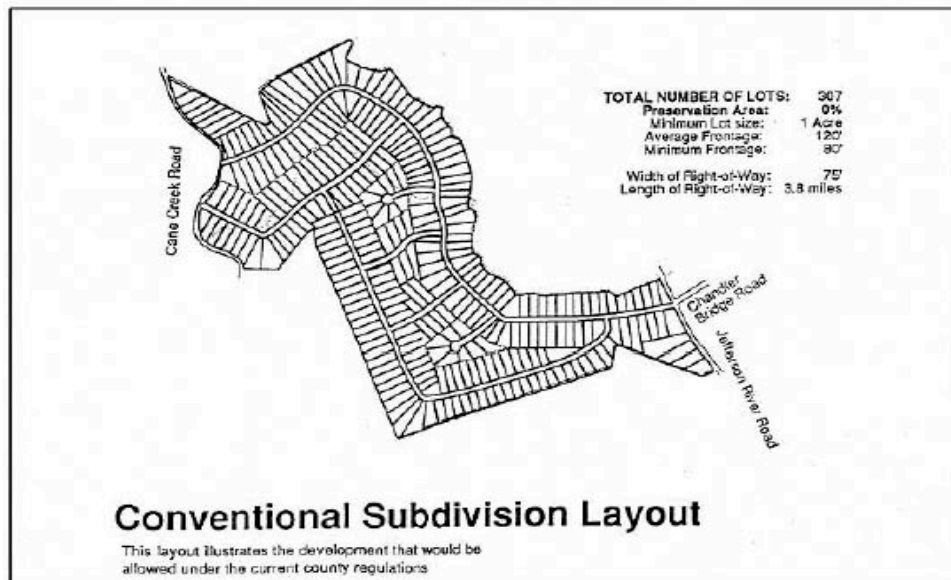


The physical layout of Conservation Subdivision can perhaps best be visualized by thinking of a golf course community with woods or fields instead of golf courses. In this type of development, the woods are seen as an attraction, and the community members enjoy regular access to their benefits.

Those benefits include more than just being surrounded by trees. Conservation subdivisions improve the local water quality by not causing fertilizer runoff and by allowing the forests to filter rainwater. They protect wildlife habitat by not developing the forests and the fields in which local wildlife resides. Conservation Subdivisions require lower levels of public investment for infrastructure; because the housing is concentrated, the need for long sewer lines, water lines, roads, and other infrastructure between houses decreases. This type of development can also reduce the need for publicly funded greenspace purchases, if the land protected through conservation subdivisions is of a significant size.

Admittedly, there are tradeoffs for choosing to live in a conservation subdivision; yards, for example would be very small if there are any at all, and densities would be higher. But to someone who enjoys the benefits of being surrounded by nature and the added bonus of knowing that his or her actions are protecting that same environment, the conservation subdivision could hold significant appeal.

The illustration below shows how the same parcel of land would look when developed as both a conventional subdivision, and a conservation subdivision.



While the color scheme in this example is clearly designed to make the conservation subdivision look more appealing, a close look at the two plans reveals major differences which could also make that case. In the conservation subdivision, a relatively small amount of land (the pink area) is disturbed to create housing. In the conventional subdivision design, the landscape is completely altered to create lawns, cul-de-sacs, and driveways. For a community concerned with protecting its existing rural character in the face of sudden development pressures, the conservation subdivision provides a way for new residential development to occur, while still leaving the vast majority of the landscape as it was before development.

The open space found in Conservation Subdivisions can be protected by a variety of means, including conservation easements, restrictive covenants, or it could become public parkland, but the most important rule is that once the subdivision goes up on one part of the lot, the rest be permanently barred from development. This is probably the most distinctive feature of the Conservation subdivision. The surrounding land is not simply undeveloped, waiting to be turned into the next round of houses or stores. It is permanently protected as a part of the development which has already taken place.

The higher densities employed can keep the total number of dwelling units the same as in conventional subdivisions. However, most people associate higher densities with shoulder to shoulder urban or suburban condominiums or apartment complexes, lower property values, and other factors that may indeed be the case for traditional multifamily housing units.

