THE CREATION OF A MEANINGFUL RURAL PRESERVATION AGENDA IN GEORGIA

by

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(Under the direction of John C. Waters)

ABSTRACT

An evaluation of the prospects and potentials of rural preservation in Georgia as possible within the context of the existing legislative framework, and a development of recommendations of needs (legislative and otherwise) for the creation of a meaningful rural preservation program in Georgia. Examined are federal and state preservation legislation, federal and state preservation programs, federal and state preservation organizations and the creation of a state preservation agenda.

INDEX WORDS: Georgia, Rural, Preservation, Preservation Legislation, Preservation Programs, Preservation Organizations, Preservation Agenda

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by

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DEDICATION

To my husband Jason and my daughter Jenkins: thank you for lighting the way.
To my committee: thank you for helping to make this a better thesis.

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Preface

The purpose of this study is to evaluate the prospects and potentials of rural preservation in Georgia, in the context of the existing legislative framework and to develop recommendations of needs (legislative and otherwise) for the creation of a meaningful rural preservation program in Georgia. Georgia has legislation in place that, with modification, could be strengthened to adequately protect rural resources from its enemies. This modified legislation could serve as model legislation for other states that share similar problems and needs in terms of rural preservation.

The definition for the term "rural environment" may change from person to person. For the purpose of this thesis, the rural environment as defined in *Saving America's Countryside*, is an "area to be relatively sparsely populated that lies beyond the city and suburbs; it is a place where natural resources are the basis for at least some of the resident's livelihood- farming, ranching, fishing, timbering, mining or outdoor recreation, among others." (Stokes et all., 2)

The definition for the term "rural district" may also change. For the purpose of this thesis, a rural district as defined according to the National Park Service is "a rural historic landscape defined as a geographical area that historically has been used by people, or shaped or modified by human activity, occupancy, or intervention, and that possesses a significant concentration, linkage, or continuity of areas of land use, vegetation, buildings and structures, roads and waterways, and natural features." (National Park Service, 1)

My interest in Georgia's rural landscape began when I started the Master's program in Historic Preservation at the University of Georgia. I visited the owner of a historic home in rural

Oglethorpe County who was concerned with the 'For Sale' sign that was posted on the area across the street from her home. She, and other neighbors, were concerned that incompatible development would come in and detract from the rural nature of the area as there were no zoning ordinances to protect the area. Thus, began my interest in the unique history, natural assets and quandaries of rural Georgia.

My research consisted of library research to find more general information. I used the telephone extensively to contact different organizations and individuals at local, state and Federal government levels to locate sources of data. However, perhaps most importantly, I was able to take advantage of the technology of the information age and used a computer with a high speed Internet connection that allowed me to quickly search for facts and figures.

Chapter 1

WHY PRESERVE?

Regardless of the motives behind the rural preservation effort, the list of reasons that drive people to preserve the rural landscape is seemingly limitless. Activists may include the land owner who wants to preserve land that has been in the family passed down from generation to generation or the environmentalist who sees the encroachment of development as a threat to precious natural resources. From a historic preservationist's view, the rural landscape holds a wealth of information. The landscape and the built environment provide clues as to how people lived, worked and shaped the land that supported them during the early years of our nation. For whatever the reason, many people across the state are working to achieve the common goal of preserving the rural landscape.

Reasons to Preserve

Rural Beauty

There is real emotion and sentiment behind preservation of the rural environment. To begin, one can only be in awe of the sheer beauty of the rural environment; that is, the imprint left by man upon the land combined with nature. The emotions inspired by the countryside have been recorded in countless works of art which extol the virtues of the American countryside. America was seen to have limitless potential, oftentimes symbolized in art with depiction of the rural landscape as vigorous with prosperous towns and farms. For example, artists such as Winslow Homer and Grant Wood captured the essence of American rural life with paintings such as *Boys in a Pasture* (1874) and *Stone City Iowa* (1930). As seen in these and countless

other paintings of the American landscape, picturesque elements of the rural countryside include winding lanes, rolling hills, green meadows and pastures, riversides and farmsteads. The built environment, that is, man's additions to the land in terms of land subdivision and structural elements, can include such elements as archaeological mounds, barns, farmhouses, a variety of outbuildings, neat acres of orchards and fields held by fences; all are striking elements against a natural backdrop. Often, the beauty of the built rural environment is found in the construction ingenuity, environmental organization, and engineering techniques used to create the farmsteads and outbuildings necessary for rural enterprise.

Fig. 1. Kolomoki Mounds Historic Park (Georgia Department of Natural Resources)

Mythology of the Rural Lifestyle

The mythology of the rural lifestyle plays an important role in part of our nation's lore. From cattle-ranching and cowboys to agriculture and farmers, there is an idealized and romantic notion of the rural resident. The rural resident is often seen as someone who is the salt of the earth, tough as nails, and hard-working, often in nearly impossible environments. Although the city dweller may be worldlier, country folk are often portrayed as being wiser than their city counter part due to home-brewed wisdom. There is a certain element of nostalgia associated

with country folk and country life, which has enjoyed various depictions in art, literature and film. The painting *American Gothic* (1930) by Grant Wood, in many interpretations, seeks to praise rural people and their lifestyle. These portrayals satisfy America's emotional need to hark back to "simpler times." Many vacationers enjoy rural areas and the countryside as a place to "get away from it all" and repose. The cumulative effect of the rural built and natural environment on the American psyche cannot be overlooked or trivialized.

Rural Tourism

The rural landscape may be a source of tourism. The charm of small town America still delights many, from the country store with the hound dog on the porch to the small downtown shops and depots. At one time, downtown shops fulfilled the needs of rural residents for goods and services and served as a place to gather and socialize. Nowadays, it is with nostalgia that people look to the downtown and its people as quaint and charming. Areas that were once the cornerstones of communities have now found new life, billed as historic districts filled with antique and specialty shops. Other downtowns have not fared as well and are plagued by empty stores and declining sales.

Vacationers are looking to the nation's countryside for the tangible remains of history with heritage-tourism style vacations. For the tourist interested in history, Georgia offers 18 historic sites within the state park system. Not only do these sites offer a peek into the past with the tangible remains of history, but some also offer educational programs highlighting the production of the goods and services that the sites offered. According to the Georgia Trust for Historic Preservation website, Georgia has "45 National Historic Landmarks and 1625 National Register Listings with over 40,000 properties located in historic districts." (www.georgiatrust.org). There are driving tours that wind through the countryside, such as the

Antebellum and the Blue and Gray Trails. In addition to individual tourists, Georgia also benefits from organized tours given by groups such as the Georgia Trust for Historic Preservation which offers different types of study tours and "rambles" that focus on different historic preservation projects across the state. Destination spots often offer goods and services to travelers such as bed & breakfasts, restaurants and antique shops, giving visitors an opportunity to boost the local economy while enjoying historic sites. In fact, according to the article "Profiting from the Past: The Economic Impact of Historic Preservation in Georgia" (Leithe, Tigue) "after agriculture, tourism is the second largest industry and job producer in the (Georgia) state." The article also notes that in recent years, "out of all tourists spending on recreation, the second largest amount was on historic activities." The Georgia Trust for Historic Preservation website notes that "in 1996, Georgia's tourists spent over $453 million on historic-related leisure activities." (www.georgiatrust.org)

Fig. 2. Hofwyl-Broadfield Plantation State Historic Site (Georgia Department of Natural Resources)

In the South, travel has been inspired by nostalgia for rural plantations and plantation life. The plantation was often not only a working farm, but a complete rural community within itself. Even with their obvious faults, plantations and the plantation lifestyle are still idolized by many, with romantic notions abounding. Perhaps in an effort to dispel many of the myths that surround the plantation, more modern interpretations of the rural plantation life include accurate accounts of life for others than the gentility. Modern interpretations examine the lives of slaves, and later, hired hands that operated the land and its business. Here, in Georgia, plantations that are open to tourists include the Hofwyl-Broadfield Plantation, Glynn County; and Jarrell Plantation, near Macon. Another destination is the Antebellum Plantation & Farmyard at Stone Mountain, Stone Mountain, Ga. Ironically, this "plantation" has been concocted of buildings taken from across the state and then placed at Stone Mountain; a one-stop history lesson designed to appeal to tourists. Another concocted site is the Georgia Agrirama, a living history and learning center consisting of 35 or so relocated buildings on 95 acres depicting life from the nineteenth century.

Fig. 3. Jarrell Plantation State Historic Site (Georgia Department of Natural Resources)

Recreational Opportunities

Rural areas also bring limitless recreational opportunities, such as biking country lanes, swimming, fishing, hiking, camping, and nature trail walks along a varied terrain. Georgia offers 45 state parks featuring all of the above mentioned outdoor amenities. Across the nation, states have capitalized on eco-tourism, that is, the desire to travel to places and see all they have to offer in terms of cultural and natural amenities without making a significant negative impact on the environment and the local community. Since the 1800's, the National Park system has been driven to protect areas deemed as natural and cultural resources from the encroachment of development and industry. In Georgia, just some of the parks and sites include Andersonville National Historic Site, the Appalachian National Scenic Trail, the Chattahoochee River Recreation Area, the Chickamauga and Chattanooga National Military Parks and the Martin Luther King, Jr. National Historic Site. While not all of these areas are in a rural locale, Georgia's twelve national parks offer an abundance of recreational and educational opportunity for all ages and interests, successfully capitalizing on the popularity of eco-tourism.

Environmental Benefits

The environment benefits from the preservation of open and natural areas, as well. The rural landscape featuring natural areas offers much in the way of helping to maintain a clean water supply. Undeveloped areas help to recharge the supply of groundwater and help to purify water by acting as a filter. While the rural environment is not void of pollution, it can be properly maintained against the pollutants created by the lack of residential sewer treatment facilities, agricultural, manufacturing and forestry and industries. Undeveloped areas in rural districts also help to control runoff, or water that does not have the chance to absorb into the ground. Rural areas offer a larger percentage of undeveloped pervious surfaces, allowing

successful water infiltration. In more urban areas, runoff water that collects and flows over streets, parking lots and rooftops often gains pollutants, such as oil, automotive fluids and pesticides as it makes its way to rivers and streams. With large amounts of urban runoff, the velocity of the water can be increased, which may lead to problems such as flooding and erosion. In both the rural and urban environment, the control of non-point pollution is indeed hard to control. To ultimately protect the water supply, development needs to be distanced from water sources.

Rural and more natural areas support animal and plant habitat. The countryside is home to countless species of animals, trees and plants that would not be able to survive in more urban environments. Prevention of degradation of animal habitat within the rural landscape is imperative as once it is destroyed, the species that relied on it are harmed as well. Once certain aspects of the rural environment are damaged, restoration to an earlier state may be impossible.

Management of Uncontrolled Development: Sprawl

Another reason to preserve the rural landscape is to help counter the effects of uncontrolled development. According to the American Farmland Trust, "every single minute of every day, America loses two acres of farmland. From 1992-1997 we converted to developed use more than 6 million acres of agricultural land—an area the size of Maryland. From 1982-1997, U.S. population grew by 17 percent, while urbanized land grew by 47 percent. Over the past 20 years, the acreage per person for new housing almost doubled and since 1994, 10+ acre housing lots have accounted for 55 percent of the land developed. (www.farmland.org). In Georgia, "the total number of prime acres lost from 87-92 is 110,900, from 92-97 is 184,000. The number of acres lost per year from 87-92 was 22180 and from 92-97 was 36,800. Thus, there was an increase in rate of loss over previous 5 years of 66 percent." (www.farmland.org).

Throughout history, one of the reasons for the encroachment of development and housing into more rural areas is because lower densities were looked upon favorably by the upper classes. Conditions found in major cities were often horrific and cities were seen in an unfavorable light as places where the poorer classes resided. The countryside was in the past, and still is in the present, often idealized as an idyllic place devoid of the problems and crisis of city life. For example, deplorable urban living conditions, congestion and lack of public facilities made large cities such as New York and Chicago of the 19th century undesirable for people who could afford to live elsewhere. As a result, the wealthy began looking for alternative places to live that offered the benefits of clean country living coupled with close proximity to urban centers. Thus, suburbs and the suburban lifestyle, designed to be a semi-rural haven were developing by the middle of the 19th century. Examples of planned suburbs include Riverside, Illinois designed by Fredrick Law Olmstead and greenbelt towns such as Greenbelt, Maryland and Greendale, Wisconsin designed in 1935 under the Resettlement Administration. Some of the principals of planned communities included lower densities, more open space and home ownership. These ideals continue today, where housing preferences remain as a single-family detached house with a yard. Private lawns and gardens have reduced the need for people to use public open spaces, such as parks.

Presently, as the population expands and requires more goods and services such as schools, infrastructure, water and sewer, the style of development that often provides services for residents that live further and further away from urban cores is known as "sprawl." The National Trust for Historic Preservation defines sprawl as, "dispersed, low-density development that is generally located at the fringe of an existing settlement and over large areas of previously rural

landscape. It is characterized by segregated land uses and dominated by the automobile." (www.ruralheritage.org). Clearly, agricultural lands are affected by this type of development.

It seems that uncontrolled development not only has a detrimental effect on the tangible aspects of the rural landscape, but on intangible areas as well. From a social standpoint, uncontrolled and spreading development can have a negative impact on the quality of life for area residents. In his article "The Effects of Sprawl on Neighborhood Social Ties: An Explanatory Analysis," Lance Freeman points out that "there is a clear theoretical link between sprawl and social ties. Because sprawl limits opportunities for spontaneous social interaction with neighbors, the social bonds between them should be weakened. In contrast, residents are afforded more opportunities for social interaction in pedestrian friendly and transit oriented neighborhoods. Very high densities undermine social ties, as well." (Freeman, p. 71-2). As Freeman argues, residents of sprawling areas would have weaker social ties due to the privatization of transportation and reliance on private cars. As travel is often solo, people in their vehicles have less opportunity to interact with others.

