

October 27, 2003

Briefing to the Attorney General's Water Advisory Council

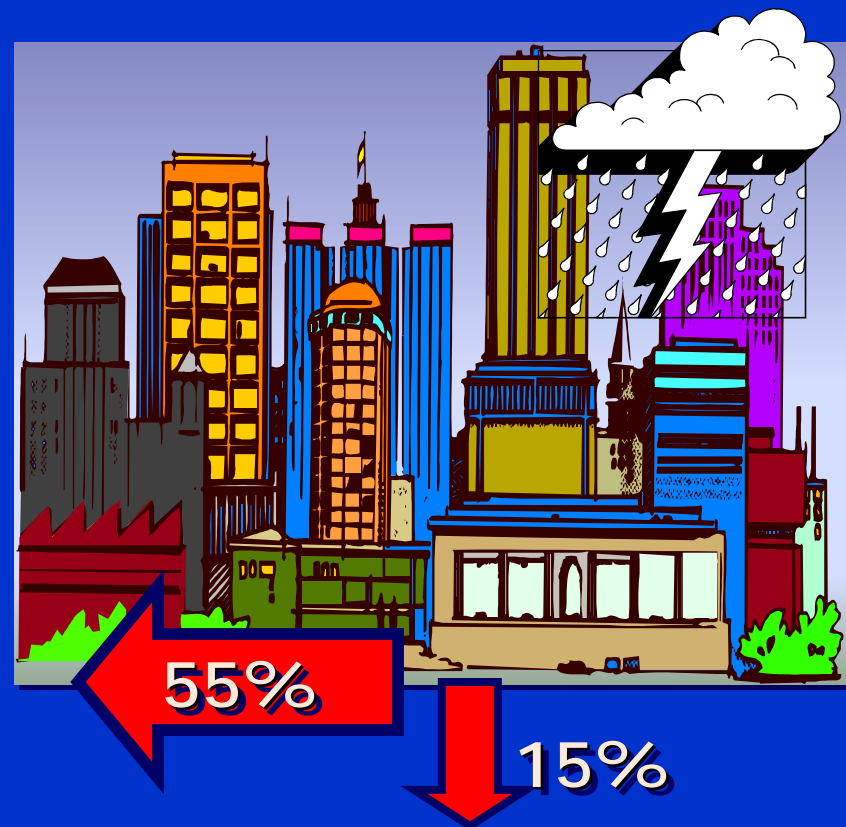
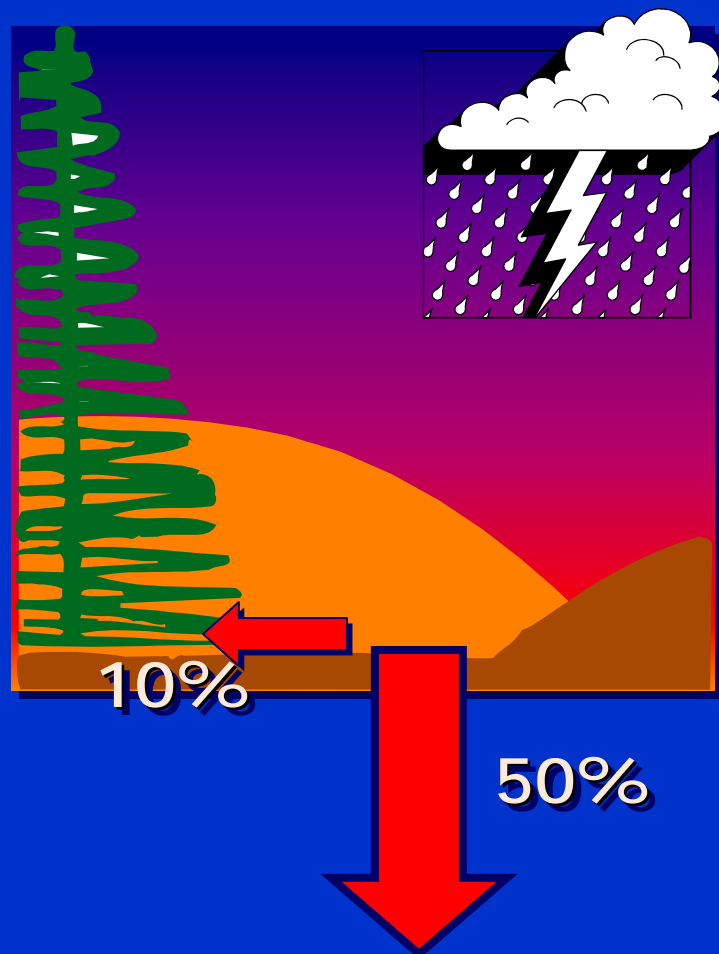


Interface Between
Land Protection &
Georgia's Water
Resources

Outline

- Overview
 - Ecological, economic & other rationale
- Tools for Permanent Protection
 - Conservation easements
 - Restrictive covenants
- Applications
 - Conservation subdivisions
 - TDRs
 - Overlay zones
- New Directions