Conservation Subdivisions offset these concerns, however, because of the value of the open space that they protect. For additional information illustrating how open space improves property values, please see the Community Choices Tool *Conservation Subdivisions*.

The density of housing in Conservation Subdivisions usually means that they require a variance from the zoning ordinance, and it can be difficult to convince some people that this development will be different than other high density housing. One way to avoid making developers apply for a variance if they want to build a conservation subdivision is to prepare an overlay district permitting or encouraging conservation subdivisions in a desired part of the community. This way, developers will know what the city or county wants before they start preparing plans. The Atlanta Regional Commission's "Overlay Districts" Community Choices tool goes into this concept in greater detail.

Ultimately, the purpose of the conservation subdivision is to provide residents with alternative housing choices which reflect the growing awareness of the environmental impacts of development. While the entire community will probably not jump on the idea as soon as it becomes available, there will certainly be members, both new and old, who do.

Summary

The tools identified above should help to provide local officials with a few new ideas to use when they begin to plan for their community's coming growth. There are many more ideas that local governments can use to help their community meet its vision aside from those mentioned here, and the tools identified here should only be seen as a starting point. If the community has new ideas which could help it to meet its planning goals, they should certainly be considered.

The purpose of this tool is to offer concepts and techniques to communities throughout the region, so that the community itself can decide what actions it should take to best maintain and improve local quality of life during periods of fast growth. Not all cities and counties will be able to use all of the tools. Public officials and staff are in a prime position to measure this, and they should be sure to engage in frequent dialogue with their constituents in order to have a good idea of what tools will serve the interests of their community, and what tools will likely not. Regardless of what approach the region's cities and counties take with regard to planning in the current fast growth environment, this tool can be used to help turn the community's vision into a reality.

Case Studies

The case studies listed below will help to explain how several communities in Georgia and beyond have used these tools, usually in conjunction with each other, to shape their communities for the better in the presence of high growth pressures.

The City of Roswell

As mentioned earlier in this tool, the City of Roswell, GA has been able to put several of these planning techniques into effect in recent years to maintain and improve the quality of life enjoyed by local residents. What makes this more impressive is that Roswell has done all of this while being a prime residential location for workers commuting to Atlanta. Between 1990 and 2000, Roswell's population grew from just over 48,000 to just under 80,000. It experienced even greater growth during the 1980s, more than doubling in size. Thus far, Roswell's experience with Planning and Zoning, its Capital Improvement Element, use of Impact Fees and Historic Preservation efforts have proven both highly effective, and highly instructive for others looking to understand the details of how these tools can be used in other locations.

By virtue of being in the Atlanta region, Roswell's comprehensive plan was required by the state to include certain elements, but the city took an additional step which set it apart from the other cities; it used the city website to make the plan accessible and understandable. Rather than simply dumping the several hundred page long document onto the city's website, Roswell's plan is broken down chapter by chapter for easy access, it includes the land use, community facility, and other maps, and it includes a schedule for when the proposed 5 year revision will be ready for review. The city also has its Zoning Ordinance posted in the same manner. Having this information so readily accessible means that developers, land owners and other interested parties can use the plan as a reference when they are planning their projects, and they will have a better understanding of what the City expects when new development proposals are brought forth. It also means that city officials will be held more accountable by a public which is better informed about what the city should and should not be permitting.

As mentioned earlier in this paper, Roswell has also put into place a Capital Improvements Element for its Comprehensive plan, and it uses Impact Fees to offset possible negative effects associated with new development. The result of the impact fee program was that in the 2000-2001 fiscal year, the city was able to spend nearly one million dollars on fire, transportation, and recreational services for city residents using money that was made available by new residential development. The impact fee schedule is included here in the appendix.

Roswell is also worth studying because of the efforts it has made to protect its historic resources. In 1988 the city commissioned an inventory of its historic resources which catalogued well over 300 properties which either are historic, or will be historic before the city's 2020 planning deadline will be reached. The cataloging of the buildings is significant, but so is the incorporation of those buildings into daily life. Roswell has a walking path that takes residents walking on their daily routines and visitors alike past

some of the city's oldest buildings when they walk through town. In this sense, Roswell's history is more likely to remain under the protection of local residents because it is seen and experienced every day by local residents.