One way to help check sprawl is to redefine the vocabulary that is associated with cities, such as removing the negative connotation that is associated with the term 'inner city.' Inner cities can be a vibrant and bustling area, filled with stable communities, retail, restaurant and cultural venues.

Sprawl Prevention: Smart Growth

To prevent the sprawl that is associated with the suburban growth, stronger rural communities need to be built. As more and more resources locate to the suburban fringe and rural areas, the urban core often suffers. Downtown cores should serve as a magnet for the community, providing goods and services to the population, and thus decreasing the need for

development in outlying areas, effectively preserving open space. In order to prevent development pressures from overwhelming rural areas, communities should strive with the aid of rural economic development programs to find compatible housing and job opportunities for its citizens. Poverty and low wages are detrimental to rural preservation.

The challenge faced by Georgia and other states with large metropolises is to guide growth in such a way that it does not impact the rural environment to an unacceptable degree; the goal is a more efficient use of land. One term for this is smart growth. Smart growth, as defined by the American Planning Association, "means using comprehensive planning to guide, design, develop, revitalize and build communities for all that:

- Have a unique sense of community and place;
- Preserve and enhance valuable natural and cultural resources;
- Equitably distribute the costs and benefits of development;
- Expand the range of transportation, employment and housing choices in a fiscally responsible manner;
- Value long-range, regional considerations of sustainability over short term incremental geographically isolated actions; and
- Promotes public health and healthy communities.

Compact, transit accessible, pedestrian-oriented, mixed use development patterns and land reuse epitomize the application of the principles of smart growth." (www.planning.org).

Sometimes the term 'smart growth' is used improperly and is likened to no growth. With "no growth" ordinances put in place under the guise of smart growth, the public may receive a distorted perception of what smart growth really is, and be left with a negative viewpoint. As for the rural areas surrounding growing communities, the "no growth" movement often forces

expansion into adjacent counties, where people willingly travel to obtain desired goods and services.

Hindrances to Rural Preservation

Preservation initiatives for the rural environment face opposition from a variety of sources. Realizing that every community is unique, it is difficult to describe all impediments to rural preservation; thus this topic is to be further discussed in following chapters. Some of the obstacles that face the rural environment are economics, land use and property rights advocates.

Economics and Land Use

Presently, one factor that determines land use and the continuation of expansion into the rural landscape is economics. Simply stated, there is often a marked difference between urban and rural land values and the cost of developing rural areas is often less than that of urban areas. Some of the expenses incurred with developing the rural landscape include providing water, sewer and transportation infrastructure. However, these initial costs are usually offset by the lower price of rural land per acre; land that is less expensive provides commercial developers and home builders with the opportunity to have a lower overhead due to reduced rents or mortgages. Developers are able to save additional building costs by using farmland, as it has been already cleared and leveled. Improved land is prime land for building subdivisions, home sites and commercial developments. In turn, developers are able to pass these savings onto the consumer.

In addition to lower land prices, rural areas often have less or no zoning restrictions for developers to comply with. Again, this spares expense for the developer, who in turn is able to pass the savings along to the consumer. Building requirements such as having the appropriate number of parking spaces for business mandated by zoning usually cost less in rural and

suburban areas than in urban cores. In urban areas, developers may incur costs as a result of a longer waiting period while gathering the appropriate permits before construction can begin.

Attracting homeowners to outlying areas are lower taxes coupled with commercial lending practices that may favor suburban development. At first, urbanites may be put off by the lack of resources in rural areas. Urban areas already have established amenities that make them attractive to businesses and homeowners. Established amenities may include goods and services such as retail establishments, healthcare facilities, opportunity for education and cultural resources. But, as time passes, businesses and companies take initiatives to set up in rural and fringe areas. As goods and services are established, employees, customers and homeowners are attracted to the newly developed area.

Rural areas also often offer affordable housing options for lower and middle class workers as bedroom communities for nearly cities. However, there can be a balance between preserving the rural environment and meeting the affordable housing needs of rural laborers and workers. Communities that have successfully achieved this balance may be considered as an area for further study.

Ultimately, without state enabling legislation or appropriate local ordinances, the state of the landowner's wallet will determine the rural area's fate. As the rural life can pose many challenges for poor and middle class landowners, sometimes the lure of money offered for their land for development reasons may be too powerful to resist. For some, wishing to reap the rewards of their land may be by monetary means, not agricultural ones. Some of the main reasons that cause a landowner to sell or buckle to development pressure include not being able to afford property taxes, fatigue of working the land and the wish to pass a monetary inheritance

to family heirs. When faced with a choice, how many rural poor, middle class and or elderly will ignore the lure of big money?

Private Property Rights Advocates

The arguments of the property rights movement are often based on emotions, citing the Constitution when necessary. The sentiment that often lies behind the argument of the property rights activist is that there should be limited or no government regulations in private citizen's property. The fifth amendment to the Constitution states that "no person be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." Property rights advocates often see limited use and public use of private property as a taking which constitutes compensation. What exactly constitutes a taking has not been clearly defined.

Property rights advocates may contend that growth regulations and design standards stifle innovation. To counter this, what type of innovation is being stifled? Are patterns of non-traditional growth, for example, box retailers, strip development and subdivisions on the cutting edge of design? Property rights advocates may herald the concept of home rule, citing that state level government cannot possibly enact enabling legislation that is best for communities. To counter, while the concept of home rule has its place, there needs to be a strong agenda at the state level that ensures consistency and participation in all counties, for example, to avoid conflicting development patterns. Another argument is that people should be able to live wherever and in whatever they so choose. While it is true that certain freedoms in choice are central to the American way of life, these freedoms also have limits, as mandated by federal, state and local laws designed to protect the health, safety and general welfare of citizens. There is also a school of thought that believes that progress is inevitable; why fight what is bound to

occur anyway? To these arguments, an activist with a rural preservation agenda can successfully counter with a well stocked preservation toolbox.

All of the reasons mentioned in this chapter to preserve the rural environment are equally important. However, most importantly, the rural landscape is a finite resource. Once the tangible remains of rural history, environmental elements and animal habitat are destroyed, they are gone, indefinitely.

Chapter 2

OVERVIEW OF NATIONAL PRESERVATION ACTIVITIES AND ORGANIZATIONS

Rural preservation efforts across the United States have found some success. On the national, state and local levels, innovative programs and tools have been used to prevent unwanted or incompatible development. In some cases, preservation tools were used in reaction to impending development where resources were threatened with eminent loss unless appropriate action was taken. In other cases, action was taken by far-sighted individuals who saw the potential of unwanted or inappropriate development in their areas. Individuals, non-profit and for-profit agencies have been driven to protect the irreplaceable rural environment. Some of the more successful initiatives from all levels across the country are as follows in chronological order to aid in tracing the evolution of how rural preservation programs, policy and organizations have developed.

National Preservation Programs, Policy and Organizations

National Park Service (1916)

To begin, the national level offers much in the way of protective legislation. The National Park Service, created within the Interior Department in 1916, became responsible for managing national parks and monuments, which includes natural areas and historic sites. The National Park Service is responsible for the administration of several preservation programs and initiatives, in partnership with other agencies. As stated, the National Park Service maintains the National Register, which has a significant number of rural resources. The Historic Landscape Initiative of the National Park Service strives to protect both designed and rural landscapes by

developing preservation tools, serving as an educational resource, and providing technical assistance to projects.

The Historic Sites Act of 1935

The Historic Sites Act (1935) was the first piece of legislation that defined federal involvement in the preservation movement, declaring that preservation of historic resources was of national importance. The Historic Sites Act created policy which dealt with resources that were of only of national, not state, regional or local levels of significance.

National Trust for Historic Preservation (1949)

The list of private organizations involved in the preservation of the rural landscape, rural heritage or the rural built environment is extensive. As mentioned, the private non-profit National Trust for Historic Preservation has been leading the way in preservation issues since 1949. Within the National Trust for Historic Preservation are several programs tailored to different needs of the rural environment. For example, the BARN AGAIN! program strives to preserve barns by offering owners technical assistance for rehabilitation or adaptive reuse. BARN AGAIN! offers barn aficionados a sense of community and a means to meet other fans of barn architecture and the rural lifestyle.

The relationship between small towns and the surrounding agrarian economy traditionally has been symbiotic. Small towns offered goods and services that were imperative in maintaining the farmer's livelihood and lifestyle. A countryside resident would venture to town to run errands that ranged from the procurement of supplies such as saddles and farm implements, foodstuffs that residents were unable to grow, to seeking the council of veterinarians for animals and doctors for people. In turn, the small town offered the rural resident a place to conduct business, from selling farm products and trading with other merchants to conducting other

matters of business, such as banking. The small town also offered social outlets for the rural resident, such as visiting and gossiping at the local dry goods store to attending church services. As the small town has traditionally played an integral part of the rural resident's life, one of the best ways to preserve today's rural environment is to maintain this symbiotic relationship by strengthening the downtown core.

Since 1980, the National Trust's Main Street Program seeks to strengthen downtown cores through rehabilitation and economic reconstruction and development of historic and important downtown areas. Communities looking for overnight success need to look elsewhere, as the Main Street Program is not a quick economic fix. Rather, the Main Street Program is an incremental economic development strategy, and takes time to develop in a community. The Main Street Program relies on the principals of self-help and community leadership. That is, the Main Street Program is only as successful as an eligible community and its advocates work for it to be.

Communities interested in the Main Street Program must meet to certain criteria to be eligible. In Georgia, criteria include having a population that numbers between 5,000 to 50,000. If the population numbers below 5,000, the community can apply for the Better Home Town Program, which is modeled after the Main Street Program. The interested community must also have a paid professional on staff to oversee the program, an active board of directors and ongoing educational opportunities for inclusion in the Main Street Program.

The National Historic Preservation Act of 1966

Although some rural assets, such as battlefields, are of national significance, there are many other types of rural resources that are not of national importance. With this in mind, it was later determined that the Historic Sites Act of 1935 needed revamping. The National Historic

Preservation Act (NHPA) of 1966, later strengthened in 1980 and 1992 with Section 110, did just that. NHPA made the Federal government a partner with states and local governments in the crusade to save the nation's resources at all levels. In the process, NHPA formed several new preservation tools. To begin, NHPA created the National Register of Historic Places, a listing of significant cultural resources overseen by the National Park Service under the U.S. Department of the Interior. Previous to the enactment of NHPA, only individual structures or objects were designated at the Federal level. The new act "recognized that individual properties should be designated, but that in many instances it is necessary not only to preserve a building but also the historic context in which it and adjacent buildings are placed." (Tyler, p. 48). The designation of districts is crucial in the rural setting where oftentimes farm houses and outbuildings require the surrounding land in order to offer a complete interpretation.

NHPA created state level Historic Preservation Offices with a State Historic Preservation Officer (SHPO) who administers the program. The SHPO is accountable for many responsibilities, among them reviewing National Register nominations, awarding grants and giving technical assistance to local governments. NHPA also created an Advisory Council on Historic Preservation, one of whose activities is to advise the President and Congress on preservation policy.

With NHPA, simply being listed on the National Register of Historic Places offers little means of protection against development and is mainly honorific. However, NHPA Section 106 Review offers some protection. NHPA requires certain considerations for Federal undertakings, use of Federal money or projects with Federal approval, even though the Federal agency can at any time proceed with proposed project. Thus, Section 106 is a "stop, look and listen" law providing procedural protection. Section 106 requires agencies to consider the effect of their

actions and look at areas before construction to make certain that important historic resources are not destroyed.

What Section 106 really does is to force an agency such as the U.S. Department of Housing and Urban Development (HUD) and the Department of Transportation (DOT) to follow procedure and search for alternative plans and/or projects when a National Register listed property or property that is eligible for listing is in danger of being affected or altered.

The Section 106 Review process begins a determination if the proposed action is likely to affect resources. If the answer is no, the project can continue. If the answer is yes, proposed action will have an affect on resource, other steps as follows are activated. Step two requires groups to define areas of potential effect (APE). Step three requires the identification of resources within the area of potential effect. It must be determined if said resources are eligible for listing on the National Register of Historic Places. Step four proceeds by determining any effects on said resources. Finally, step five deals with the development of measures to alleviate negative effects on resources. This is where an agreement between parties can hopefully be made.

NHPA also created the Certified Local Government Program (CLG). Communities are granted CLG status from the National Park Service when certain minimum standards are met. For example, a government must provide opportunity for public participation in historic preservation programs, adopt and enforce a historic preservation ordinance, establish an appropriate and accountable historic preservation commission and maintain an inventory of important resources. The benefits of having Certified Local Government status include eligibility for funds such as grants and increased cooperation between local and state governments.

Farm Bills

The 1920's saw the introduction of the Farm Bill, which allows Congress to review agricultural and resource conservation programs every six years and implement innovations from various Farm Bills. The 1996 Farm Bill contained one of the most important steps in Federal involvement of agricultural lands; the Farmland Protection Program (FPP). The FPP offers matching funds (up to 50 percent of the properties fair market value) for state, local and tribal governments along with non-government groups for the purchase of land interests, such as conservation easements. The latest bill signed in 2002 by President Bush is known as the "Farm Security and Rural Investment Act of 2002."