Development Impacts on the Water Cycle

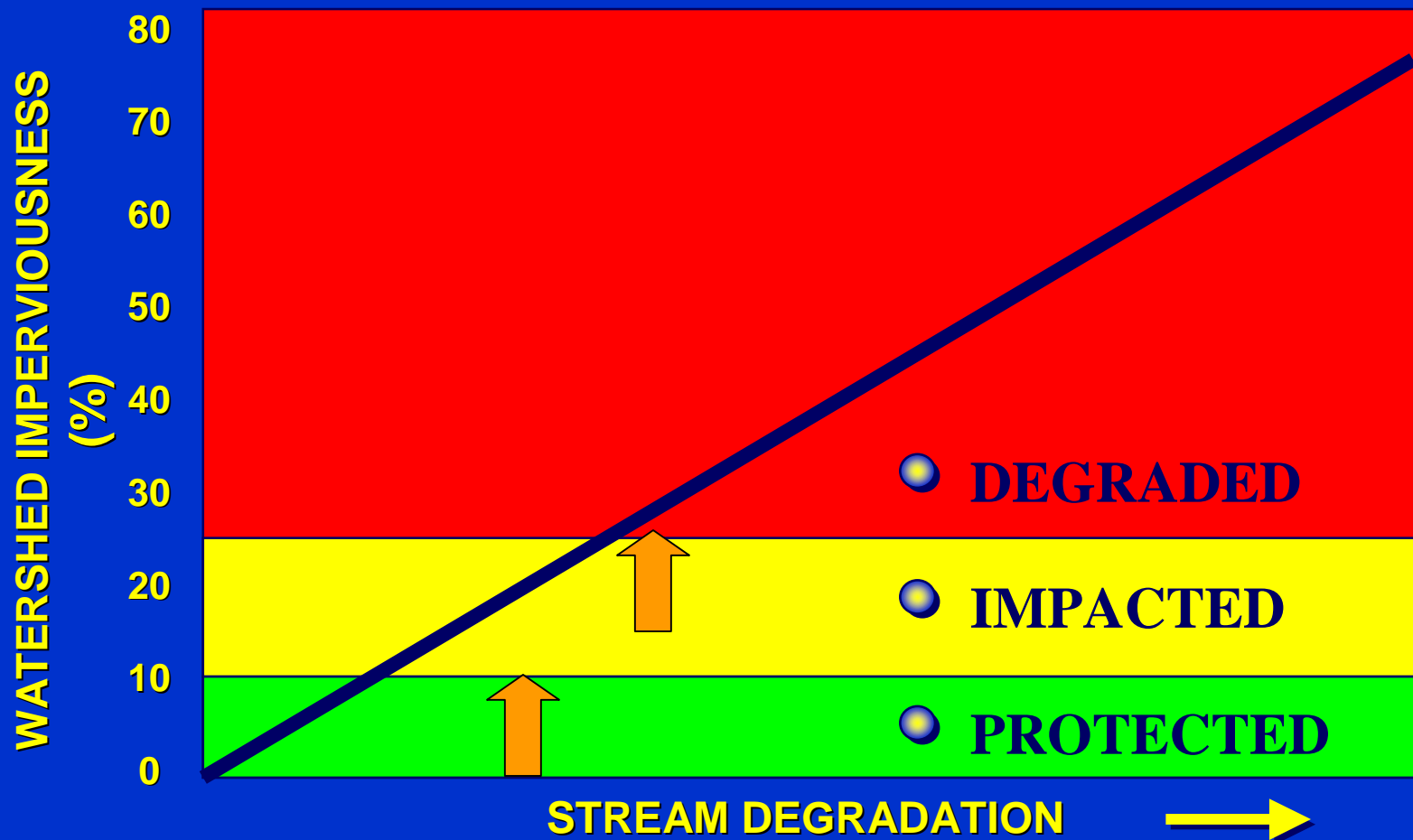


Impervious surfaces

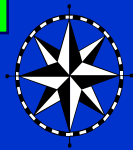
- indicate intensive land uses that cause pollution
- inhibit recharge of groundwater
- prevent natural processing of pollutants in soil, plants
- provide surface for accumulation of pollutants
- provide express route for pollutants to waterways