For more information about Roswell's planning efforts, contact the Planning and Zoning division at: 770/ 641-3780, or visit the city's webpage at www.roswellgov.com.

Peachtree City

The City of Peachtree City is almost unique in Georgia for its use of square footage limits on retail establishments. As mentioned earlier in this tool, Peachtree City currently has in place a limit of 32,000 square feet for retail in its commercial district. Yet because of, and despite that limit, the city has had difficulty fending off a proposed development by retail giant Target.

One of the main problems with the City's ordinance as it was written was that when referring to potential large scale retail operations, the text of the ordinance used the term "tenant." The developer in this case, Faison, argued that Target would be the owner of the building, not a tenant, and therefore the city's ordinance should not restrict the size of the new development.

Ultimately, this disagreement, along with the city's other reasons for rejecting the proposed development went to Superior court, where Peachtree City won its case. The developer appealed, however, and rather than go through another court case, the city and the developer settled out of court.

This case can be useful to other communities in the area in that it highlights the importance of being as unambiguous as possible when wording ordinances restricting development. The fact that Peachtree City won the case the only time it actually went to court should also be recognized and interpreted as a victory for communities seeking to control the shape of development in their midst.

For more information on Peachtree City's ordinance banning retail establishments over 32,000 square feet, visit the city's website at www.peachtree-city.org, or contact the city's planning department at 770-487-5731.

Fulton County/Chattahoochee Hill Country

Transfer of Development Programs have been enabled in Georgia for only a short period of time (they were enabled in April of 2003), but an area of South Fulton County has been very quick to bring the program to life. The southernmost portion of Fulton County, along with surrounding parts of Coweta, Carroll and Douglas Counties have managed to stay relatively undeveloped, despite the rapid growth taking place in other parts of the region. This lack of development has been more by accident than by design, though, and there are no insurmountable obstacles that would prevent the area from becoming developed in the same way that much of the region already has.

There is a new program in place, however, which could change that. In cooperation with local government, The Nature Conservancy, and other organizations, residents of the area have formed an organization called the Chattahoochee Hill Country Alliance. This organization worked with other local residents to create a land use plan for the area which was incorporated into the Fulton County master plan in 2002.

Part of this land use plan was the creation and use of a TDR program. Following the adoption of enabling legislation by the state and the county, the Alliance has been able to begin its program of transferring development rights from rural landowners wanting to sell, to landowners in the “receiving” areas of the Hill Country slated for development. The land use plan seeks to protect the area’s 40,000 acres by concentrating development in three centers which are identified in the plan, while protecting the rest of the area from development.

The program is still relatively new, TDRs only having been enabled since April of 2003, and only time will tell if landowners will take advantage of the TDR program. If the present enthusiasm for the plan is any indication, the plan has a good chance at achieving its goal. The plan that the Chattahoochee Hill Country has created has been applauded and recognized by planners and design professionals throughout the state. In November of 2003, the Chattahoochee Hill Country Master Land Use Plan received an “Exceptional Merit Award” as part of the Atlanta Regional Commission’s Developments of Excellence program. The plan was also recognized by the Georgia chapter of the American Planning Association with an award for “Outstanding Plan Implementation,” and another award from the American Society of Landscape Architects in 2004. For more information, visit the Chattahoochee Hill Country website at <http://www.chatthillcountry.org>.

Senioia, Georgia

The City of Senioia, Georgia is one of many communities across the state and across the country which has successfully used a moratorium to stop new construction while the city revised and updated its Future Land Use Map, comprehensive plan, and zoning ordinance, on different occasions. In early 1998, the City decided to adopt a moratorium on development so that it could work on the Future Land Use Map without allowing new development to change the information used to create the map. When the deadline for the original moratorium was drawing near, the city decided to extend the moratorium for an additional 90 days so that the map could be finished.

In 2001 through 2002, the city again enacted a development moratorium to provide city staff with time to make recommendations on necessary zoning changes prior to the approval of a proposal which could have potentially doubled the small town’s population. For more information on Senioia’s experience with development moratoria, contact Senioia City Hall at (770) 599-3679.