National Environmental Policy Act of 1969

The National Environmental Policy Act of 1969 (NEPA), a procedural measure, works to allow man and nature to exist together and protects environmentally historic resources. Under NEPA, Federal agencies have the responsibility to consider the impacts of their actions, disclose proposed actions, search for alternative action and prepare an environmental impact statement. To be discussed later, Georgia offers a "little NEPA," with recommendations similar to those of the national level NEPA.

Clean Water Act of 1972 and the Safe Water Drinking Act of 1974

Legislation that offers protection of water quality and supply includes the amended Clean Water Act of 1972 and the amended Safe Water Drinking Act of 1974. Both acts are responsible for providing and maintaining standards for clean, safe water for the public, and requires states to evaluate whether its water supply is contaminated or is subject to contamination. The Clean Water Act deals with the protection of surface water by using different types of regulatory and non-regulatory measures to eliminate the introduction of pollution into water sources. One

method to aid in pollution elimination is to use zoning as a preventative measure, allowing a limited number of septic systems in an area that can only support a limited amount of pollutants due to the nature of the soil. A limited amount of septic systems eliminates the possibility for incompatibly large amounts of development in rural areas.

Coastal Zone Management Program (1972)

States may participate on a voluntary level with the Coastal Zone Management (CZM) program created by the Coastal Zone Management Act of 1972, of which Georgia is a participant. The CZM program strives for economic growth that is compatible with the character and environment of the coast, and is able to regulate federal activities that affect coastal waters, including development. CZM also offers financial and technical assistance to coastal states.

As time progresses and more and more of Georgia's coast is developed, some beaches and wetlands may suffer from inappropriate development, that is, development that allows erosion, destroys beaches, sand dunes, and marshland. According to the Office of Ocean and Coastal Resource Management, "coastal areas host over 50% of the total U.S. population within only 17% of the nation's land area. Between 1994 and 2015, coastal population is projected to increase by 28 million people." (www.ocrm.nos.noaa.gov). The Coastal Zone Management Act offers financial incentive for states to form comprehensive coastal management programs. In Georgia, this is especially important as more and more sensitive coastal areas such as wetlands and floodplains are being used for development.

Farmland Protection Policy Act (1981)

The conversion of farmland for non-farm purposes has increased, for example, due to lower rural land values, more efficient modes of transportation and patterns of settlement. The first effort on behalf of the Federal government to halt the conversion of farmland into non-farm

use is the Farmland Protection Policy Act (FPPA), as part of the Agriculture and Food Act of 1981. The program strives to reduce the amount of land converted into non-agricultural uses by Federal programs, however, government agencies are not required to modify projects; thus the FPPA is procedural 'stop, look and listen' legislation. Federal projects which may trigger the FPPA include construction of airports, highways, and Federal structures. FPPA may also be triggered in relation to the management of Federal lands. The real benefit of the FPPA is to educate the public and provide the ability to restrict assistance to projects that convert farmland.

Food Security Act of 1985

The Food Security Act of 1985, renewed with later Farm Bills, allows for land conservation under the Conservation Reserve Program (discussed later) which gives farmers the opportunity to take erosion-prone land out of production for a 10-15 year period. This act seeks to preserve rural areas by aiding in their return to a more natural state. Farmers are given rental payments for returning the land to a permanent vegetative state, thus land that is not used for other development purposes. The act also promotes the conservation of wetlands located on farmland.

The Historic American Landscapes Survey (2000)

The Historic American Landscapes Survey (HALS) began in 2000 as an outgrowth of the 1933 Historic American Building Survey (HABS) of the National Park Service. HABS also created the Historic American Engineering Record (HAER) in 1969 to record significant engineering projects. HALS, along with HABS and HAER strive to record America's built environment. The Historic American Landscapes Survey began as a means of creating a record of landscapes though drawings, photographs and written histories. HALS projects may range from the most humble vegetable patch to farmscapes and formal gardens.

Rural Development

As noted, there is significant legislation on the Federal level which offers real and procedural protection for rural resources. However, once resources are protected, or remain unprotected, how can rural citizens maintain a satisfactory standard of living? Making a living in rural areas may prove to be too difficult to retain the younger generation and attract newcomers to the area. As rural poverty is a real issue, one way that rural areas can strengthen themselves is with economic development. For example, in order to prevent urban and suburban development from dominating the rural countryside, rural communities must be strong, resilient and forward-thinking. On the national level, there are many programs that offer aid in the way of rural development.

United States Department of Agriculture Rural Development Program

The United States Department of Agriculture (USDA) Rural Development-Georgia Program is composed of the Rural Housing Service, the Rural Business-Cooperative Service (RBS) and the Rural Utilities Service (RUS). These programs offer aid in the way of grants, loans, loan guarantees and technical assistance to eligible applicants in an effort to provide safe, decent housing and a better standard of living to rural residents.

For example, the Rural Housing Service offers several different types of grants and loans to aid rural individuals and organizations. The Farm Labor Housing Loans and Grants are to be used to buy, build, or renovate housing for farm workers. The Rural Housing Direct Loans and Guaranteed Loans (Section 502) are intended to help low-income individuals buy, build or renovate rural housing. Rural Rental Housing Loans (Section 538) are to be used to renovate rural housing for low income residents. The Rural Housing Repair and Rehabilitation Grants and Loans (Section 504) are to be used by very low income rural residents to make their homes

more modern, livable and safe. Repairs that would make a home more modern, livable, and safe include those that would remove health and safety issues or improve substandard conditions. The Rural Housing Preservation Grant Program (Section 533) is to be used by very low and low income people to repair single family units and rental properties. The USDA also offers the Resource Conservation and Development program (RC&D), which strives to create sustainable communities and elevate the standard of living for designated areas by combining economic development with natural resources conservation.

Natural Resources Conservation Service

Natural Resources Conservation Service (NRCS), formerly the USDA's Soil Conservation Service (SCS), is a program of the United States Department of Agriculture which "provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment." (www.nrcs.usda.gov). NRCS operates on a voluntary basis, that is, interested parties may participate in the numerous technical and financial assistance programs offered which aim to protect natural resources. One such program is the Conservation Reserve Program (CRP), as overseen by the Farm Service Agency. The Conservation Reserve program provides technical assistance to farmers and ranchers in establishing compliance with Federal, state and local conservation mandates.

Farm Service Agency

The Farm Service Agency (FSA), established as part of the United States Department of Agriculture, features state level offices in addition to a national headquarters. FSA offers numerous programs that strive to "stabilize farm income, help farmers conserve land and water resources, provide credit to new or disadvantaged farmers and ranchers, and helps farm operations recover from the effects of disaster." (www.fsa.usda.gov)

Department of Housing and Urban Development

The U.S. Department of Housing and Urban Development (HUD) offers much in the way of programs designed to aid rural areas. For example, HUD's Rural Housing and Economic Development (RHED) Program (1999), offers grants which can be used for innovative housing and economic development activities. HUD's State Community Development Block Grant (CDBG) Program offers grants to qualifying areas to be used to strengthen low and moderate income urban communities. The grants are offered to revitalize neighborhoods for economic development purposes and to prevent or ameliorate slums and blighted areas, among other reasons. Economic development and strengthening is important because as stated, stronger urban areas that offer a variety of goods and services help to prevent the expansion of development into rural areas. HUD offers grants to aid Community Housing Development Organizations with building and rehabilitating homes for low and moderate income persons.

National Association of Development Organizations

Another organization that promotes rural community and economic development is the National Association of Development Organizations (NADO), created in 1967. NADO is an educational resource for regional development organizations with objectives such as improving rural living conditions by working to provide job opportunities, improving rural housing and protecting the rural environment.

Preservation Tools

Legislation and programs on the Federal level are fundamental to preservation efforts, as they unify states and communities under a common goal. However, the spirit of the preservation movement may lie within organizations and volunteer effort. Rural preservation efforts often

rely on the acts of goodwill of conservation-minded individuals; greed and generosity also ultimately play a large role in land donation.

Although there are benefits associated with voluntary preservation techniques, it seems that the real benefits are more intangible than monetary ones. That is, the benefit of preserving land in a rural or natural state is for the sake of enjoyment, today and tomorrow. The following voluntary means of protection may be more effective if a landowner is comfortable financially. A dirt farmer or shade tree mechanic would be more hard pressed to ignore the financial rewards of development than his affluent neighbor.

Advocacy

One of the most important instruments in the preservationist's toolbox is advocacy, which refers to a person or group supporting a certain cause. With the rural preservation movement, there must be critical mass, that is, there must be enough people heralding the preservation cause to constitute a strong interest group that is willing to act and have strong voices that are heard on the local, state and Federal levels. Whether on local, state or national levels, advocates of rural preservation have the ability to make decisions, persuade, and educate. Advocates may successfully use job, political and social connections to disseminate a rural preservation message.

For example, a property owner may not realize the importance of their holdings. After education, said landowner may see property in a different light with renewed sense of pride, and be more willing to protect rural resources if s/he can see the value in conservation. With this, a property owner may be interested in a voluntary nonbinding agreement, that is, an agreement to protect certain aspects of the property. Also, public recognition of a philanthropic deed such as preservation for preservation's sake may go a long way in furthering the preservation cause.

Finally, advocates of rural preservation may find that forceful persuasion techniques may be ineffective. Instead, a gentle approach that shows genuine concern should be used.

Donation of Land Interests

Donation of all or part of land interests, often referred to a 'bundle of sticks,' with each stick representing a different interest, to a preservation-minded organization affords a high level of protection. For example, if a landowner is willing to donate the right to develop interest to an organization that is preservation minded, the desired effect of preservation can be attained. A donor may also wish to donate property through a life estate, where the owner retains ownership until death, when it is transferred to a preservation group.

Easements

An effective rural preservation tool is an easement, defined by the American Planning Association as, "the right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose." (www.planning.org). An easement can be for a specified time period or in perpetuity. Essentially, an easement is an agreement between the landowner and another entity, which for example, could be used to legally prevent specified activity on the land. The owner of the land is still responsible for property in terms of maintenance and taxes, although easements may reduce the value of a property. A lower property value may mean lower taxes for the landowner. An advantage of easements is that they are legally recorded in property deeds; easements are binding even if the property changes hands and is steadfast against the tides of political change.

Beginning in the 1970's with Suffolk County, New York, a specific type of conservation easement for agricultural lands was created, known as the Purchase of Agricultural Conservation Easements (PACE). The PACE program operates by a government agency or private

organization buying an agricultural conservation easement from the owner of land. The PACE program effectively reduces pressure from higher value commercial or residential development as once a conservation easement has been established, development is prohibited. After land appraisal, the price of the easement is usually calculated as the cost of the land for its best possible use, usually meaning commercial or residential development, and subtracting the price of the land as it used for agriculture. The PACE program works as a financial incentive for farmland preservation due to a lower valuation of land and thus a lower rate of taxation for the owner. The PACE program is used to keep tracts of land employed for agricultural purposes, and considerations for protection include the type of soil and quality to the threat of development.

According to the American Farmland Trust, "since the state level program inception with Michigan in 1974, as of July 2002, twenty four states have authorized state level PACE programs. As of January 2002, there were 44 Local PACE programs in 15 different states. On the national level, there have been a grand total of 6,996 state and local easements or restrictions acquired; total number of acres protected is 1,135,941, with $1,983,850,281 spent on program funding. On the state level, Pennsylvania (program inception: 1988) leads the way in permanent protection (state and county joint program) with 1,657 total easements purchased with 209,338 protected acres and $419,296,400 spent on program funding. On the local level, Pennsylvania's Lancaster County also leads in total number of easements purchased, 442, and the total number of acres protected, 40,000." (www.farmlandinfo.org)

One source of potential funding is the Natural Resources Conservation Service (NRCS) which offers matching grants to governmental units, non-profits and land trusts for the purchase of agricultural land conservation easements.

Covenants

Covenants, or agreements, between landowners may also be used to protect land. A covenant between landowners may be something like the use of a driveway by one party that crosses a corner of another property owner's land. However, although a covenant is a recorded document, it may have a finite duration and may not be as reliable as a method involving a legal transaction granted in perpetuity. A stronger tool used to protect rural land would be a restriction placed in the property deed. A deed restriction is a written document that controls the use of the property for future residents. Landowners may place restrictions that prohibit, for example, the construction of certain types of housing or that the land is used solely for residential purposes.

Bargain Sale

A bargain sale is a voluntary action where the seller of a property prices it below fair market value, and passes the savings along as a gift to the buyer. Since the transaction is both a sale and a charitable gift, the seller may be able to enjoy a tax deduction. Bargain sales allow flexibility in the acquisition process, as a buyer may be able to purchase the property on an installment plan, or lease the property with an option to purchase at a later date.

Revolving Funds

Revolving funds are a type of monetary preservation tool used to purchase different types of voluntary agreements from landowners. Revolving funds can be a reliable means of ensuring sources of funding for organizations, as profits from endeavors are placed in the fund for future uses. Organizations can set up revolving funds which, for example, can be earmarked specifically to purchase a vulnerable property with the intent to later sell it to an appropriate buyer. After the property is sold, funds used to acquire the property, that is, the price of the property and any profit, goes back into the fund to be later used for another project.

With a revolving fund sale, any profit made by an organization that enjoys tax exemption would not be subject to capital gains tax. However, an issue with revolving funds is first establishing an adequate financial resource, and then keeping properties moving in and out at an acceptable rate, lest the fund become unavailable.