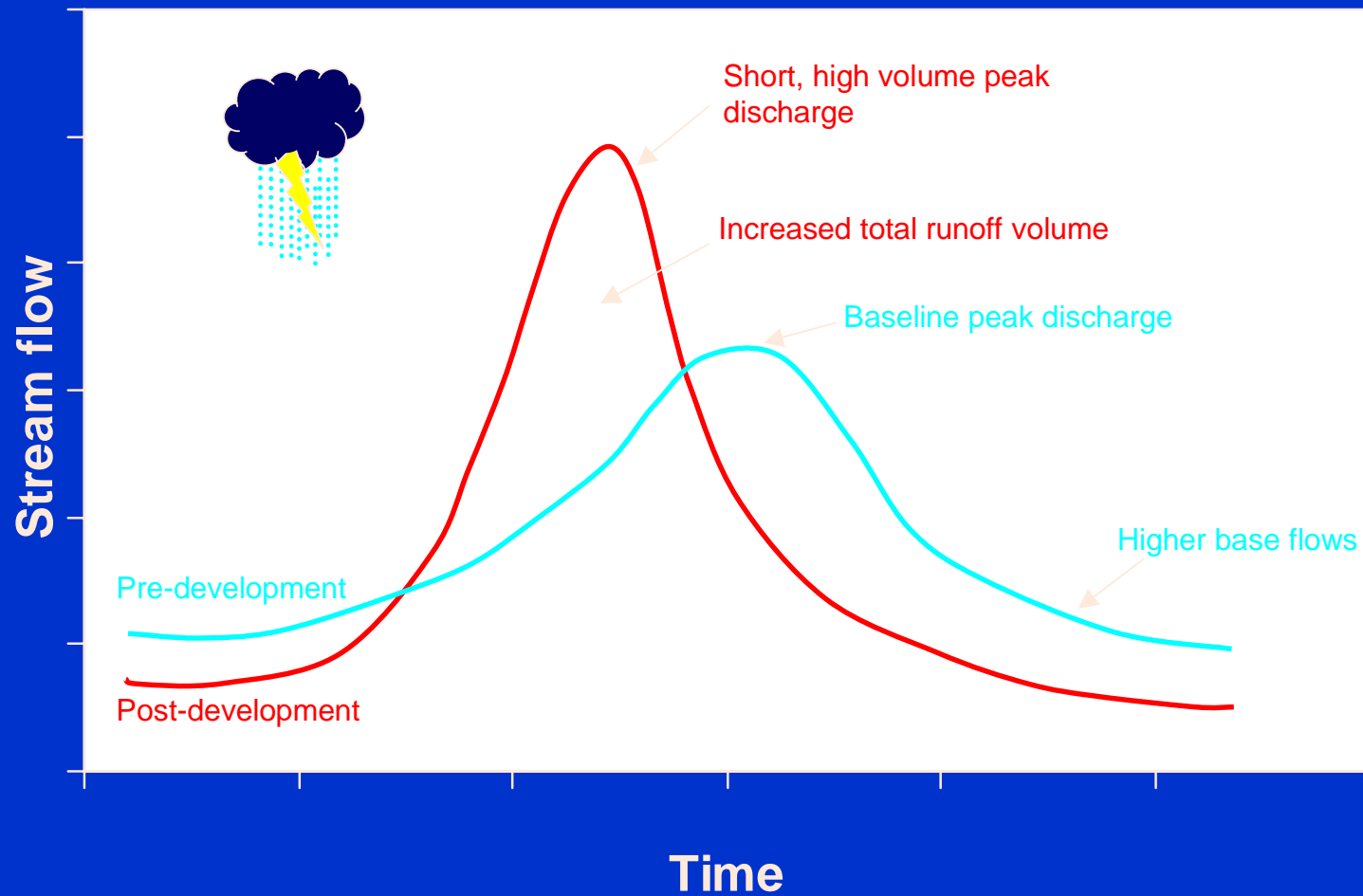
Waterway Health & Imperviousness



ADAPTED FROM SCHUELER, ET. AL., 1992



Storm Hydrograph





Northeast Georgia
Regional Development Center

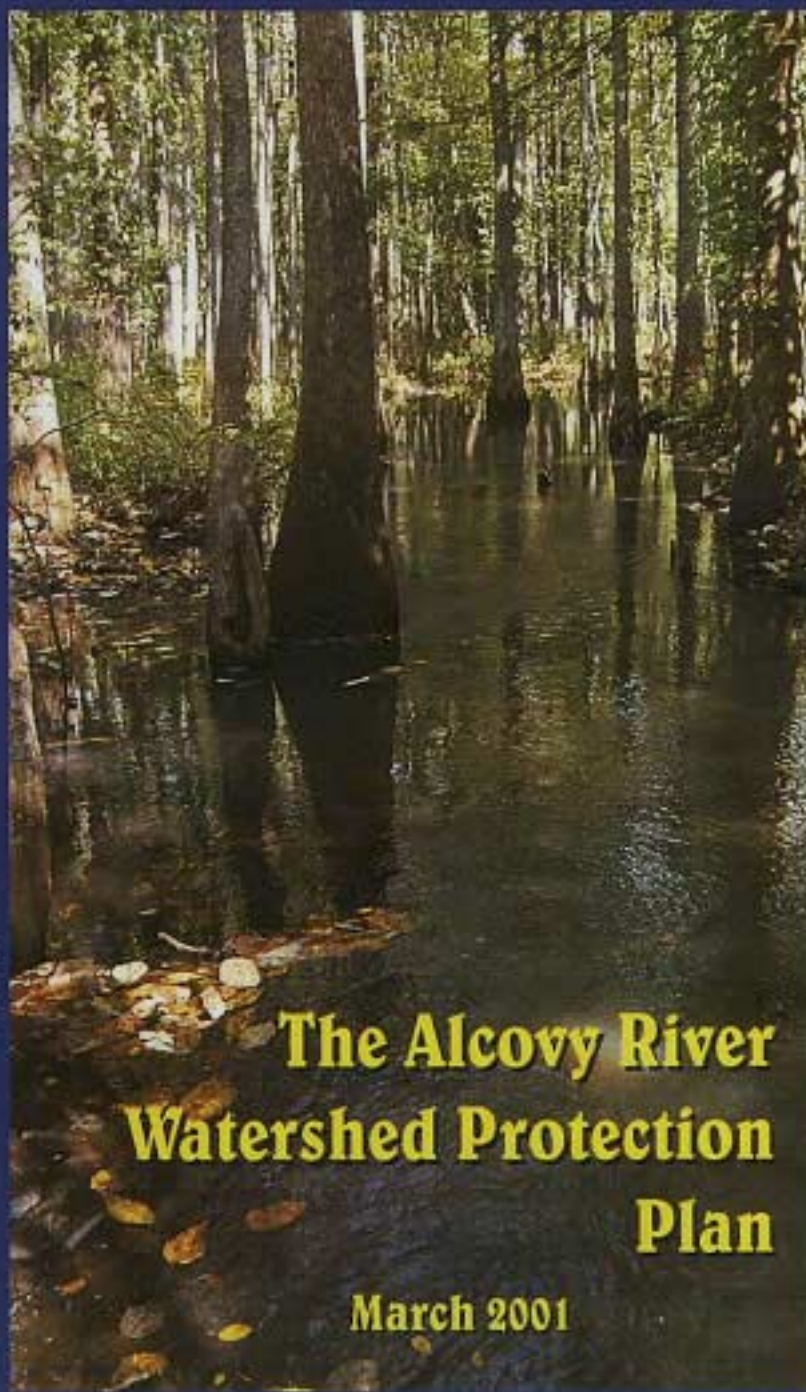
BROWN AND
CALDWELL



Limno-Tech, Inc.