Appendix I

Enabling legislation and other legal references

Comprehensive Planning

The Georgia DCA is given the authority to require the minimum content of comprehensive plans in Georgia by the following paragraphs of Chapter 50-8, Section 7.1 of the Official State Code.

(b) The department shall establish in accordance with the provisions of Code Section 50-8-7.2 minimum standards and procedures for coordinated and comprehensive planning, including standards and procedures for preparation of plans, for implementation of plans, and for participation in the coordinated and comprehensive planning process. The department shall undertake and carry out such activities as may be specified by law. Such activities may include, but shall not be limited to, the following:

(1) As part of such minimum standards and procedures, the department shall establish minimum elements which shall be addressed and included in comprehensive plans of local governments which are prepared as part of the coordinated and comprehensive planning process. These elements shall include, but shall not be limited to, housing, human services, natural resources, the environment, vital areas, historic resources, infrastructure, land use other than zoning, recreation, transportation, and economic development;

(2) The department shall establish minimum standards and procedures which shall be used by local governments in developing, preparing, and implementing their comprehensive plans. The department shall incorporate the minimum standards and procedures with respect to natural resources, the environment, and vital areas of the state established and administered by the Department of Natural Resources pursuant to Code Section 12-2-8. In establishing such minimum standards and procedures, the department shall be authorized to differentiate among local governments and among regions based upon factors which the department determines merit differentiation, such as total population, density of population, geographic features, the size of tax base, the type and character of services furnished by local governments, the size of budget, and other factors;

Capital Improvements Element

As identified in Chapter 36-71, section 2 of the Georgia Code:

'Capital improvements element' means a component of a comprehensive plan adopted pursuant to Chapter 70 of this title which sets out projected needs for system improvements during a planning horizon established in the comprehensive plan, a schedule of capital improvements that will meet the anticipated need for system improvements, and a description of anticipated funding sources for each required improvement.

Conservation Easements

Conservation easements were enabled in Georgia in 1992 by the Georgia Uniform Conservation Easement Act. The definition of a conservation easement in Georgia is stated in Chapter 44-10, Section 2 of the State Code:

“Conservation easement' means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open-space values of real property; assuring its availability for agricultural, forest, recreational, or open-space use; protecting natural resources; maintaining or enhancing air or water quality; or preserving the historical, architectural, archeological, or cultural aspects of real property.

Transfer of Development Rights

Transfer of Development Rights programs are enabled in Georgia under Chapter 36-66A, Section 2 of the Georgia Code. This section states that:

Pursuant to the provisions of this Code section, the governing body of any municipality or county by ordinance may, in order to conserve and promote the public health, safety, and general welfare, establish procedures, methods, and standards for the transfer of development rights within its jurisdiction.

Current Use Value

Current Use value Under Chapter 48-5 Section 2:

'Current use value' of bona fide conservation use property means the amount a knowledgeable buyer would pay for the property with the intention of continuing the property in its existing use and in an arm's length, bona fide sale and shall be determined in accordance with the specifications and criteria provided for in subsection (b) of Code Section 48-5-269.

Historic Preservation

To the end of protecting local historic resources, cities and counties are authorized to create historic preservation commissions by Chapter 44-10, Section 24 of the Georgia Code:

44-10-24.

(a) The local governing body of a municipality or county electing to enact an ordinance to provide for the protection, enhancement, perpetuation, or use of historic properties or historic districts shall establish or designate a historic preservation commission. Such local governing body shall determine the number of members of the commission, which shall be at least three, and the length of their terms, which shall be no greater than three years. A majority of the members of any such commission shall have demonstrated special interest, experience, or education in history or architecture; all the members shall reside within the historic preservation jurisdiction of their respective municipality or county except as otherwise provided by subsection (b) of this Code section; and all shall serve without compensation. In establishing such a commission and making appointments to it, a local governing body may seek the advice of any state or local historical agency, society, or organization.

(b) The local governing body of a county and the local governing body or bodies of one or more municipalities lying wholly or partially within such county may establish or designate a joint historic preservation commission. If a joint commission is established, the local governing bodies of the county and the municipality or municipalities involved shall determine the residence requirements for members of the joint commission.