Right of First Refusal

The right of first refusal is a voluntary tool that can be used to screen potential property buyers. The right of first refusal is where an interested buyer or organization requests that the seller divulge any other offers made on the property, effective as the interested buyer or organization can find out who has made other offers and determine whether they are worthy of the property. If they are deemed unworthy, then the interested party can act to match the offer. If the offer is worthy of the sale, the interested buyer/organization mindful of rural preservation issues may contact the buyer and persuade s/he to preserve the property.

Taxes

All fifty states offer at least one reduced taxation program for agricultural lands. The purpose of such plans enacted on the state level is to lower the amount of property taxes that farmers are required to pay locally. Lower taxes may be the difference in a farmer or landholder selling or keeping land.

Differential Use Tax Programs

Most states offer differential use, or farm use, tax programs. Beginning with in Maryland (1956), differential programs have been used to lower property values and reduce rates of taxation. Differential programs can take one of the following forms: restrictive agreements, preferential assessment and deferred taxation. Restrictive agreements require a farmer to retain land used for agricultural purposes for a minimum of ten years in order to receive a tax

reduction. Preferential taxation is a differential program where the value of land is determined by its agricultural use. Special assessment taxation is when state or local government can tax a property owner for any improvements done to adjoining land.

An example of a differential program would be where taxes are determined by the use value rate, instead of full market value. For example, a farmer on the edge of town wishing to have the land remain agricultural may be taxed at the same rate as the countryside neighbor, even though land closer to town has a higher market value, especially if it is ripe for development.

Other Property Tax Relief Programs

Other property tax relief programs include the following. Circuit breaker tax programs based on a farmer's income allow the use of state tax credits to offset local property taxes. The "Economic Growth and Tax Relief Reconciliation Act of 2001" reduces the estate tax, a tax which is charged to possessions after a landowner's death and before a property can be transferred. Reduction in this type of taxation leaves an estate with more assets. Rural resources that are income producing and listed on the National Register of Historic Places or eligible for nomination may also be entitled to tax incentives.

As mentioned, preservation tools such as bargain sales offer reductions in taxes. Rural brownfield sites may qualify for the Brownfields Tax Incentive of the Taxpayer Relief Act of 1997, which offers incentives to qualifying properties. The funds are to be used in assessing and cleaning properties that have environmental threats, perceived or otherwise, which prohibit land development. However, as with most programs, aforementioned tax incentives depend on availability of funds.

Preservation Organizations

As mentioned, the spirit of the preservation movement is represented by the countless acts of goodwill, whether financially motivated or not, on the part of individuals and the organizations that strive to protect. The list of national organizations that include the protection of rural landscape and environment as part of their mission statement is lengthy. The ardent quest to combat sprawl and preserve land is becoming more and more of an issue with many different types of organizations from national level environmentalists to neighborhood organizations. Briefly, within this far-reaching movement are different groups that focus on different aspects of rural preservation.

Land Trusts

A land trust is both a preservation tool and a non-profit organization that strives to conserve land primarily through in fee simple land acquisition, purchase of conservation easements, and by accepting donations.

The National Land Trust Alliance provides leadership, technical assistance and grants to the numerous land trusts across the U.S. According to the National Land Trust Alliance, land trusts "have been extraordinarily successful, having protected more than 6.2 million acres of open space." (www.lta.org) Land trusts may raise capital through sales, and donations and grants.

Other Organizations

Rural resources oftentimes consist of farmland and farmsteads, many of historic value. The following are examples of organizations that strive to protect farmland and farms. The private, non-profit American Farmland Trust has been working to protect farmland since 1980 by acting as a public advocacy group striving to prevent the conversion of farmland to non-farm

uses. The Farm Foundation, since 1933, has been striving to improve agriculture and the lives of those involved with agricultural production.

Conservation and Ecologically-Minded Groups

As with national level farm protection groups, the number of conservation and ecologically-minded groups with concern for rural preservation is lengthy; examples are as follows. One of the more famous is the Sierra Club, which since 1892 has been a strong voice in the effort to conserve and enjoy environmental resources. Currently, the Sierra Club offers reports on sprawl topics ranging from analysis of transportation projects to the cost of sprawl. Since 1996, the Smart Growth Network has been collaborating between the Environmental Protection Agency and other government and private organizations such as the American Farmland Trust. The Smart Growth Network strives to be a forum for raising awareness, the promotion of smart growth and development of policy. Since 1985, the Conservation Fund has "protected more than three million acres of America's outdoor heritage." (www.conservationfund.org) The Conservation Fund works as a financial resource for land conservation, for example, by providing technical and legal services and risk capital to public agencies.

The American Planning Association (APA) offers limitless opportunity for smart growth education. Through a variety of training sessions such as conferences, literature reviews, and news briefs, the American Planning Association serves as a comprehensive guide to sprawl resources.

Foundations

On the state level, there are different foundations that offer aid in the protection of rural resources. An example is the Otto Bremer Foundation, one of whose goals is maintaining the

vitality of rural communities. In 2001, the Otto Bremer Foundation offered over two million dollars in aid to select Midwestern states. The success of this program could be mirrored in Georgia, given willing donors and a well-run foundation.

In this chapter, mentioned legislation, initiatives and programs are designed to preserve and assist rural areas by offering a wide range of services. In turn, these programs aim to strengthen rural areas through land conservation and aid in establishing a sense of community pride by improving the quality of life available.

Chapter 3

STATE AND COMMUNITY PRESERVATION ACTIVITES

Although there are Federal efforts to protect the rural landscape, the real responsibility to preserve rural resources lies within each state and community. The enabling legislation of each state offers unique preservation opportunities. While there are numerous programs that seek to preserve the rural environment, some states have more progressive policy than others. Preservation-minded communities can use some of the following land protection techniques to preserve the rural environment.

Zoning

One widely utilized method form of land use control that communities can employ to control rural land uses is zoning. Zoning is "the basic means of land use control employed by local governments in the United States today. Zoning divides the community into districts (zones) and imposes different land use controls on each district, specifying the allowed uses of land and buildings, the intensity or density of such uses and the bulk of buildings on the land. Traditional uses regulations have separated land uses into four basic categories: residential, commercial, industrial and agricultural." (So and Getzels, p. 251). Appropriate zoning is one of the strongest forms of protection that a community or a state with proper enabling legislation can employ.

Zoning originated in part due to the unsafe and unsanitary conditions of tenement housing, as discussed earlier. Zoning ordinances have evolved from the earliest restrictions relating to health and safety to current examples of aesthetic regulation. Nationwide zoning

enabling legislation came in 1924 when the U.S. Department of Commerce enacted the Standard State Zoning Enabling Act, adopted eventually by all fifty states. Many states still employ the Standard State Zoning Enabling model. Following are several different types of zoning, many of which serve to protect the rural environment from incompatible use.

To begin, agricultural zoning regulates land use for agricultural purposes, and often protects farmers from nuisance suits filed by non-agricultural neighbors. The first example of rural zoning emerged in Wisconsin in 1929. Currently, one of the most frequently cited and successful communities which employs a variety of zoning techniques is Lancaster County, Pennsylvania, noted for its aggressive policy which serves to protect its rural resources. As noted by the Smart Communities Network, a project of the U.S. Department of Energy, Lancaster County features the Model Agricultural Zoning Ordinance which defines the importance of having an agricultural district and separates agricultural land use from all other incompatible non-agricultural uses. Lancaster County also employs an urban growth boundary, discussed later, to control the spread of development and preserve the rural environment.

A community may choose to utilize open-space zoning, or clustering, which maintains that the same amount of proposed development takes place on smaller amounts of land. The remaining area is left void of housing or commercial development and typically is used as green space or as a recreational area. Open space zoning differs from conventional zoning, which commonly fails to mention conservation of open spaces. With open-space zoning, open areas must be included and accounted for in plans by enacting ordinances that require the thoughtful inclusion of open space in future development. Plans must be scrutinized to ensure that open space areas are meaningful, that is, areas which are genuine conservation space or areas that can be used for recreation. It is important to be aware of unmeaningful areas nominated under false

pretense. Such areas would include land that cannot be developed, such as water features, steep grades and the like.

What is important to recognize with the opens space zoning tool is that the choice of vocabulary plays an important role in public perception. A community may prefer to hear the term ‘open space,’ which may create a more appealing image than the term ‘clustering.’

Transfer and Purchase of Development Rights

As areas are defined by zoning, a tool enacted by community local ordinance is a transfer of development rights (TDRs), which transfers the right to develop from a sending area to a receiving area, thus, decreasing density in one area and increasing density in another. Communities may enact TDR ordinances that would allow a developer to transfer development rights of suburban or rural land to a more urban area that is able to accept more development. Thus, there is a transfer of one of the sticks in a landowner’s bundle of rights from one area to another.

The benefit of a TDR program is that a rural landowner may sell development rights to the owner of a receiving area. As the treat of development is diminished, a community is spared from purchasing the land outright in the interest of preservation. A TDR program, however, may be difficult to administer and must have adequate community support. Once established, a well-written TDR program that is strictly enforced can have the desired effect of preserving the rural landscape. Along with Transfer of Development Rights programs, states and communities may enact a Purchase of Development Rights (PDR) program. According to the American Farmland Trust, “there are more than 60 state and local Purchase of Development Rights (PDR) programs in the country. American Farmland Trust (AFT) has played a role in creating most of them.”

(www.farmland.org). On a state wide level, Maryland was the first to enact a farmland PDR program in 1977.

Often, the unprotected rural areas that are in a town's outlying area are faced with poor quality development, even when graced by resources worth preserving. Obviously, different types of stores and establishments must be provided for all levels of wealth, but the rural environment need not fall prey to poor development that often destroys an area's natural beauty. The best ways to prevent this type of development is with strict zoning and the use of a comprehensive plan.

Comprehensive Plans

A community may enact different types of ordinances to protect the rural landscape, but the glue that holds the different initiatives and goals together is a comprehensive plan, which is frequently referred to as a 'blueprint for the future.' A comprehensive plan is a written, clear version of what direction a community wants to take, for example, in terms of commercial, industrial and housing development. Comprehensive plans start with a vision of what communities want their environment to become. Since Georgia is governed by home rule, a comprehensive plan can be tailored to the unique needs of a community. A community that wishes to preserve the rural environment can do so with an enforceable comprehensive plan which, when well-written, carefully describes all regulations and their relationship to land uses and can withstand court challenges. It is important to ensure that comprehensive plans examine trends in the community, allowing for economically feasible land use and the continuation of planned growth; lest the area become a no growth community plagued by takings cases. A comprehensive plan must be made available to the public and have adequate support, which may eliminate requests for numerous variances on ordinances. A comprehensive plan that considers

rural preservation would strive to place development in areas that are ready to receive more development. Appropriate receiving areas include those that already have proper infrastructure and public services in place and are able to receive higher density, resulting in a more efficient use of land and sparing rural areas from incompatible or unwanted development.

Growth Management Acts

A limited number (as of this writing eleven) states have growth management acts (GMAs). The list of states includes Florida, Georgia, Maine, Maryland, New Jersey, Oregon, Vermont and Washington. Although the goals of each plan are admirable, the discussion here will highlight just some program elements that may be successfully applied to Georgia, given considerations such as the political climate. Although Georgia has a GMA known as the Georgia Planning Act of 1989, the program unfortunately lacks meaningful enabling legislation for the preservation of the rural landscape, to be discussed later.

To begin, probably the most widely noted, and perhaps most notorious, is the Oregon Land Use Planning Act of 1973 (SB 100). SB 100 has nineteen planning goals, one of which requires all cities and counties to adopt comprehensive plans that were in compliance with statewide standards, thus, there is no one state plan, but a number of plans with local government in charge of zoning. The Land Use Planning Act of 1973 also includes a state review process to ensure community observance.

Another earlier statewide growth management program is the 1975 Florida State Comprehensive Planning Act, subsequently strengthened in 1985 and later in the 1990s. The Florida State Comprehensive Planning Act requires local and regional entities to prepare comprehensive plans. As part of the Florida State Comprehensive Planning Act is the Areas of

Critical State Concern Program, which requires a review of development projects to ensure that they are consistent with state mandates.

More recently, Maryland adopted its comprehensive and successful Smart Growth Initiatives Program in 1997 as part of the state's Department of Natural Resources. Smart Growth Initiatives are composed of several different programs which aim to control sprawl. For example, the Rural Legacy Program strives to protect rural resources with funding through easement and fee purchases. The Voluntary Cleanup and Brownfields Revitalization Incentive Programs provide motivation for brownfield clean-up and reuse.

The New Jersey State Planning Act of 1985 created a State Planning Commission, an Office of Smart Growth and a State Development and Redevelopment Plan, all of which, strive to curb sprawl and protect resources, among other goals. New Jersey uses a cross-acceptance process, which dictates that the State Planning Commission consult with local governments in the preparation and revision of the State Plan.

The passage of the Washington Growth Management Act (1990) came in response to an influx of people to Washington and the public costs of supporting the new residents. The Washington Growth Management Act is a statewide boundary program which requires cites and counties that have experienced a certain rate of growth have comprehensive plans and adopt regulations to protect agricultural lands, retain open space and discourage incompatible land use.