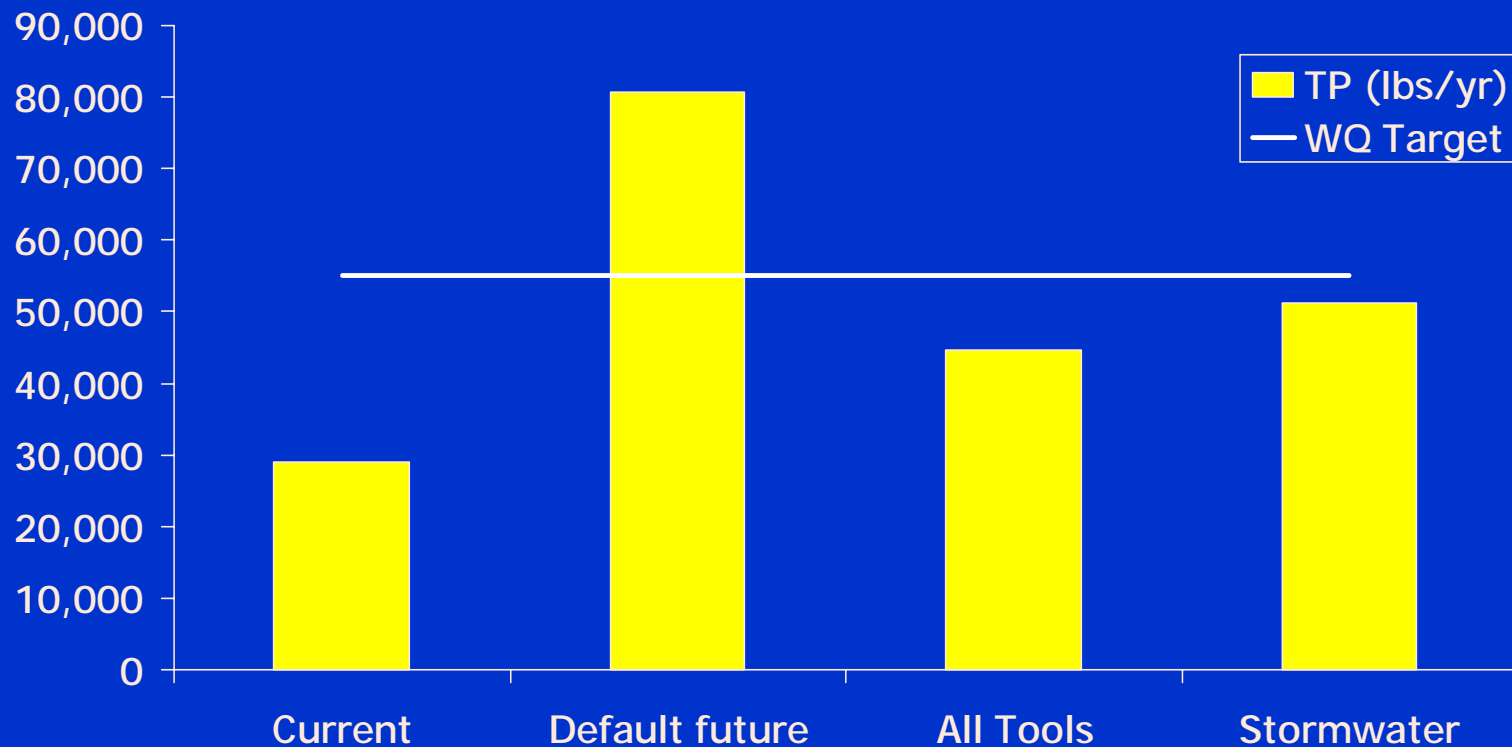
The University of Georgia



The Alcovy River Watershed Protection Plan

March 2001

Phosphorus Load Comparison



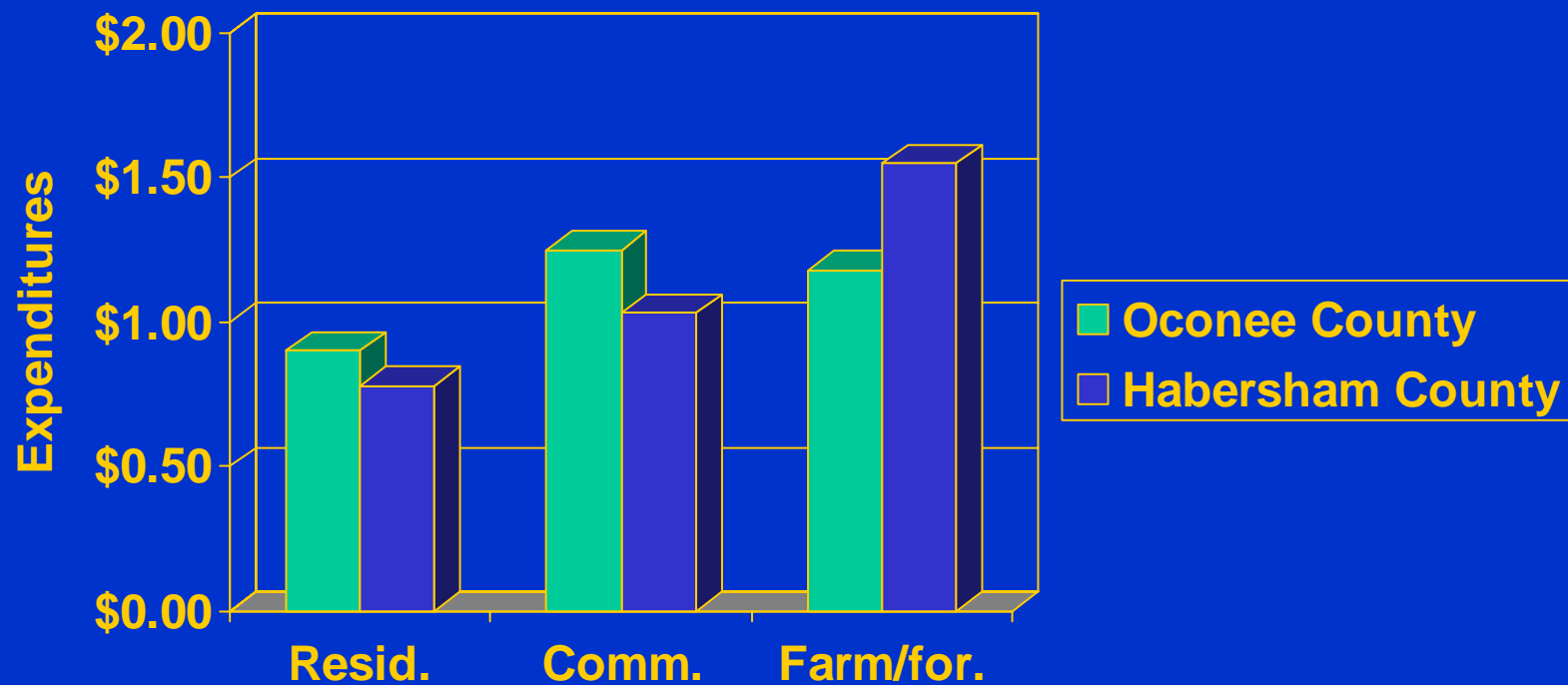


Basic Economic Benefits

- saves local governments money on servicing development
- raises property values for surrounding properties
- attracts businesses, thereby creating jobs
- attracts educated, skilled workers, indirectly attracting businesses

How Green Space Saves \$\$

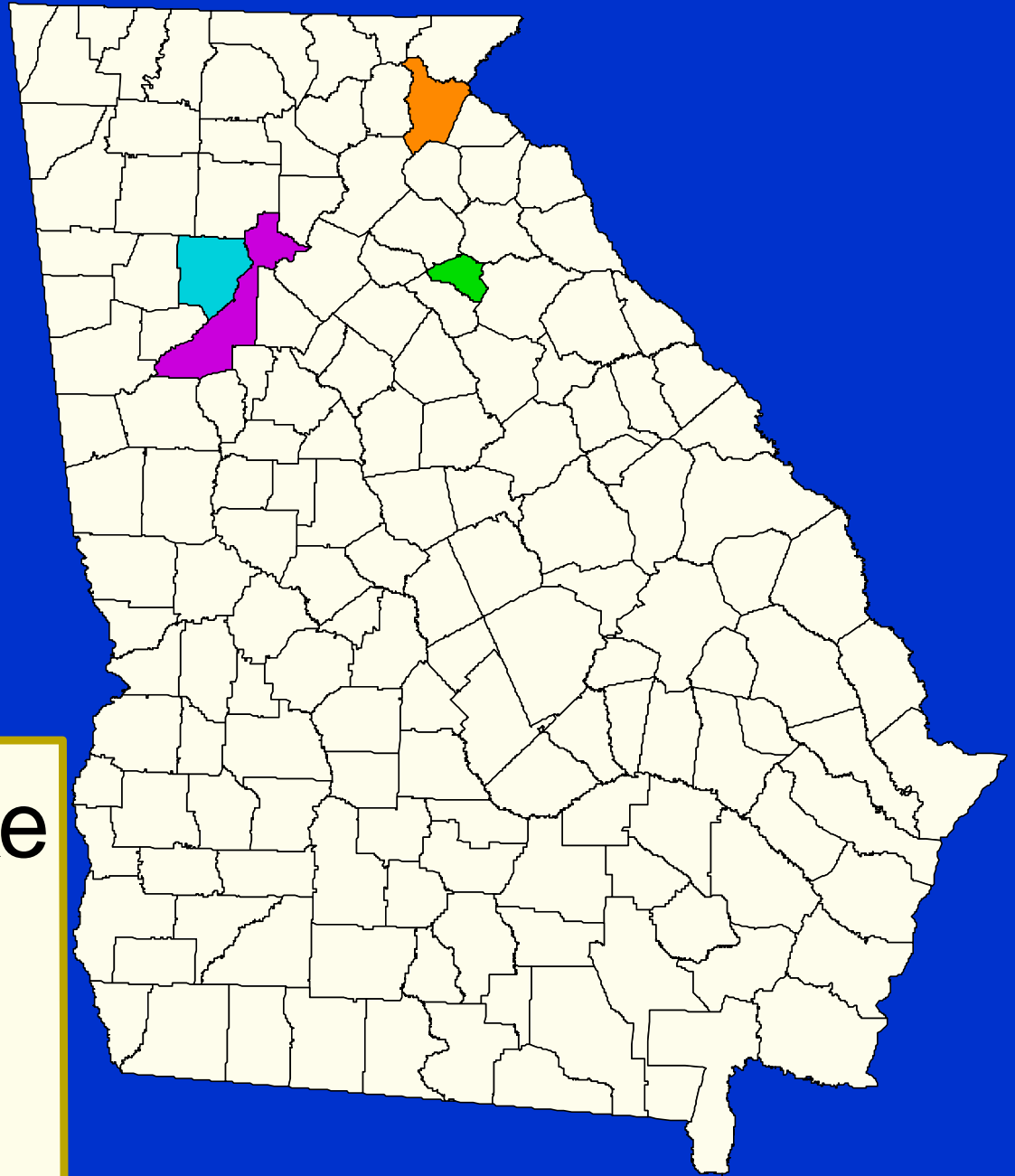
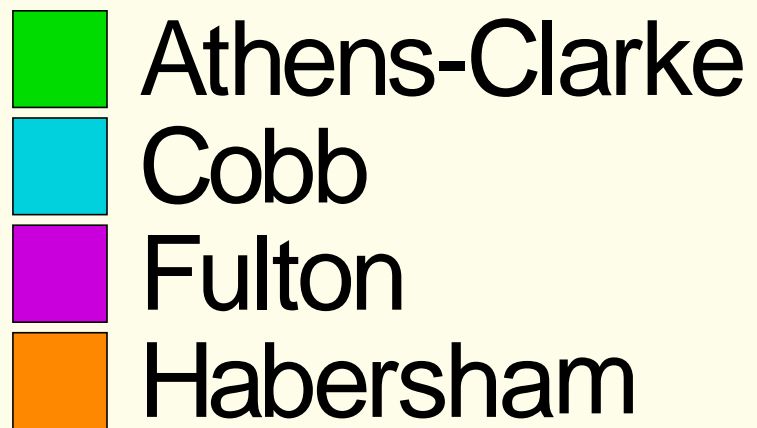
Expenditures per \$1.00 of Revenue