Additionally, the activities of the commissions are identified in Chapter 44-10, Section 25:

Any municipal, county, or joint historic preservation commission appointed or designated pursuant to Code Section 44-10-24 shall be authorized to:

- (1) Prepare an inventory of all property within its respective historic preservation jurisdiction having the potential for designation as historic property;
- (2) Recommend to the municipal or county local governing body specific places, districts, sites, buildings, structures, or works of art to be designated by ordinance as historic properties or historic districts;
- (3) Review applications for certificates of appropriateness and grant or deny the same in accordance with Code Section 44-10-28;
- (4) Recommend to the municipal or county local governing body that the designation of any place, district, site, building, structure, or work of art as a historic property or as a historic district be revoked or removed;
- (5) Restore or preserve any historic properties acquired by the municipality or county;

- (6) Promote the acquisition by the city or county governing authority of conservation easements in accordance with Code Sections 44-10-1 through 44-10-8;
- (7) Conduct an educational program on historic properties located within its historic preservation jurisdiction;
- (8) Make such investigations and studies of matters relating to historic preservation as the local governing body or the commission itself may from time to time deem necessary or appropriate for the purposes of this article;
- (9) Seek out state and federal funds for historic preservation and make recommendations to the local governing body concerning the most appropriate use of any funds acquired;
- (10) Consult with historic preservation experts in the Division of Historic Preservation of the Department of Natural Resources or its successor and the Georgia Trust for Historic Preservation, Inc.; and
- (11) Submit to the Division of Historic Preservation of the Department of Natural Resources or its successor a list of historic properties or historic districts designated as such pursuant to Code Section 44-10-26.

Appendix 2

City of Roswell Impact Fee Table, current as of August 2004

Land Use Classification	Public Safety	Parks and Recreation	Transportation	Admin Fee*	Impact Fee
Residential Detached	\$553.08	\$1,302.93	\$80.79	\$58.10	\$1,994.90 per dwelling
Residential Attached	\$375.78	\$1,302.93	\$54.74	\$52.00	\$1,785.45 per dwelling
Apparel Store	\$321.83	-	\$843.28	\$34.95	\$1,200.06 per 1000 sq. ft.
Auto Parts Store	\$185.00	-	\$786.26	\$29.14	\$1,000.40 per 1000 sq. ft.
Building Materials and Lumber Store	\$283.32	-	\$504.32	\$23.63	\$811.27 per 1000 sq. ft.
Church	\$100.21	-	\$115.70	\$6.48	\$222.38 per 1000 sq. ft.
Convenience Market\ (Open 15-16 Hours)	\$337.24	-	\$8,054.34	\$251.75	\$8,643.33 per 1000 sq. ft.
Convenience Market\ (Open 24 Hours)	\$346.88	-	\$9,372.47	\$291.58	\$10,010.93 per 1000 sq. ft.
Convenience Market with Gasoline Pumps	\$346.88	-	\$10,739.12	\$332.58	\$11,418.58 per 1000 sq. ft.
Day Care Center	\$489.71	-	\$1,006.60	\$44.89	\$1,541.21 per 1000 sq. ft.
Discount Club	\$250.09	-	\$530.86	\$23.43	\$804.37 per 1000 sq. ft.
Drive-in Bank	\$702.14	-	\$3,368.17	\$122.11	\$4,192.41 per 1000 sq. ft.
Electronics Superstore	\$185.00	-	\$572.01	\$22.71	\$779.72 per 1000 sq. ft.
Factory Outlet Center	\$321.83	-	\$337.69	\$19.79	\$679.30 per 1000 sq. ft.
Fast-Food Restaurant	\$2,100.54	-	\$6,300.72	\$252.04	\$8,653.30 per 1000 sq. ft.
Free-Standing Discount Store	\$378.40	-	\$719.20	\$32.93	\$1,130.53 per 1000 sq. ft.
Free-Standing Discount Superstore	\$185.00	-	\$596.39	\$23.44	\$804.84 per 1000 sq. ft.
Furniture Store	\$79.99	-	\$64.26	\$4.33	\$148.58 per 1000 sq. ft.
General Office Building	\$639.80	-	\$139.83	\$23.39	\$803.01 per 1000 sq. ft.
Hardware/Paint Store	\$185.76	-	\$651.38	\$25.11	\$862.25 per 1000 sq. ft.
High Turnover Restaurant	\$1,437.62	-	\$1,655.32	\$92.79	\$3,185.72 per 1000 sq. ft.
High-Turnover (Sit-Down) Restaurant	\$1,437.62	-	\$1,655.32	\$92.79	\$3,185.72 per 1000 sq. ft.
Home Improvement Superstore	\$185.00	-	\$445.14	\$18.90	\$649.04 per 1000 sq. ft.
Hospital	\$626.31	-	\$213.11	\$25.18	\$864.60 per 1000 sq. ft.
Hotel/Motel	\$119.48	-	\$113.28	\$6.98	\$239.75 per room
Industrial	\$445.16	-	\$88.52	\$16.01	\$549.69 per 1000 sq. ft.
Lodge/Fraternal Organization	\$192.71	-	\$595.63	\$23.65	\$811.99 per employee
Medical Office	\$780.48	-	\$458.85	\$37.18	\$1,276.51 per 1000 sq. ft.
Mini-Warehouse	\$8.56	-	\$31.75	\$1.21	\$41.52 per 1000 sq. ft.
Movie Theater	\$288.62	-	\$991.36	\$38.40	\$1,318.38 per 1000 sq. ft.
New Car Sales	\$341.85	-	\$476.25	\$24.54	\$842.64 per 1000 sq. ft.
Nursery (Garden Center)	\$314.19	-	\$458.22	\$23.17	\$795.58 per 1000 sq. ft.
Nursery (Wholesale)	\$321.18	-	\$495.30	\$24.49	\$840.98 per 1000 sq. ft.