Urban Growth Boundaries

To control the spread of development from urban and community centers, some states and communities are adopting are urban growth boundaries (UGBs). Urban growth boundaries, or urban limit lines as defined by the Smart Communities Network, a project of the U.S. Department of Energy, are "local government regulatory measures for delineating limits for

urban growth over a period of time. Land within the UGB is made available for urban development while land outside the UGB remains primarily rural for farming, forestry, or low-density residential development." (www.sustainable.doe.gov). Some communities use urban growth boundaries to protect agricultural land that cannot compete with urbanized areas. UGBs have been in use since 1958 with Lexington and Fayette Counties, Kentucky. These growth management plans of Lexington and Fayette Counties designate an Urban Service Area and a Rural Service Area to protect significant horse farms. On a statewide level, Oregon, Tennessee and Washington all have enacted policies that mandate the use of urban growth boundaries. One of the most publicized examples of the use of UGBs is Oregon's statewide Planning Goal 14 of the Oregon Land Use Planning Act of 1973 (SB 100), which requires all local governments to establish an UGB. Planning Goal 14 calls for land within the urban growth boundary to be urbanized land, and land outside of the UGB to remain rural, with counties adopting farmland preservation policies. Land classified as prime was to be zoned for farm use. Planning Goal 14 required communities to determine how much land would be necessary for growth, where this land should be located, and called for cities and counties to coordinate planning and zoning.

Urban growth boundaries are not a panacea for development woes and preservation of the rural landscape. For example, urban growth boundaries are often beleaguered by property rights advocates. As argued by opponents, state or community mandated land use regulations are infringements of property rights. To counter, zoning and other land use tools are legal means of land use regulation as established by police power. Opponents also argue that UGBs create lesser amounts of resources, i.e. developable land and affordable housing, and will drive up costs of resources within the perimeter. Developers and homeowners may potentially engage in bidding wars over land and/or homes. Simply stated, land that is available for unlimited,

expansive development does not guarantee affordability. Also, this inflation follows the principle of supply and demand. Opponents may argue that the free market should determine land use regulations, and consumer preference remains for single family detached homes with large lots. To counter, oftentimes UGBs are used in areas that are desirable to live in with homebuyers showing preference for these areas. Higher land and home values within the perimeter also follow the real estate adage, "location, location, location." Portland, Oregon attracts young professionals and Lancaster County, Pennsylvania attracts those interested in the county's rural assets. Another criticism is that UGBs may be referred to a development 'straightjacket,' and drive development to other metropolitan areas. Finally, UGBs may be perceived as an elitist attitude towards land use and development. To counter, smart growth advocates argue the use of UGBs, coupled with other smart growth measures, seek to improve the quality of life for residents with more efficient use of available resources, preservation of rural and open space for all to enjoy, and promotion of affordable housing and efficient transportation systems.

The most successful state planning programs have comprehensive legislation with dedicated state, regional and local entities that are willing to work together towards a common preservation goal.

Chapter 4

RURAL GEORGIA: ASSETS, PRESENT PRESERVATION TOOLS AND PROBLEMS OF RURAL AREAS

Assets of Rural Georgia

The rural landscape of Georgia features beautiful natural and built environment elements. Many residents would say that Georgia has it all. From the north Georgia mountains to the rolling Piedmont region to the plains and down to the coast, the state features a varied topography that offers outstanding resources. Georgia's varied topography and different land use patterns have created a rural landscape with a long history.

To begin, King George II of England referred to the area as a "Modern Paradise," as described in the royal Charter which established Georgia as a colony in 1732. As part of a crusade to aid English debtors, James Oglethorpe established the first permanent settlement on the bluffs overlooking the Savannah River in 1733. This early period in Georgia's history saw the distribution of land grants, that is, "a deed from the government to the first individual owner of a parcel of land. Grants are one of the two major record groups originating from Georgia's distribution process of its public domain (the other group consists of plats)." (www.sos.state.ga.us). Although one of the provisions of the Charter was that no one person could own more than 500 acres of land, the colony provided enough agricultural bounty to supply England with the raw goods it required. The earliest non-native agricultural efforts consisted of sustenance farming as the newly arrived staked claims and put down roots. During

this period, the rural landscape was composed of improved divided plots of land, as described by Oglethorpe's plan, which grew indigo, cotton and other crops for personal consumption. Later, after the American Revolution, settlers from other states began immigrating to Georgia looking for land and prosperity.

As agriculture began to dominate the culture and economy of Georgia, colonists given bounties of land planted them with labor intensive crops such as indigo, rice and cotton. As the supply of labor was limited, slaves performed the backbreaking labor necessary for crop production, particularly after Oglethorpe and Georgia's founding Trustee's ban on slavery was lifted in 1750. As time passed, landowners became dependant on the institution of slavery. The colony and its agricultural elite enjoyed a period of extraordinary prosperity until the Civil War. From the 1750's, with the advent of the tidal flow irrigation system until the arrival of inclement weather in the 1890's, Georgia's coast enjoyed prosperous rice cultivation. The 19th century saw the proliferation of cotton plantations, with the 1850's the pinnacle of cotton production and pricing. The Civil War reduced the prosperity of southern agriculture due to a variety of reasons, most importantly the end of slavery. A remnant of Georgia's rice and cotton days are the Hofwyl-Broadfield and Callaway Plantations, both currently open to the public as educational resources offering interpretation of plantation life for planters and slaves.

Over the years, many of Georgia's early homes and outbuildings have been lost due to the ravages of war, demolition and neglect. However, fine examples of antebellum and reconstruction period rural amenities from all levels of prosperity and social class still exist in Georgia. As this period is often romanticized, the plantations with grand live oaks and their outbuildings bring countless tourists. Many tourists may come to take a step into perceived 'kinder, gentler times,' and others come to examine Georgia's architectural record. Across the

state, the architecture of early Georgia ranged from primitive slave cabins built from available materials to simple one and two room structures for the common classes, known as single and double-pen. One form of architecture commonly found in Georgia and derived from the I-house is the plantation plain. This two-story style featured two rooms over two rooms with a center hall, a one story full façade porch and one story additions to the rear.

The wealthy elite often built grand homes that often followed trends in architecture, for example, using Federal and Greek Revival styles. These are the types of homes that draw tourists looking for the grand Old South, where Greek Revival homes feature colonnaded fronts, elaborate furniture and china that served glorious meals to the political and cultural elite. Southern gothic family tales and accounts of how the Yankees came through are told to spellbound visitors. In addition to country estates, rural plantation owners also often owned fine homes located in town, where business and socializing was conducted away from the fields.

During the antebellum period, rural Georgia featured other types of enterprise in addition to agricultural pursuits. The first gold rush began in 1828 at the Dahlonega Gold Mines, now designated a state historic site. Dahlonega's gold industry was only in operation for a period of approximately twenty five years, however, the impact on Georgia and the nation is significant. The area was initially occupied by the Cherokee, who in 1838 were forced to leave the land for a reservation in Oklahoma. This march which killed approximately 4,000 is known as the Trail of Tears; a poignant price to pay for gold fever. The gold industry at Dahlonega engaged approximately 15,000 miners at the height of production and created a rural boom town complete with structures such as a mint, courthouse, bank, and warehouses.

Although Georgia has seen much change over the years in terms of types of crops, housing styles and political situations, agriculture continued to be the king of rural industry.

Georgia Land Characteristics

As defined by the United States Department of Agriculture, Georgia has six major provinces of agricultural importance.

> "The Atlantic Coast Flatwoods**…**occur along the seaward portion of Georgia and covers approximately seven million acres. It is characterized by nearly level topography and poorly drained soils which are underlain by marine sands, loams, and/or clays… Favorable topography, abundant surface and subsurface water resources, and mild climate create a high potential for vegetable, tobacco, corn, and soybean production… About 75 percent of this area is located in forests and about 15 percent in cropland and pastureland.
>
> The Southern Coastal Plain…is located north and west of the Atlantic Coast Flatwoods and reaches to the Sand Hills… Approximately 14.5 million acres are in this province which makes up the major portion of our most important agricultural soils… Soils of the Coastal Plain are diverse and suited for the production of a wide variety of crops… When limed and fertilized adequately, they are capable of producing high yields. Soybeans, corn, peanuts, cotton, tobacco, pecans, vegetable crops and woodlands grow on about 50 percent of this province's land area.
>
> The Sand Hills province is a narrow belt of deep sandy soils that extends from Augusta to Columbus and occupies about 1.5 million acres… Most soils of the Sand Hills are infertile and droughty… The area is mostly covered with a thin forest of scrub oak and pines. Only small areas are cultivated, and the principal crops are soybeans and small grains. About 80 percent of this area is in woodland and 15 percent is in cultivation and pastureland. The deep sandy-textured soils of this area are best adapted to timber production and drought-resistant pasture grasses, such as the hybrid bermudagrasses.

The Southern Piedmont stretches from the Sand Hills to the foot of the Appalachian Mountains and covers nearly 10.5 million acres… Dominant soils of the Southern Piedmont have mostly clayey subsoils and kaolinitic mineralogy... In many cases, much of the original topsoil has been eroded leaving the clayey subsoil exposed. The less steep slopes and areas where the topsoil has not been completely eroded are adapted to corn, cotton, soybean, and grain sorghum production. Although row crops are productive in this region, the area is better adapted to pasture production… About 70 percent of this area is in woodland and 20 percent is in cropland and pastureland. At one time, a large portion of the Piedmont was in cultivation. However, much of that land has now reverted to mixed stands of pines and hardwoods or has been planted to pines.

The Blue Ridge area is located in the northeastern part of the state and makes up about two million acres. It is characterized by steep mountain slopes with narrow valleys… Dominant soils of the Blue Ridge are moderately deep and medium textured… Most soils of this province are on slopes generally too steep for row crop production. The most productive soils are found in the alluvial terraces and river bottoms. They are acid and low in fertility (low phosphorus and nitrogen). However, when adequately limed and fertilized, these soils are suited for corn, small grain, grain sorghum and soybean production. They are also excellent pasture soils… About 80 percent of this area is in woodland and 1 2 percent is in cropland and pastureland. A large part of this area is in the national forest.

Southern Appalachian area is located in the northwest section of the state and consists of many parallel limestone, sandstone, and shale ridges with gently sloping valleys. The province covers approximately 1.75 million acres… The soils are underlain by limestone, cherty limestone, sandstone, and shale… The area is characterized by hilly to steep ridges

> with broad valleys. Agricultural production is mainly in the valleys. Although the soils are inherently acid and infertile, they are capable of producing high yields when adequately limed and fertilized. About 60 percent of this area is in woodland and 30 percent is in cropland and pastureland. Principal row crops are corn, soybeans, and grain sorghum. Hay and pasture grasses are well suited to this area." (www.nrcs.usda.gov)

Due to the diverse nature of the soils in the state, Georgia was able to turn to other profitable crops such as peaches, tobacco, pine pulp, turpentine, pecans and onions after the decline of the rice and cotton industries. Some crops were chosen due to Georgia's soil types and growing season, while others came by sheer luck. For example, during the early part of the twentieth century, the boll weevil contributed to the destruction of the cotton crop, leading to the cultivation of tobacco.

Perhaps Georgia's most well known crop is the peach, with the earliest orchards planted in the late nineteenth century. Since then, the crop has become an important industry for Georgia, with the fruit even enjoying representation on auto license plates. The agricultural economy of Georgia remains strong despite the growth of other industries. According to the American Farmland Trust, "Georgia produces more poultry, peanuts and pecans than any other state in the nation. As noted by the latest (1997) Census of Agriculture, Georgia's 40,000 farms cover 29 percent of the state's land area; over 10,671,246 acres are devoted to agricultural pursuits." (www.farmland.org).

Textiles have been and continue to be another important industry for rural Georgia. Georgia has enjoyed prosperity in the textile industry both before the Civil War and present day due in part to close proximity to raw products and an ample labor force. Today, Georgia still has

an ample labor force to fuel the service, manufacturing, retail and agricultural sectors of the economy.

Current Rural Preservation Legislation in Georgia

Although Georgia features different enabling legislation designed to protect the rural environment, the state lacks a meaningful preservation program. Highlighted here are different policies that aim to protect the rural environment. Table one lists programs active in Georgia and their goals.

Table 1. Active Preservation Programs

Name of Program	*Goal of Program*
Zoning	Land use control
Historic Preservation Act of 1980	Established minimum standards and operational policies for local jurisdiction of historic resources (Waters, 20)
Facade and Conservation Easements Act of 1976 and the Georgia Uniform Conservation Easement Act of 1992	For example, strives to protect open and natural areas, preserve cultural and historic areas, enhance air and water quality.
Georgia Planning Act of 1989	Requires local government to adopt comprehensive plans for certain types of funding; also advocated the cooperation between local, regional and state level governments.
Georgia Environmental Policy Act of 1991	Calls for consideration of the effects of state agencies activity on natural and cultural resources.
Right-to-Farm Law	Strives to protect agricultural enterprises from nuisances suits
Green Space Program	Strives to preserve land in areas that experience high levels of growth through voluntary local government participation
Preferential Taxation	Strives to lower tax rates for a variety of properties.

Zoning

The basis for zoning in Georgia was established by the 1945 Constitution, ratified in 1946. The Constitution of 1945 was the first time in Georgia where a provision for zoning was established, granting governing authorities of municipalities and counties the authority to pass zoning and planning laws. After this earlier effort, voters changed the way in which communities could establish zoning powers with the 1966 home rule amendment to the Georgia Laws of 1965. Home rule allowed certain decisions to be made at the local level. Such decisions related to home rule could include, but are not limited to, the passage of zoning ordinances which protect the rural environment from incompatible development and prohibit the usage of prime lands. One of the downfalls of home rule is that every local government in the state could feasibly have differing and potentially conflicting zoning ordinances from one another.