The Potential for Community Forests to Be Self-financing
-Nanette Nelson, Dorfman, Fowler (2003)



Georgia Case Studies

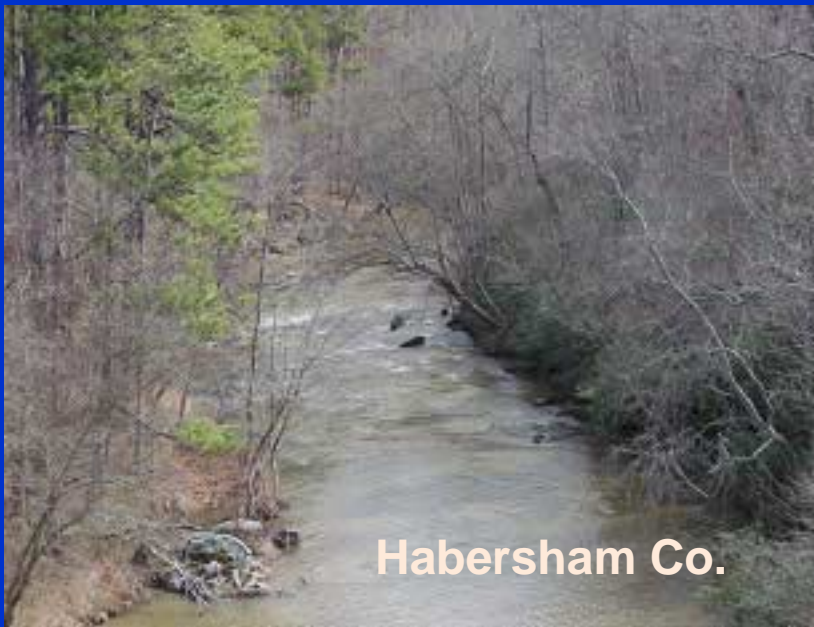




Athens-Clarke Co.



Fulton Co.



Habersham Co.



Cobb. Co.

Measuring Value

- Hedonic pricing approach
 - estimation technique
 - used in studies of air and water quality, parks and scenic views
- Enhancement value

Conclusion

- Enhancement value is affected by:
 - Age
 - Location
 - Type of protection
- Protected areas can contribute to county revenue

Livability Benefits

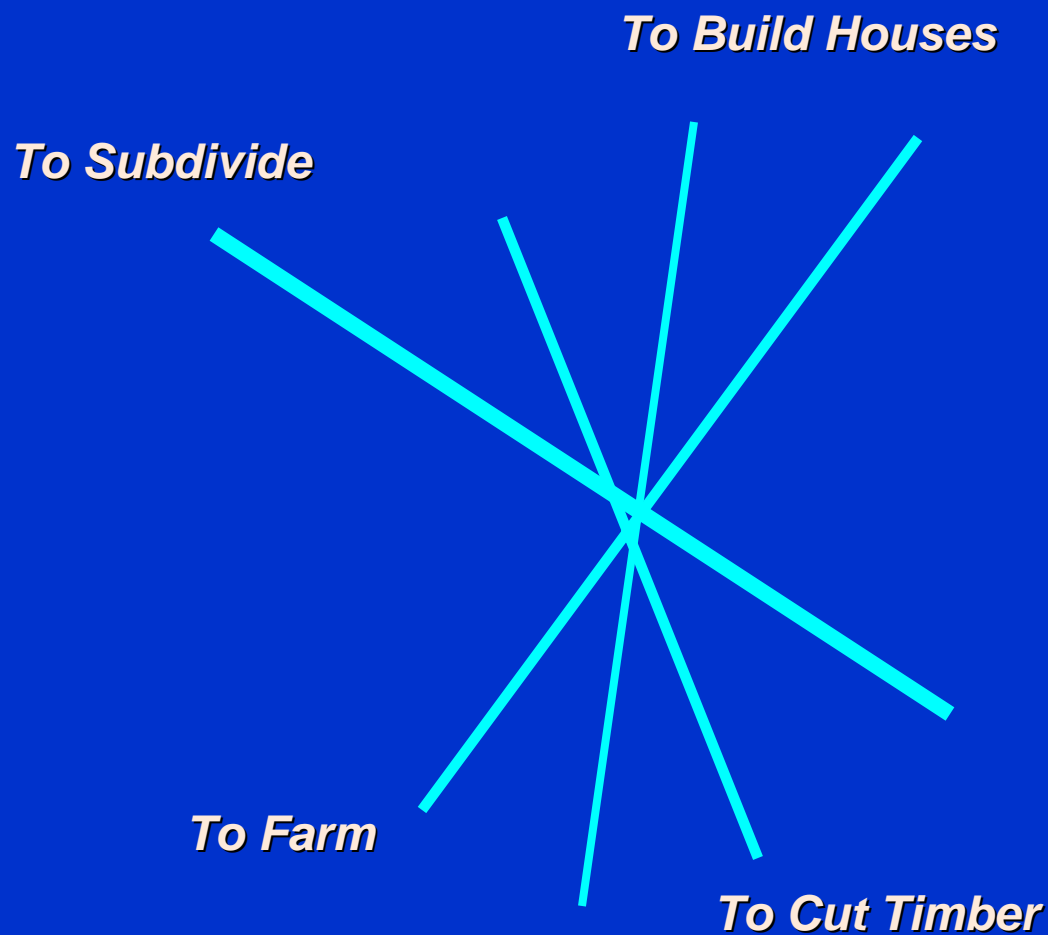
- Community
- Public health
- Sense of place



Conservation Easement

A legal instrument through which a Landowner voluntarily agrees to give up certain uses of his land to protect some conservation value

Land Ownership Bundle of Rights



What are Conservation Values?