Land Use Classification	Public Safety	Parks and Recreation	Transportation	Admin Fee*	Impact Fee
Nursing Home	\$125.26	-	\$33.15	\$4.75	\$163.16 per bed
Pharmacy/Drugstore	\$321.83	-	\$1,119.63	\$43.24	\$1,484.70 per 1000 sq. ft.
Private School (K-12)	\$1,558.68	-	\$69.85	\$48.86	\$1,677.39 per 1000 sq. ft.
Quality Restaurant	\$1,437.62	-	\$1,142.37	\$77.40	\$2,657.38 per 1000 sq. ft.
Quick Lubrication Vehicle Shop	\$404.69		\$508.00	\$27.38	\$940.07 per service bay
Recreational Community Center	\$161.81	-	\$290.58	\$13.57	\$465.95 per 1000 sq. ft.
Self-Service Car Wash	\$38.54	-	\$1,371.60	\$42.30	\$1,452.45 per stall
Shopping Center	\$321.83	-	\$212.85	\$16.04	\$550.72 per 1000 sq. ft.
Specialty Retail Center	\$350.52	-	\$516.51	\$26.01	\$893.03 per 1000 sq. ft.
Supermarket	\$244.69	-	\$1,416.18	\$49.83	\$1,710.70 per 1000 sq. ft.
Tire Store	\$246.67	-	\$315.85	\$16.88	\$579.39 per 1000 sq. ft.
Warehouse	\$246.67	-	\$62.99	\$9.29	\$318.95 per 1000 sq. ft.
Wholesale Market	\$157.97	-	\$85.47	\$7.30	\$250.74 per 1000 sq. ft.
Wholesale Tire Store	\$246.67	-	\$258.57	\$15.16	\$520.40 per 1000 sq. ft.

*The Impact fee includes a charge of 3% added to the sub-total of the individual service categories for impact fee program administration.