It is important to note that at this point in legislative history, the term historic is used and historic purposes are seen as valid reasons to enact planning and zoning ordinances. As many of the rural landscapes of Georgia are shaped by historic events ranging from Civil War battles and marches to events of local interest, these landscapes are potentially eligible for protection under land use ordinances using historic significance and aesthetic value as a basis for protection and preservation.

Unfortunately, in Georgia, the preservation of rural resources is not always a priority, as the county form of government is often the most conservative and reluctant to adopt new policy which may be seen as radical. As Georgia is divided into 159 counties, as of this writing, there are fifty nine that do not use zoning on the county level. However, some municipalities within these counties utilize zoning.

Historic Preservation Act of 1980

Georgia legislation which strengthens the potential for zoning protection for historic resources is the Historic Preservation Act (GHPA) of 1980, which "established minimum standards and operational policies for local jurisdiction of historic resources. In passing this legislation, it was generally believed that the General Assembly was addressing its constitutionally mandated responsibility for protecting vital areas and resources within Georgia." (Waters, p. 20). GHPA mentions very clearly in its definitions that "historic district" can refer to a rural area. GHPA also notes that "historic preservation jurisdiction" in the case of a county means the unincorporated area of such a county and in the case of a municipality such terms mean the area within the corporate limits of such municipality." (Official Code of Georgia Annotated, Sec. 44-10-22). GPHA notes that ordinances can be controversial, and cautions that in order to reduce the chance of invalidation, ordinances should conform to GHPA and have public support.

Facade and Conservation Easements Act of 1976 and the Georgia Uniform Conservation Easement Act of 1992

The Uniform Conservation Easement Act of 1992 (Official Code of Georgia Annotated, Sec. 44-10-1 et seq.) replaced the Facade and Conservation Easement Act of 1976. The purpose of the Uniform Conservation Easement Act is to protect open and natural areas, preserve cultural and historic areas and enhance air and water quality. In terms of the rural environment, the Uniform Conservation Easement Act intends to preserve land that is intended for agricultural, recreational and open space purposes. According to published thesis research, as of this writing, there are 140 conservation easements in Georgia protecting approximately 45,350 acres. (Mecham).

Georgia Planning Act of 1989

The Georgia Planning Act of 1989 (Official Code of Georgia Annotated, Sec. 50-8 et seq.) is referred to as Georgia's 'Blueprint for the Future.' The Georgia Planning Act of 1989 came about in part due to the growth that Georgia was experiencing in metropolitan areas and the realization that although the state would still maintain home rule, some issues could not be adequately handled at the local level. The Georgia Planning Act of 1989 advocated the cooperation between local, regional and state levels, with the Department of Community Affairs managing.

The Georgia Planning Act of 1989 requires a community to meet certain minimum standards, as follows, in order to be recognized as a Qualified Local Government (QLG) and receive certain types of federal and state funds. Each of Georgia's counties and cities began with QLG status after the Georgia Planning Act of 1989 was implemented.

The Georgia Planning Act of 1989 requires communities to have a twenty year comprehensive plan which meets state standards. Communities are required to follow and periodically update their comprehensive plans, and appropriately resolve any conflicts that arise with the Department of Community Affairs. Although the Georgia Planning Act of 1989 does not require comprehensive plans from local governments, in order to receive funding, communities must comply with state goals set forth by the Georgia Planning Act of 1989 and maintain QLG status. As of the writing, all 159 of Georgia's local governments have QLG status.

The Georgia Planning Act does offer consideration for natural or historic resources as they must be inventoried in a community's comprehensive plan. Natural and historic districts are known as Regionally Important Resources (RIRs.) After RIRs are designated, a regional

resource plan is developed; any local government activity that may impact a RIR is subject to examination to ensure that the regional resource plan is upheld. In terms of qualifying for RIR status, rural areas may be considered as they may be both natural and historic in nature. "The Natural and Historic Resources Element provides local governments the opportunity to inventory their natural, historic and environmentally sensitive resources; to consider the issues, problems and opportunities associated with those resources; and to develop goals, policies and strategies for their appropriate use, preservation and protection that are consistent with those established for other plan elements." (www.dca.state.ga.us) As of this writing, Georgia has just one RIR; the Augusta Canal, a 19th century power canal.

The Georgia Planning Act of 1989 also provides consideration for environmental resources with the Environmental Planning Criteria. The Environmental Panning Criteria refers to "those 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 Official Code of Georgia Annotated 12-2-8, including, but not limited to, criteria for the protection of water supply watersheds, groundwater recharge areas, wetlands, protected mountains and protected river corridors." (www.dca.state.ga.us).

In order to meet minimum local planning standards, a community that has environmental, natural and historic resources must first assess them. A community may assess resources in terms of vulnerability and potential for economic development via tourism. After evaluations of environmental and historic resources are made, the community should then consider these important resources when formulating a comprehensive plan. The comprehensive plan is then submitted for review to one of Georgia's sixteen Regional Development Centers (RDCs) which work throughout the state with the Department of Community Affairs in

implementing the Georgia Planning Act of 1989. RDCs are responsible for aiding local governments within their jurisdiction with activities such as but not limited to comprehensive plan preparation, comprehensive plan review and the development of zoning ordinances.

Impacts of the Georgia Planning Act of 1989 include establishing intergovernmental cooperation as regards to planning. As change is often brought on through financial incentives, one of the benefits of the Georgia Planning Act of 1989 is that community participation, or lack thereof, may directly affect what funds are available to a community. The Georgia Planning Act of 1989 forces local government compliance by tying funding to active participation. The Georgia Planning Act of 1989 perhaps most importantly established a grassroots method of comprehensive planning originating at the local level, then at the regional and finally state levels.

Georgia Environmental Policy Act of 1991

Georgia's Environmental Policy Act of 1991 (GEPA) (Official Code of Georgia Annotated, Sec. 12-16-1 et seq.) calls for consideration of the effects of state agency activity on natural and cultural resources and requires agencies to prepare an Environmental Effects Report. As with examples previously mentioned such as the Section 106 Environmental Review, GEPA is procedural 'stop, look and listen' legislation. GEPA, however, applies to state funded projects.

Right-to-Farm Law

As the nature of land use in rural areas change, Georgia's Right-to-Farm Law (subsequently strengthened by House Bill 1087) (Official Code of Georgia Annotated, Sec. 41-1-7), strives to protect agricultural enterprises from nuisances suits. Non-farm neighbors may complain of pursuits required to maintain agricultural enterprises such as odors from chicken, livestock and fertilizer use, noise from equipment operation and slowed traffic due to tractors

and other service vehicles driving down country roads. The effects of nuisance suits on a farm can be extensive. For example, a farmer may outright sell the farm if prevented from maintaining means of livelihood, or the farmer may use valuable capitol in defense against such nuisance suits.

In unprotected rural areas, changes in land uses surrounding agricultural areas are likely to occur. The Right-to-Farm Law protects any legally and conscientiously operated farm enterprise that existed for a period of one year or more before changes in the area occurred from nuisance suits. It would be difficult to ascertain the impact of the Georgia Right-to-Farm Law as it is far reaching and most certainly affects rural communities on all levels. Determining the comprehensive impact of the Right-to-Farm Law would be a topic for further research.

Green Space Program

The Georgia Greenspace Program of 2000 was enacted to preserve land in areas that experience high levels of growth. Local governments that wish to participate in this voluntary permanent protection program must set aside 20 percent of land area as greenspace. The Official Code of Georgia Annotated defines greenspace as "permanently protected land and water, including agricultural and forestry land, that is in its undeveloped, natural state or that has been developed only to the extent consistent with, or is restored to be consistent with, one or more listed goals for natural resource protection or informal recreation." (Official Code of Georgia Annotated, Sec. 36-22-2 et seq.)

In addition, the legislation of the Georgia Greenspace Program of 2000 also created the Georgia Greenspace Trust Fund, which gives funds to local governments with an approved greenspace plan. "For a county to be eligible to qualify for a greenspace grant it must have a population of at least 60,000 or an average annual growth rate of 800 people."

(www.state.ga.us/dnr/greenspace). Initially, the Georgia Greenspace Trust Program offered $30 million to aid local governments in land acquisition. As financial times often dictate the success of programs, the Greenspace Program and Greenspace Trust Fund may face future challenges due to budget constraints such as lack of funding.

Other

As noted, it is important to use varied and comprehensive means for preserving the rural landscape. In Georgia, rural areas are sometimes protected by sheer luck. For example, a rural area may be unsuitable for development due to natural features, such as a granite shelf that would not allow for water and sewer pipes to be installed. Similarly, legislation written to regulate an agenda seemingly unrelated to preservation of rural resources may in turn have a desirable preservation effect. Georgia features the "Southern Dairy Compact" (Official Code of Georgia Annotated, Sec. 2-20-01) whose intent is to ensure that Georgia has an adequate supply of wholesome local milk. Inadvertently, the "Southern Dairy Compact" strives to protect rural resources, as in order to have wholesome milk and dairy products, there must be suitable land protected from incompatible development for the needs of livestock.

Tax Relief

As stated, farmland is often converted to non-farm uses due to financial reasons. Georgia offers some types of tax relief that are designed to counter the effects of increased rates of taxation.

Preferential Taxation

Properties that are listed on the Georgia or National Register of Historic Places may qualify for preferential taxation, which is 30 percent of fair market value. However, the property can only include the significant structure, the land upon which it sits and the two acres

surrounding it. The property must also be a certified rehabilitated historic or landmark historic property and cannot receive any changes for a period of nine years.

Farmland may receive preferential agricultural taxation at 30 percent of fair market value. Similarly, as property values escalate when areas surrounding farmland are developed, agricultural property can be taxed as conservation use property and assessed at current use value instead at fair market value. To help protect open spaces, environmentally sensitive land that meets certain criteria may also receive preferential rates of taxation. In Georgia, land which benefits by preferential agricultural, conservation and environmentally sensitive property rates of taxation must remain in its present use for ten years. Since the commencement of Georgia's preferential tax programs, the amount of participating land parcels steadily increased over the years. For example, "in 1984, 10,001 parcels were taxed using preferential rates with an eliminated value of $ 86,969,884. In 2001, 20,582 parcels were taxed using preferential rates with an eliminated value of $195,076,035." (www2.state.ga.us/Departments/DOR). Determining the effects of preferential taxation on Georgia's farms and the effect on county revenue may be topic for further study.

Preservation Organizations

As discussed, there are many national level organizations, such as the National Trust for Historic Preservation, that have state level offices in Georgia. Following are some preservation organizations at work in Georgia that have not yet received mention.

The Georgia Conservancy

The Georgia Conservancy, founded in 1967, "works to balance economic and social progress with the protection of our natural resources…by making sure our leaders have information they need to make informed decisions about issues that affect our natural resources

and by supporting thoughtful environmental policies at the state level. The Georgia Conservancy is a leader in the smart growth movement." (www.gaconservancy.org). Since 1995, the Georgia Conservancy has offered a "Blueprints for Successful Communities" program, which has a twofold mission to educate and provide technical assistance to communities.

Georgia Land Trust

The Georgia Land Trust, formed in 1994, strives to protect Georgia's land resources by providing technical assistance, assisting landowners in establishing conservation easements, accepting easements and purchasing land. The Land Trust has protected approximately 2,167 acres across the state. (www.galandtrust.org). The Georgia Land Trust actively seeks to preserve prime farmland with a strategy of creating interconnected corridors protected by easements.

Issues Facing Rural Georgia

The issues that face preservation of rural areas and resources in Georgia are numerous. For the sake of brevity, Georgia lacks meaningful rural preservation legislation on the state level, and there is no model rural preservation for communities to adopt if so desired. Georgia is faced with the loss of rural resources such as prime land to incompatible development. Georgia is also faced with issues dealing with rural poverty and establishing and maintaining quality of life for rural residents.

Lack of Meaningful Rural Preservation Legislation

Although there is some legislation that aims to protect the rural landscape, Georgia lacks a meaningful, statewide rural preservation agenda. Much of Georgia's preservation policy is based on voluntary local government participation. Essentially, communities do not have to participate in preservation programs. However, to effectively preserve rural resources, Georgia

can and should establish an effective program based on the success of other states, to be discussed later.

Uncontrolled Urban Growth and Development

An issue that is at the forefront of concern for numerous sectors including but not limited to preservation, ecology, economic development and social services is that Georgia is one of the fastest growing areas of the U.S. The U.S. Census "projects Georgia to be the ninth most populous state by 2025." (www.census.gov). Georgia also has one of the fastest growing cities in the U.S.: the metropolitan Atlanta area. The metropolitan Atlanta area devours surrounding land around it. For example, according to the 2001 study *Who Sprawls Most? How Growth Patterns Differ Across the U.S.*, (Fulton, et. all) Atlanta grew in population by 60.8%, while land developed increased by 81.5%. How will the state manage the absorption of such large amounts of people while maintaining the level of service currently accustomed to? More importantly, how will the state effectively preserve the rural landscape when the pace of land consumption is becoming more and more accelerated, especially around the metropolitan Atlanta area? One solution would be to control water use by adopting permanent restrictions and conservation pricing, as communities such as Athens-Clarke County are choosing to do. However, there is no panacea that would remedy the problems raised in these questions.