- Recreational/educational purposes
- Habitat
- Open space pursuant to government policy
- Scenic/historic preservation

Deed of Conservation Easement

- Recorded w/ deed to property
- May either be:
 - in perpetuity, or
 - for a specified term of years
- Binding on future property owners

Typical Provisions of a Habitat Protection/Open Space Easement



- Prohibit development on sensitive portions of land
 - riparian buffers
 - wetlands
 - plant colonies
- public access unnecessary

Benefits of Conservation Easements



- Protect conservation values of the land
 - Income tax
 - Estate tax
 - Property tax

Income Tax Benefits if:

- Easement is permanent
- Satisfies conservation purpose
 - Landowner may deduct value of easement from federal/state income taxes
 - Easement value = FMV of land w/o restriction minus FMV of land with restriction

Property Tax Benefits



Statute requires
that property taxes
reflect restricted
use

-UGA
guidance for
tax assessors

Land Trusts



- Can be governmental or ngos
- Fastest growing segment of conservation community
- About 50 in GA

On the Horizon

- Income tax credits
 - North Carolina
 - South Carolina
- Enforcement by AG
- Increase capacity of land trusts



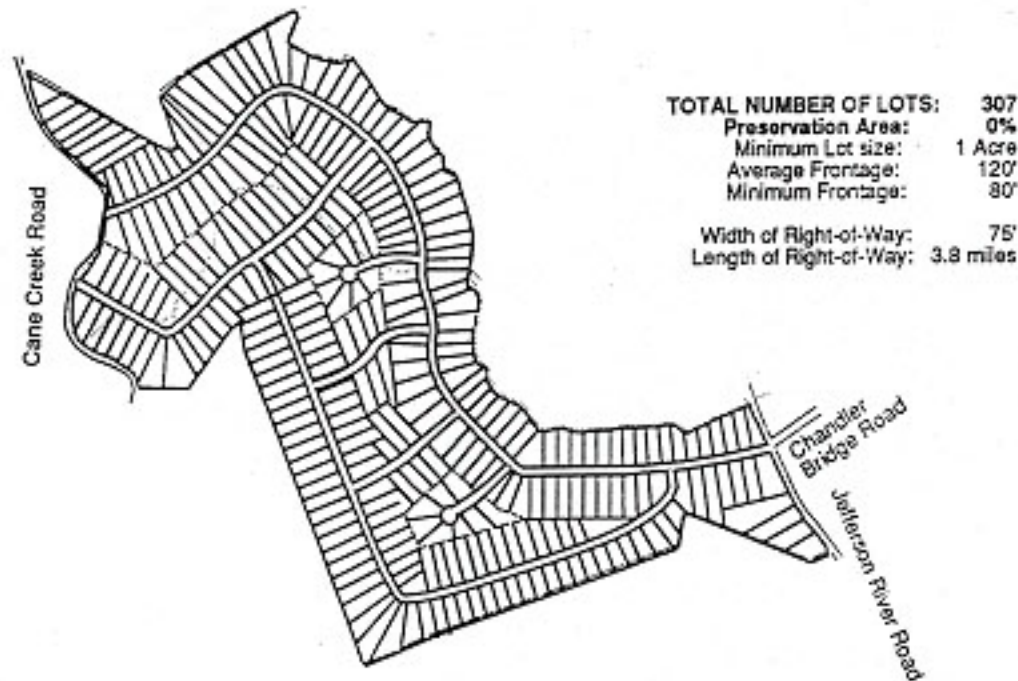
CONSERVATION SUBDIVISIONS

aka "Open Space" subdivisions

Traditional v. conservation



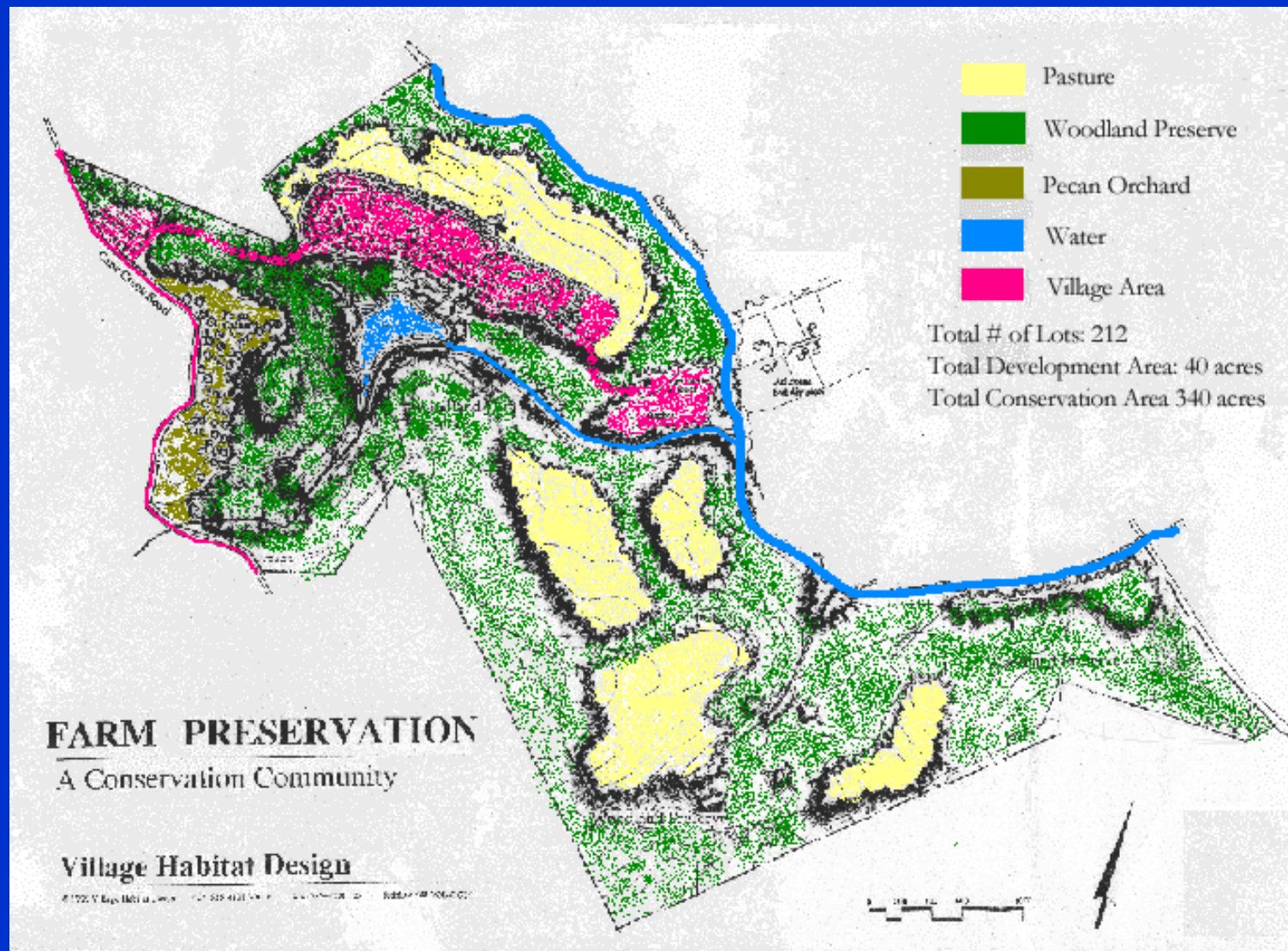
Cane Creek, Jackson Co.