Appendix 3

Land Trusts Currently Operating in Georgia

Appalachian Trail Conference Land Trust *LTA *S&P	Harpers Ferry, WV
Athens Land Trust *LTA *S&P	Athens, GA
Broad River Watershed Association *LTA *S&P	Danielsville, GA
Brown's Mount Association	Macon, GA
Camden County Land Trust *LTA *S&P	Saint Marys, GA
The Central Savannah River Land Trust *LTA *S&P	Augusta, GA
Chattahoochee Valley Land Trust	Columbus, GA
Chattahoochee/Flint River Land Trust *S&P	Bainbridge, GA
Chattooga Conservancy *LTA *S&P	Clayton, GA
Chattooga Land Trust *LTA *S&P	Clayton, GA
Chattowah Open Land Trust *LTA *S&P	Alpharetta, GA
Civil War Preservation Trust *LTA	Washington, DC
The Cobb Land Trust, Inc. *LTA *S&P	Marietta, GA
Coosa River Basin Initiative	Rome, GA
Durand Farm Nature Preserve	Atlanta, GA
Georgia Land Trust *LTA	Alpharetta, GA
Georgia Land Trust Service Center *LTA *S&P	Athens, GA
Georgia Wildlife Federation	Covington, GA
Gwinnett Open Land Trust *LTA *S&P	Suwanee, GA
The Land Trust for the Little Tennessee *LTA *S&P	Franklin, NC
Lookout Mountain Land Trust *LTA *S&P	Lookout Mountain, TN
Lula Lake Land Trust *LTA *S&P	Chattanooga, TN
Mountain Conservation Trust of Georgia *LTA *S&P	Jasper, GA
Natural Lands Trust *LTA *S&P	Media, PA
Nature Conservancy	Fort Benning, GA
The Nature Conservancy, Georgia Field Office	Atlanta, GA
Newton County Land Trust Alliance, Inc. *LTA *S&P	Covington, GA
North American Land Trust *LTA *S&P	Chadds Ford, PA
Ocmulgee Land Trust *LTA	Macon, GA
Oconee River Land Trust *LTA *S&P	Athens, GA
Red Hills Conservation Program/Tall Timbers Research, Inc. *LTA *S&P	Tallahassee, FL
Sapelo Island Cultural and Revitalization Society	Sapelo Island, GA
Sautee-Nacoochee Community Association	Sautee Nacoochee, GA

Savannah Tree Foundation	Savannah, GA
South Peachtree Creek Nature Preserve	Decatur, GA
Southeast Land Preservation Trust *LTA	Atlanta, GA
Southeastern Cave Conservancy *LTA *S&P	Chattanooga, TN
Southeastern Climbers' Coalition	Gainesville, GA
Southern Conservation Trust *LTA *S&P	Peachtree City, GA
St. Simons Land Trust *LTA *S&P	Saint Simons Island, GA
Tybee Island Land Trust	Tybee Island, GA
Upper Etowah River Alliance	Eastanollee, GA

Appendix 4

**Peachtree City, GA
Zoning Ordinance Limiting the Size of Retail Development**

This is an excerpt from the city’s zoning ordinance describing the “General Commercial” (GC) zoning designation. Section A, Subsection 6 is interesting because it deals with how the “big box” structure will be treated once it has been vacated by the current tenant. This should help the community deal with potential problems of blight and greyfield redevelopment in the future.

(1006.3) *Conditional uses:* The following uses shall be permitted in any GC zoning district on a conditional basis:

(a) Retail business involving the sale of merchandise on an individual zoning lot where an individual tenant occupies more than 10,000 square feet subject to the following conditions:

(1) Maximum areas (on any zoning lot):

TABLE INSET:

General retail space	150,000 square feet
Theater and restaurant space	50,000 square feet

(2) No single commercial tenant shall occupy more than 32,000 square feet of floor area.

(3) No three commercial tenants shall occupy a combined floor area of more than 80,000 square feet.

(4) No more than six commercial tenants shall occupy more than 10,000 square feet of floor area each.

(5) All exterior building elevations that face public streets and/or customer parking areas shall be designed so that there are no large expanses of blank walls. This requirement can be met by employing the use of architectural features including but not limited to the following: doors, windows, pilasters, columns, horizontal and vertical offsets, material and color variations, decorative cornices, awnings, canopies, murals, and graphics. In order to assure conformance with this requirement, exterior building elevations must be reviewed and approved as a part of the overall final site plan review process.

(6) Any tenant that occupies more than 10,000 square feet shall provide the city attorney with a copy of the rental agreement between the tenant and its landlord which contains a contract provision prohibiting the tenant from voluntarily vacating such premises or otherwise ceasing to conduct its retail business on such premises while simultaneously preventing the landlord, by continuing to pay rent or otherwise, from leasing the premises to another person or company who will operate a permitted business on the premises. If such a tenant voluntarily vacates such premises or otherwise ceases to conduct its retail business on the premises, the landlord shall be free to market and lease such premises to another person or company, except to a direct competitor of the tenant, regardless of any contractual rights the tenant may have with the landlord.