Obstacles to Rural Preservation

In Georgia, obstacles to rural preservation are numerous. To begin, Georgia is a home rule state with no zoning enabling act. As previously mentioned, an effective tool for preventing uncontrolled and or unwanted development is zoning that is defendable, enforceable and impervious to political change. Zoning ordinances are most often designed to protect the health, safety and welfare of the rural resident, help to beautify the rural countryside by prohibiting

incompatible land use and to prevent unwanted land uses. For example, some communities require buffers between land uses, open areas that help to make a transition between agricultural land and residential development. Some communities may also require setbacks where a home or business may be required to locate *x* amount of feet or yards from the road as not to devalue the aesthetics of the road. A community may enact an ordinance that prevents junkyards from locating in their area and require homeowners to remove junk vehicles, abandoned mobile homes and other trash from their property.

Land use regulations that promote the consumption of rural land may change from county to county, or a county may be devoid of zoning ordinances altogether. An issue associated with the metropolitan Atlanta area and other Georgia counties is development which spills over from neighboring counties. Overflow development happens, for example, when one county has ordinances against certain types of development, or follows certain development standards. The adjacent county may be devoid of such restrictions, allowing a developer to build at any rate, quantity and or style. As discussed, lower costs for land that is not in the urban and developed core paired with fewer restrictions are some of the factors that lead to fringe development. Developers may overlook infill development due to the higher cost of real estate and codes that must be complied with.

Communities must work together and have a united front against incompatible land use between counties. Cooperation is imperative in establishing successful corridors of open space and meaningful rural areas. When there is conflict in planning goals between adjacent counties, conflict resolution is necessary. If the counties have professional planners on staff, their services can be used in addition to economic development agencies, for example, to resolve issues to the liking of the majority. However, if there is a limited number of professionals on staff, counties

may request technical assistance from the various government agencies, such as Regional Development Centers designed for such purpose. Counties may work together when funds are at issue and pool resources to hire planning and zoning enforcement professionals. In poorer counties, efforts may be wasted as rural preservation may not be seen as a priority. Some rural communities also may feel that conventional zoning is inappropriate for their needs. Without proper education, efforts to construct and implement zoning ordinances may be wasted on counties that are stymied by negative connotations.

Without zoning and aesthetic ordinances, full voluntary public participation in preservation and beautification programs cannot be expected. A response to a request for voluntary efforts may sound like, "Why should I? What is in it for me?" A better approach to relying on voluntary efforts would be the enactment of zoning ordinances that are strictly enforced.

Rural Poverty in Georgia

The Census Bureau estimated in 1999 that 13 percent of Georgia's population was living below the poverty line. "In general, counties in and to the north of metropolitan Atlanta have the lowest poverty rates of the state. In contrast, almost all counties in central and south Georgia have poverty rates greater than the state average…In 1997, a family of four was considered to be living below the poverty line if their income was below $16,400." (www.census.gov). The reasons behind the higher rate of rural poverty are varied. For example, people born into poverty are likely to grow up poor. Breaking the cycle of poverty will require special programs that provide improved educational opportunities, training, transportation, day care facilities and housing. Average wages during the year 2000 for non-metropolitan Georgia are as follows: agriculture, forestry and fishing workers earned an average annual wage of $17,684;

manufacturing workers earned $28, 587." (Workforce Housing in Georgia, Housing and Demographics Research Center University of Georgia 2001, p. 6-7)

Often, the only type of housing that is affordable given the wages found in rural environments is manufactured, also known as factory built housing. The increased popularity of manufactured housing is due in part to its reasonable price. Even though it is an affordable option for much of the working sector, there is still a stigma attached to manufactured housing. Negative connotations associated with manufactured housing are that it is cheap and not as attractive as site built homes. As with any structure, if mobile homes are not properly cared for and neglected, they may wind up as blots on the landscape. Scenic open space may be marred by poorly cited manufactured homes. Homes may be located atop a hill crest, or sited a few yards from the road. Manufactured housing may also be seen as unfavorable when it located in parks, especially those that are run down and feature few amenities. Country roads across Georgia are littered with abandoned mobile homes, thus, there is a perception that this type of housing is disposable. However, factory built housing has come a long, long, way from its humble beginnings. The mobile homes of yesteryear have been replaced with homes that often reflect little difference from site built homes in terms of design.

In terms of aesthetics, some communities wishing to preserve the rural landscape are doing so by adopting manufactured home ordinances. Such ordinances may govern setback requirements and architectural compatibility to other homes in the area. There are three different levels of compatibility standards concerning manufactured housing in Georgia. Type I establishes the minimum architectural standards, Type II provides more architectural compatibilities and Type III regulates manufactured housing in areas, such as historic districts, that would be aesthetically affected by the presence of manufactured housing. Manufactured

housing regulations include, but are not limited to, construction materials, width of home, roof pitch, skirting, and the removal of the mechanism used to bring the home to the site. In Georgia, there are few communities that have enacted stand alone ordinances that are specific to manufactured housing. Instead, communities usually add language to general zoning ordinances governing manufactured housing.

Another issue related to rural housing is, as discussed, the spread of all types of residential development into rural areas. Whether development consists of subdivisions of moderately priced homes or estates with 200 acre trophy yards, incompatible construction is still consuming the rural landscape. With more and more non-farm neighbors surrounding farms, as discussed, the critical mass of farm area required to be profitable may be lost. Farmers that are being surrounded by non-farm neighbors may fall into an impermanence syndrome characterized by not reinvesting in their farm related holdings and waiting for the right moment to sell for development as land values increase.

Other Obstacles

Other obstacles to rural preservation include the property rights advocate, as discussed. Property rights advocates are a strong voice that may sometimes successfully stall preservation efforts. Public perception may also play a role in what types of regulations may be accepted. Similarly, lack of education as later discussed is also a hindrance to rural preservation as people often fear what they do not understand. Thus, education is imperative in gaining support for rural preservation efforts. One solution to bringing up the learning curve in Georgia, especially in counties that feature no zoning, is to require aspects of land use planning to be taught beginning in grade school and through the high school level. Although it may seem that children at young ages may not be interested in such matters, it is important to begin when young minds

are impressionable. Later, as adults, these individuals would be able to call upon the information they had received in school and use it to benefit preservation efforts.

Due to the scope of this thesis, the rural preservation issues of every county or city could not be covered here. Issues outside of the scope of the thesis include examining the needs of specific communities and counties and determining what the hindrances to rural preservation may be. In a general sense, it takes not only community effort, but also cooperation with other communities, as well with as state and federal agencies to initiate the appropriate educational and development programs necessary to develop a solution for the issues mentioned here.

Georgia is experiencing conversion of the rural countryside to non-farm and incompatible uses which destabilize the rural landscape. In order to combat this degradation, rural Georgia must strengthen itself so it can relieve itself of the burdens that constrain it.

Chapter 5

CONCLUSIONS AND RECOMMENDATIONS

As stated in the introduction, the purpose of this study was to evaluate of the prospects and potentials of rural preservation in Georgia in the context of existing legislative framework and recommendations of needs (legislative and otherwise) for the creation of a meaningful rural preservation program in Georgia.

Learning from Other States and Communities

Beyond the scope of existing legislation in Georgia, certain aspects of rural preservation programs from other states may appeal to the home rule nature of Georgia. As noted, different states use various means of rural protection. Once preservation legislation is dissected into finer points, the amount of material that could be examined in relation to Georgia is exhaustive. The citizens of Georgia may be persuaded to learn from the successes of others in terms of how to achieve a successful rural preservation program by gathering support and enacting proper enabling legislation.

To begin, the Oregon Land Use Planning Act of 1973 has been successful in the preservation of rural areas by requiring local governments to formulate comprehensive plans that are in compliance with state standards, with a state review process to ensure community observance. This form of planning is perfect for Georgia and its adherence to home rule principals because as stated, there is no one state plan, but a number of plans with local government in charge of zoning. From the 1975 Florida State Comprehensive Planning Act, Georgia could establish an Areas of Critical State Concern Program, which as stated identifies

and protects resources that are important on a state wide level. The Areas of Critical State Concern Program requires a review of development projects to ensure that they are consistent with protective state mandates. Georgia could emulate the Maryland Smart Growth Initiatives Program which uses the Rural Legacy and the Voluntary Cleanup and Brownfields Revitalization Incentive Programs. These programs, as stated, have the effect of protecting rural resources by preserving rural areas and reusing land that is already developed. The requirement of brownfield reuse would be especially useful in the burgeoning metropolitan Atlanta area.

The New Jersey State Planning Act of 1985 uses a cross-acceptance process, which dictates that the State Planning Commission consult with local governments with the preparation and revision of the State Plan. Although this deviates from the concept of home rule, the cross-acceptance process has the potential to be accepted in Georgia as local government provides input at the state level.

The Washington Growth Management Act (1990) is a statewide boundary program which requires that cites and counties that have experienced a certain rate of growth have comprehensive plans and adopt regulations to protect agricultural lands, retain open space and discourage incompatible land use. Principals of the Washington Growth Management Act could be applied to the high growth areas of Georgia such as the metropolitan Atlanta area, in an effort to reduce the consumption of rural areas and open space.

Recommendations: Federal Level

1. Amend wording of Federal legislation.

Section 106 Review

What would this do?

Amending the wording of Section 106 Review to require Federally impacted projects to consider important resources and alter plans that would have an adverse affect on said resources would remove the "stop, look and listen" quality of Section 106 Review. Upon amelioration, Section 106 Review would have an enormous impact as any Federal undertakings, use of Federal money or projects with Federal approval would be required to alter any plans that would have a detrimental affect on any important resource. Thus, in the proposed altered form, Section 106 Review would be a more powerful preservation tool over its current form of procedural protective review.

Farmland Protection Policy Act

What would this do?

The Farmland Protection Policy Act would be immeasurably strengthened in two ways by amending its language. First, changing the language of the FPPA requiring a halt to any Federal project which would have an adverse affect on prime farmland would prevent the conversion of innumerable important resources to non-compatible uses. Secondly, a change in the nature of the FPPA requiring Federal cooperation with state and local rural preservation programs would ensure that a preservation dialogue was created between all levels of government.

Changing the nature of the language used in the aforementioned legislation, from the suggestive to the imperative would be an enormous task, as the corrections are not merely typographical errors and would alter the intent of statutes. Realizing the difficultly in changing Federal level legislation, it may be more feasible to focus on programs in Georgia.

Recommendations: State Level: Georgia

1. Form a Rural Preservation Coalition.

What would this do?

Forming a coalition of concerned individuals and organizations would serve a multitude of purposes. Members of the coalition would include key players in preservation and conservation such as the Georgia Trust for Historic Preservation, the Georgia Conservancy, the Sierra Club, the National Resources Conservation Services, local entities and volunteers. This amalgamation of rural preservation activists would serve as a task force in the conception, implementation and monitoring of rural preservation initiatives on state and local levels.

First, a coalition would serve as an educational task force. It is imperative that people are informed as to the multitude of benefits of rural preservation in order to help to relieve misconceptions that surround it. Just one of the activities the coalition could hold would be conferences discussing the positive and negative ramifications of rural preservation and developing a 'best practices' report that could easily be taken on tour. A well-equipped coalition would have programs geared to all people, from the stalwart property rights advocate who needs conversion to a preservation agenda, to the farmers in the field who need to know what preservation can do for them, to the ladies who donate their time and garner support for preservation. Most importantly, members of the coalition would lobby elected officials in order to gain political support for any proposed legislation.

Once a common goal with an educational program is clearly established among this coalition, the next step would be to establish a state appointed task force whose responsibility it would be to ensure that the amended programs, in addition to any new programs, are being adhered to and special allowances are not made for industry, those who take advantage of, and 'just one time' instances. The enforcement effort would occur simultaneously with educational efforts of the coalition. The coalition would monitor statewide activities that either had a

positive or negative affect on rural resources as documented by a statewide assessment. A rural preservation coalition would also be responsible initially in identifying rural preservation issues at the Federal and state level, establishing state wide preservation goals and developing recommendations for a rural preservation legislative agenda.

As understood by such a proposed coalition, changing the nature of legislation and developing and monitoring an adequate rural preservation program is possible given enough support, a sympathetic political environment and tireless advocates.

Georgia: Amelioration of Existing Legislation

Table 2. Issues Facing Georgia and Possible Solutions

Conclusions	*Recommendation*
• Lack of a comprehensive rural preservation program	• Establish a statewide rural preservation program with state enabling legislation
• Legislation suggestive in nature	• Modify preservation legislation vocabulary
• Lack of zoning enabling legislation	• Establish zoning enabling legislation

2. Amend wording of state legislation.

As stated, one conclusion is that Georgia must create an enforceable statewide, comprehensive rural preservation program with state enabling legislation. With amending, Georgia's current legislation may serve to protect rural resources in a comprehensive manner. Simply stated, in much of the legislation, the word 'shall' ought to appear instead of the word 'should.' This change in word choice would significantly alter the nature of requirement from voluntary to mandatory participation in a rural preservation agenda. Once this change of direction is in place, the rural preservation movement will change dramatically. The following examines the potential effect of this change in vocabulary with some legislation already discussed.

Georgia Planning Act of 1989

What would this do?

By amending the language of the Georgia Planning Act of 1989, a community would be required to consider its assessed resources when formulating a comprehensive plan. Additional verbiage could be added that would require halting any activity, public or private, that would have an adverse affect on assessed resources. The protection offered to rural resources by the Georgia Planning Act of 1989 would be immeasurably strengthened by changing the wording in the legislature, again substituting 'shall' when the word 'should' appears. This change would require a community to consider the assessed resources when formulating a comprehensive plan. A supplementary amendment could be added that would require a stop to any activity that may have an adverse affect on assessed resources. The easiest way to ensure compliance to minimum standards, even when support may be lacking with certain individuals, is by affecting the community's coffers. As stated, one of the benefits of the Georgia Planning Act of 1989 is that it requires compliance in order for communities to maintain Qualified Local Government status and receive certain funds.