Conventional Subdivision Layout

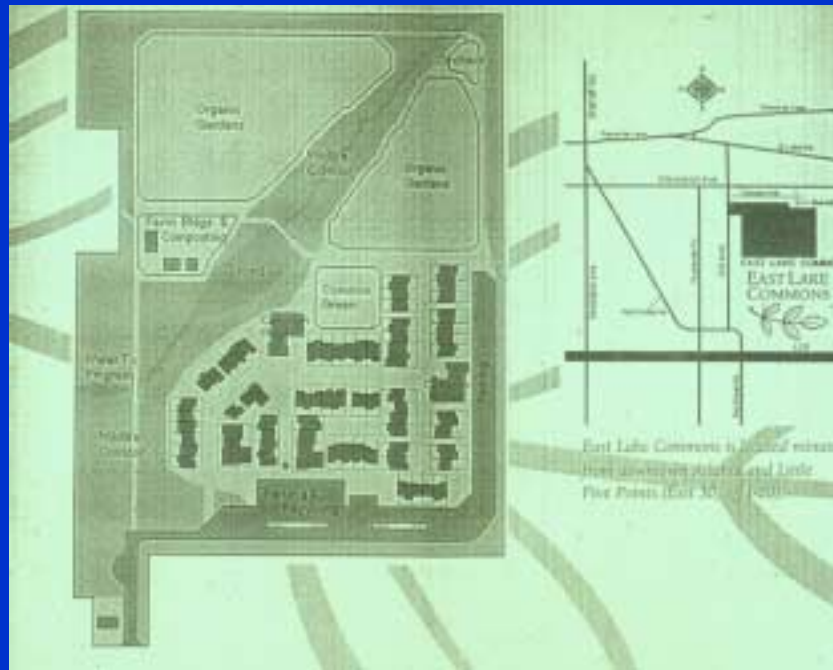
This layout illustrates the development that would be allowed under the current county regulations

Cane Creek, Jackson Co.



Eastlake Commons

DeKalb County



Fern Park Lumpkin County

Walking trail

Home under construction



With the rise of 'conservation subdivisions,' developers find green spaces make economic sense

By [JANET FRANKSTON](#)
Atlanta Journal-Constitution Staff Writer

At dusk, Patti DeVan can look out her kitchen window and see deer searching for food along a trail behind her house. They like to eat her impatiens.

Her sons have found crayfish as big as their hands in the shoals near their property, and she supplies sunflower seeds for the tufted titmice and brown-headed nuthatches.

Forget golf courses. The hottest amenity in metro Atlanta is a backyard forest.

"It gives you the feeling of being away from everything. You're calm and not stressed out," DeVan, 44, says as she walks on the shady path, brushing spider webs away from her face. "You should hear it at night. It's like a chorus."

Earlier this year, DeVan and her family packed up their home near the Mall of Georgia in Gwinnett for a new one at Orange Shoals. The subdivision, off Ga. 20 in east Cherokee County, provides 100 acres of open land for her boys, 11-year-old John and 13-year-old Ben, to explore.

Developers have discovered that many home buyers are looking for neighborhoods with swaths of trees and green space. Through a zoning category first set up in metro Atlanta called the



The DeVan family (from left) Ben, 13, Paul, John, 11, and Patti, 44, walking on a path in their 'conservation subdivision' in Cherokee County.

...“Forget golf courses. The hottest amenity in metro Atlanta is a backyard forest.”...

THURSDAY, NOVEMBER 14, 2002

50 CENTS

ATHENS BANNER-HERALD

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Dorms getting a break

Sanford expansion ceasing during finals

By Kate Carter
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The University of Georgia Athletic Association is brokering a deal with the residents of Reed and Payne Hall dormitories, who have lived with wall-shaking construction noise associated with a fast-track project to expand Sanford Stadium.

MILFORD HILLS

Milford Hills is the first subdivision built as a "conservation subdivision" under Athens-Clarke County ordinances, protecting about half the property from development. But it also illustrates problems that should be fixed in county rules, says the group that holds the conservation easement for the preserved part of the property.



Problems at Barnett Shoals development

Group sees erosion, 'bad' ordinances

By Lee Shearer
lshearer@onlineathens.com

A new subdivision under construction near Barnett Shoals Elementary School will set aside nearly half the development's 36 acres as protected greenspace.

But erosion and other problems at the 124-unit Milford Hills may be more an illustration of Athens-Clarke County's low standards for protecting greenspace and controlling erosion than a shining example of conservation, according to an Athens conservation group involved in the project.

The site plan, prepared by



a previous owner of the land and inherited by developer Langley Properties of Loganville, is considerably

less than what it could have been, both in aesthetic considerations and in preventing clay from silting in nearby

Milford Hills off Barnett Shoals Road, the county's first "conservation subdivision," sets aside woodland for greenspace in exchange for high-density development elsewhere on the site. Pre-construction grading makes the land vulnerable to erosion and leaves some wondering if the conservation subdivision requirements need tweaking.

waterways and lowlands, said Laura Hall Gabriel of the Athens Land Trust, an group dedicated to land preservation and affordable housing.

See DEVELOPMENT on A12.

November 14, 2002, Athens Banner-Herald



Implementation-
Site Construction
*Assess collateral
damage to site
during development*