(7) The owner of the zoning lot shall prepare a traffic management plan which identifies the traffic problems that will be generated by development on the premises and which presents reasonable solutions to those problems. The plan must be prepared by a qualified professional traffic planner at no cost to the city, and it must be approved by the city engineer.

(8) The owner of the zoning lot shall prepare a water management plan which identifies the water management problems that will be generated by development on the premises and which presents reasonable solutions to those problems. The plan must be prepared by a qualified professional engineer at no cost to the city, and it must be approved by the city engineer.

Town of Walpole, NH Zoning Ordinance Limiting the Size of Retail Development

ZONING ORDINANCE, SITE PLAN REVIEW REGULATIONS, AND LAND SUBDIVISION CONTROL REGULATIONS

Article VI Commercial District

A. Preamble

The purpose for establishing a Commercial District is to provide within the Town ample area in which business and the sale of merchandise can be conducted with its inherent traffic, loading, parking, and activity normally unpleasant in close proximity to restful and comfortable residences.

B Uses Permitted:

A building may be erected, altered or used and a lot may be used or occupied only for the following purposes and in accordance with the following provisions:

1. Any use permitted in Residential District Type B under the same provisions as apply to residences in said district.
2. Lodging houses, apartment houses, hotels, inns, motels, tourist courts, cabins, including such retail businesses within these permitted buildings as is conducted for the convenience of the residents or guests shall be permitted.
3. Shops, restaurants, and other retail establishments not exceeding 40,000 square feet in gross floor area.
4. Theaters, halls, clubs, and amusement centers.
5. Greenhouses and florist shops.
6. Undertaking establishments.
7. Business and professional offices and banks.

Additional Resources

General Information:

The Georgia Department of Community Affairs Planning and Codes Webpage (<http://www.dca.state.ga.us/planning/>) contains a variety of documents which can help local governments to understand the processes associated with the various planning tools identified above, including impact fees, capital improvement elements, comprehensive planning, zoning and many more.

Impact Fees:

Impactfees.com is a website hosted by a planning firm, which provides information about how impact fees are being used in communities across the country. This website also contains a link to the 2003 National Impact Fee Survey, which gives interested readers an in-depth analysis of how impact fees are being used across the country.

www.impactfees.com

Land Acquisition

The website for the Land Trust Alliance contains information about local and national land conservation organizations which might be able to help local governments in their efforts to acquire conservation land.

www.lta.org

The Trust for Public Land is one of the country's largest land trusts and it has experience working with Georgia communities for the protection of sensitive environmental lands.

www.tpl.org

Conservation Easements

The abovementioned Land Trust Alliance and Trust for Public Land websites are also a significant source of information regarding the use and nature of conservation easements.

Square Footage Limits

The New Rules Project is an effort organized by the Institute for Local Self Reliance which focuses on community building efforts ranging from sustainable agricultural practices to supporting local retail. Their website contains examples and case studies of communities from around the country which have been able to enact size caps to prevent the introduction of Big Box retail into their communities.

<http://www.newrules.org/retail/size.html>

Historic Preservation:

National Trust for Historic Preservation website
www.nationaltrust.org

The National Park Service has assembled a guide to taking advantage of tax credits for the restoration of historic properties
<http://www2.cr.nps.gov/tps/tax/incentives/index.htm>

The National Park Service's Office of Technical Preservation Services has created a web-based collection of guides for owners of historic properties which give visitors guidance on how to carry out the physical restoration and maintenance of their buildings.
<http://www2.cr.nps.gov/tps/tax/rhb/stand.htm>

Miscellaneous

The Institute for Local Self-Reliance (ILSR) is a nonprofit research and educational organization that provides technical assistance and information on environmentally sound economic development strategies. Since 1974, ILSR has worked with citizen groups, governments and private businesses in developing policies that extract the maximum value from local resources.
www.ilsr.org

The American Planning Association (APA) is the national association which represents the planning profession. The APA is a resource for all types of planning-related information and its website provides much of that information on line and free of charge.
www.planning.org