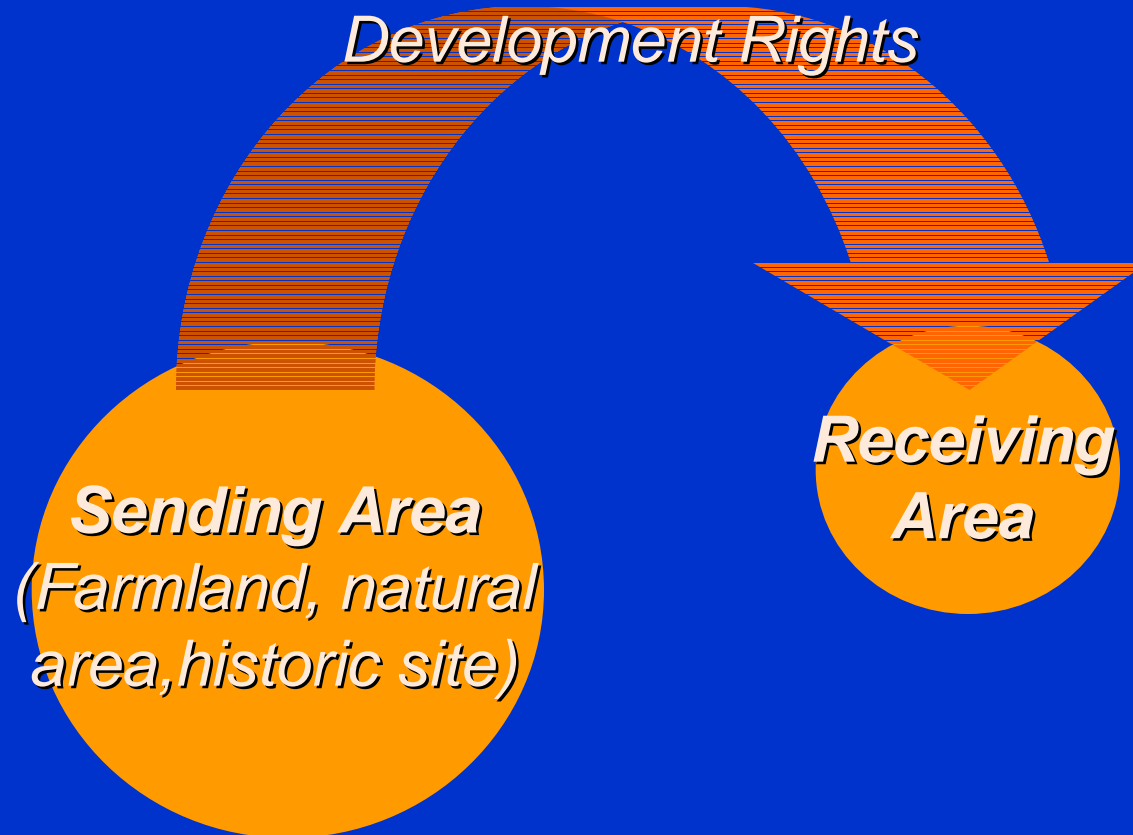




Impediments

- Local regulations are major barrier
- Conservation subdivision ordinance helps
- Other regulatory changes may be needed
- Neighborhood opposition may be significant

TRANSFERABLE DEVELOPMENT RIGHTS (TDRS)



What is TDR?

- Development rights (rights to build) from naturally or historically significant parcel of land are separated from land & sold for use on another tract.
- Landowner enters into conservation easement permanently restricting development on naturally or historically significant parcel.

Pre-Development



Conventional
Development



TDR Alternative

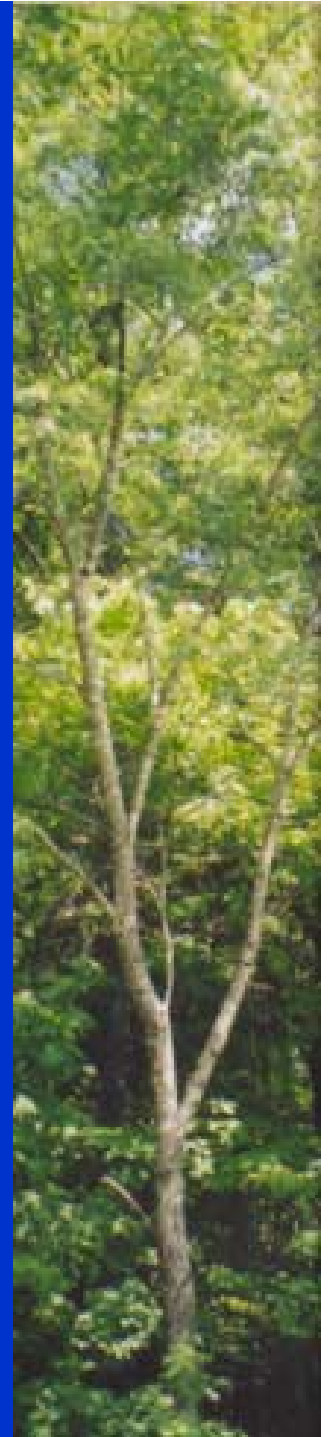


National Trend (30 yrs.)

- At least 107 communities have TDR programs
 - Over ½ protect environmental resources
 - New direction: interjurisdictional transfers

Chattahoochee Hill Country TDR Program Goals

- To preserve open space & natural, agricultural, environmental, historical, cultural resources of Chattahoochee Hill Country
- To accommodate growth while minimizing sprawl
- To maximize existing infrastructure

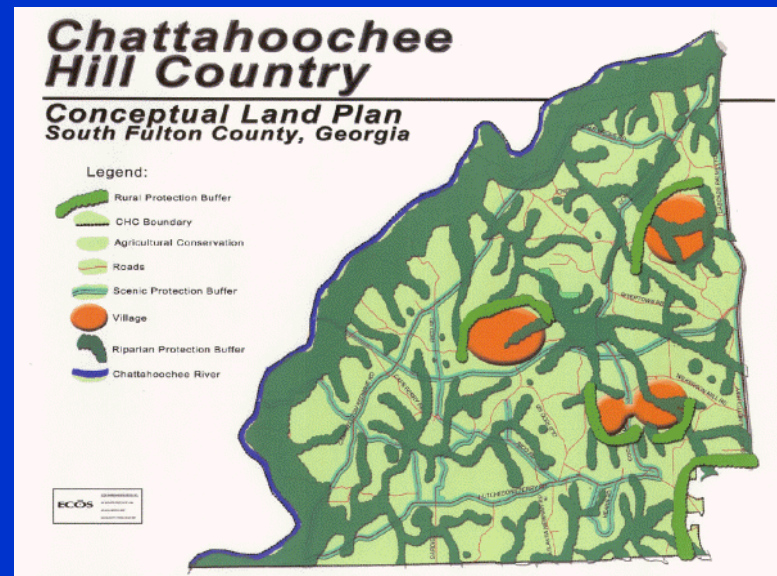


Master Plan

- Sending:

Entire Chattahoochee
Hill Country Planning
Area, except...
- Receiving:

3 Living Working Zones



How many TDRs are needed to develop land?

- Depends on type of development
 - Residential:
1 TDR required for each additional unit over one per acre in Living Working Area
 - Commercial:
1 TDR per 2000 sq. feet of commercial space



The Conservation Easement

- When TDRs are transferred, landowner grants a conservation easement to a land trust
- Conservation easement permanently protects open space; it does *not* necessarily provide for public access



TDR Bank

- can buy, hold, and sell TDRs,
- will also be the central registry for TDRs on the market,
- will be run by a community board.



How does the transfer
really work?

The Bottom Line

The Process

- Landowner applies for TDR certificates; within 95 days, the Department issues them
- Landowner transfers development rights to purchaser



Continued...

- Landowner transfers a conservation easement & records it
- Then the Deed of Transfer for the TDRs is recorded
- If less than all TDRs are sold, landowner resubmits the TDR certificate & county reissues to reflect new number of TDRs.

The Future: Interjurisdictional Transfers

New Jersey Pine Barrens

- 7 counties, 52 cities
- protects forests, water quality, cranberry/blueberry agriculture
- 12,834 acres protected to date

<http://outreach.ecology.uga.edu>

lfowler@uga.edu

Why TDRs?

Landowners:

- retain land & continue traditional uses
- are compensated for lost development potential

Communities:

- preserve green space without paying full price for land