Georgia Environmental Policy Act of 1991 (GEPA)

What would this do?

By amending the language of the Georgia Environmental Policy Act of 1991, agencies would be required to halt any activity that negatively impacts rural resources. It would be beneficial if an altered form of GEPA would require a statewide assessment, perhaps in guide book format, of land use capability which would identify prime land and Georgia's other highest quality soils in conjunction with other important rural resources, such as historic farm sites. This statewide assessment of natural and built environment resources would be an invaluable tool for

preservation efforts, as an assessment would help to identify valuable areas that may be slated for incompatible development.

As stated, GEPA calls for consideration of the effects of state agency activity on natural and cultural resources. Changes in GEPA would have a widespread effect because as discussed, every local government is required to have a comprehensive plan in order to be eligible for certain funds. Perhaps one of the most successful ways to ensure timely action on the part of local government is to place a monetary reward on activity and penalize inactivity by withholding funds. The clearest obstacle to changing GEPA would be garnering adequate support and then following it through the proper channels. Changing GEPA would require time, with local and state government agencies working in tandem towards a common preservation goal. In order to cut down on any protesting that would ensue with any of the proposed changes, educational programs to inform individuals as to the importance of maintaining rural resources must be implemented.

Greenspace Program of 2000

What would this do?

The program that would be most affected by an adjustment in language to the imperative would be the Greenspace Program. By amending the language of the Greenspace Program of 2000 from 'should' to 'shall,' local governments would be required to participate in the program by first identifying greenspace and then setting aside in perpetuity percentages of meaningful greenspace impervious to development. The obstacle to this is that the cost of obtaining greenspace may be prohibitive, especially for poorer areas. However, property expense could be lessened by the donation of development rights, especially with tax deductions on the Federal

level. Federal tax deductions for qualifying properties may be as much as up to 30 percent from an individual's adjusted gross income or up to 10 percent for a corporation.

3. Establish Rural Preservation Enabling Legislation (based on need to protect vital areas and resources in rural areas).

What would this do?

Establishing rural preservation enabling legislation would either change the nature of home rule to allow for the implementation of state level rural preservation zoning ordinance or allow communities the choice to participate in said ordinance. Establishing a state wide rural preservation zoning would protect resources from a state level, effectively uniting communities under a common preservation goal, instead of relying on local protection which may be inadequate or lacking. Zoning enabling legislation or a state developed zoning ordinance would need to be strong in order to prevent circumvention, such as allowing applications to rezone. For example, a statewide ordinance could require communities to make an inventory of rural areas and identify and maintain comprehensive soil maps of agricultural land, prime farmland, and other significant areas. After assessment information is incorporated into a community's comprehensive plan, the community would be required to conserve in perpetuity a certain percentage, if not all, of the prime farmland and a percentage of the rural landscape in order to be eligible for certain funds.

If changing the nature of home rule in terms of zoning would prove to be unconstitutional, an option would be to respect home rule by allowing local government to protect resources via suggested participation with a state developed model rural preservation ordinance. Counties or communities that are willing to protect rural resources would have the option to participate with rural preservation zoning, and hopefully set a successful example for

neighboring communities to look to and eventually emulate. As stated, interested communities would be required to adopt the one rural zoning ordinance containing a proscribed set of performance standards developed at the state level in order to ensure quality, consistency and protection of rural resources.

As mentioned, there is greater likelihood for seeing change at the state level, instead of the Federal level. The Federal level, affecting all 50 states, is indeed a worthy area to target with a stricter rural agenda, however, a more manageable campaign may begin at the state level. At the state level, one approach to getting the changes proposed in this thesis is to stage meetings among proposed coalition members and local government officials. These groups could essentially work together in establishing a common state wide goal and language to support it.

There is no reason why Georgia cannot excel in the protection of rural resources and become a state known for its superb preservation agenda, with minor changes in existing legislation, drawing on the best successes of other states and communities and the formation of a rural preservation coalition. It will take time and effort in order to ensure the proper formation and implementation of a rural preservation program. Inactivity will not create a positive rural preservation program; it is up to interested parties to band together and work tirelessly towards the goal of preserving the rural areas of Georgia. Inactivity breeds 'demolition by neglect,' which in this case is the unnecessary consumption of prime rural land and other rural resources.

Planning For the Future: Future Research

A preservationist must be able to plan for the future. A topic of further research would be the creation of model rural preservation enabling legislation that is specific to the needs of Georgia and lobbying for its passage at the state level. Other topics to explore may include, as discussed, the impact of preferential taxation on individual farms and the effect on the county

where farm is located, and the examination of housing in the rural environment. Another topic would be to examine the needs of specific communities and counties and determine what the hindrances to rural preservation may be. As illustrated, there is ample opportunity for further research that may have a positive effect on Georgia's rural environment. It is not necessary to reinvent the wheel as we learn from others. This thesis may serve as a tool for those interested in rural preservation as it outlines the benefits of rural preservation and highlights successful national and state programs to serve as inspiration for Georgia.

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Appendix A

SELECTED EXCERPTS FROM NATIONAL LEVEL LEGISLATION

National Environmental Policy Act of 1969

"An Act to establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Environmental Policy Act of 1969."

Purpose
Sec. 2 [42 USC § 4321].
The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality."

The National Environmental Policy Act of 1969, as amended. U.S. Congress. (Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982).

Clean Water Act of 1972 and the Safe Water Drinking Act of 1974

"The Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) stipulated broad national objectives to restore and maintain the chemical, physical, and biological integrity of the Nation's waters (33 U.S.C. 1251). Provisions included a requirement that the Federal Power Commission not grant a license for a hydroelectric power project to regulate streamflow for the purpose of water quality unless certain conditions are satisfied (33 U.S.C. 1252).
In addition, the amendments significantly expanded provisions related to pollutant discharges. These included requirements that limitations be determined for point sources which are consistent with State water quality standards, procedures for State issuance of water quality standards, development of guidelines to identify and evaluate the extent of nonpoint source

pollution, water quality inventory requirements, as well as development of toxic and pretreatment effluent standards (33 U.S.C. 1311 - 1313 and 33 U.S.C. 1315 - 1317). Additional provisions further defined liability for discharges of oil and hazardous substances and the Federal role in clean-up operations (33 U.S.C. 1321) and established a Clean Lakes Program. Section 402 of the 1972 amendments established the National Pollutant Discharge Elimination System (NPDES) to authorize EPA issuance of discharge permits (33 U.S.C. 1342). Section 403 stipulated guidelines for EPA to issue permits for discharges into the territorial sea, the contiguous zone, and ocean waters further offshore (33 U.S.C. 1393).
Important provisions were contained in Section 404 of the amendments. This section authorized the Corps of Engineers to issue permits for the discharge of dredged or fill material into navigable waters at specified disposal sites (33 U.S.C. 1344). EPA was authorized to prohibit the use of a site as a disposal site based on a determination that discharges would have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational uses.

Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. 1251 - 1376; Chapter 758; P.L. 845, June 30, 1948; 62 Stat. 1155). U.S. Congress. As amended by:
Chapter 928, P.L. 580, July 17, 1952; 66 Stat. 755; Chapter 518, P.L. 660, July 9, 1956; 70 Stat. 498; P.L. 86-70, June 25, 1959; 73 Stat. 148; P.L. 86-624, July 12, 1960; 74 Stat. 417; P.L. 87-88, July 20, 1961; 75 Stat. 204; P.L. 89-753, November 3, 1966; 80 Stat. 1246; P.L. 91-224, April 3, 1970; 84 Stat. 91; P.L. 92-50, July 9, 1971; 85 Stat. 124; P.L. 92-138, October 14, 1971; 85 Stat. 379; P.L. 92-240, March 1, 1972; 86 Stat. 47; P.L. 92-500, October 18, 1972; 86 Stat. 816; P.L. 93-207, December 28, 1973; 87 Stat. 906; P.L. 93-243, January 2, 1974; 87 Stat. 1069; P.L. 93-593, January 2, 1975; 88 Stat. 1924; P.L. 94-238, March 23, 1976; 90 Stat. 250; P.L. 94-369, July 22, 1976; 90 Stat. 1011; P.L. 94-558, October 19, 1976; 90 Stat. 2639; P.L. 95-217, December 27, 1977; 91 Stat. 1566; P.L. 95-576, November 2, 1978; 92 Stat. 2467; P.L. 96-483, October 21, 1980; 94 Stat. 2360; P.L. 97-357, October 19, 1982; 96 Stat. 1712; P.L. 97-440, January 8, 1983; 96 Stat. 2289; P.L. 100-4, February 4, 1987; 101 Stat. 7

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Coastal Zone Management Program

§ 1451. Congressional findings (Section 302)
The Congress finds that--
(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation.

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.
(d) The habitat areas of the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost.

(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, exclusive economic zone, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters;

(g) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.

(h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate

(i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

(k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.

(l) Because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal states must anticipate and plan for such an occurrence.

(m) Because of their proximity to and reliance upon the ocean and its resources, the coastal states have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal states in all Federal programs affecting such resources and, wherever appropriate, by the development of state ocean resource plans as part of their federally approved coastal zone management programs.

Coastal Zone Management Act Of 1972 as amended through P.L. 104-150, The Coastal Zone Protection Act of 1996. U.S. Congress. Sec. 1451-1465

Farmland Protection Policy Act

"Sec. 4201. General provisions
(a) Congressional statement of findings
Congress finds that--
(1) the Nation's farmland is a unique natural resource and provides food and fiber necessary for the continued welfare of the people of the United States;
(2) each year, a large amount of the Nation's farmland is irrevocably converted from actual or potential agricultural use to nonagricultural use;
(3) continued decrease in the Nation's farmland base may threaten the ability of the United States to produce food and fiber in sufficient quantities to meet domestic needs and the demands of our export markets;
(4) the extensive use of farmland for nonagricultural purposes undermines the economic base of many rural areas;
(5) Federal actions, in many cases, result in the conversion of farmland to nonagricultural uses where alternative actions would be preferred;
(6) the Department of Agriculture is the agency primarily responsible for the implementation of Federal policy with respect to United States farmland, assuring the maintenance of the agricultural production capacity of the United States, and has the personnel and other resources needed to implement national farmland protection policy; and
(7) the Department of Agriculture and other Federal agencies should take steps to assure that the actions of the Federal Government do not cause United States farmland to be irreversibly converted to nonagricultural uses in cases in which other national interests do not override the importance of the protection of farmland nor otherwise outweigh the benefits of maintaining farmland resources.
(b) Statement of purpose
The purpose of this chapter is to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland.

Farmland Protection Policy Act. U.S. Congress. 1981. Section 1539 of Pub. L. 97-98 Secs. 1539-1549 of title XV of Pub. L. 97-98.

Food Security Act of 1985

Sec. 3839bb. - Conservation farm option
(a) In general
The Secretary shall establish conservation farm option pilot programs for producers of wheat, feed grains, cotton, and rice.
(b) Eligible owners and producers
An owner or producer with a farm that has contract acreage enrolled in the agricultural market transition program established under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) shall be eligible to participate in the conservation farm option offered under a pilot program under subsection (a) of this section if the owner or producer meets the conditions established under section (e) of this section.
(c) Purposes
The purposes of the conservation farm option pilot programs shall include -
(1) conservation of soil, water, and related resources;
(2) water quality protection or improvement;
(3) wetland restoration, protection, and creation;
(4) wildlife habitat development and protection; or
(5) other similar conservation purposes.
(d) Conservation farm plan
(1) In general
To be eligible to enter into a conservation farm option contract, an owner or producer must prepare and submit to the Secretary, for approval, a conservation farm plan that shall become a part of the conservation farm option contract.
(2) Requirements
A conservation farm plan shall -
(A) describe the resource-conserving crop rotations, and all other conservation practices, to be implemented and maintained on the acreage that is subject to contract during the contract period;
(B) contain a schedule for the implementation and maintenance of the practices described in the conservation farm plan;
(C) comply with highly erodible land and wetland conservation requirements of this chapter; and
(D) contain such other terms as the Secretary may require.
(e) Contracts
(1) In general
On approval of a conservation farm plan, the Secretary may enter into a contract with the owner or producer that specifies the acres being enrolled and the practices being adopted.
(2) Duration of contract
The contract shall be for a period of 10 years. The contract may be renewed for a period of not to exceed 5 years on mutual agreement of the Secretary and the owner or producer.
(3) Consideration
In exchange for payments under this subsection, the owner or producer shall not participate in and shall forgo payments under -
(A) the conservation reserve program established under subpart B of part I of this subchapter;
(B) the wetlands reserve program established under subpart C of part I of this subchapter; and

(C) the environmental quality incentives program established under part IV of this subchapter.
(4) Owner or producer responsibilities under the agreement
Under the terms of the contract entered into under this section, an owner or producer shall agree to -
(A) actively comply with the terms and conditions of the approved conservation farm plan;
(B) keep such records as the Secretary may reasonably require for purposes of evaluation of the implementation of the conservation farm plan; and
(C) not engage in any activity that would defeat the purposes of the conservation farm option pilot program.
(5) Payments
The Secretary shall offer an owner or producer annual payments under the contract that are equivalent to the payments the owner or producer would have received under the conservation reserve program, the wetlands reserve program, and the environmental quality incentives program.
(6) Balance of benefits
The Secretary shall not permit an owner or producer to terminate a conservation reserve program contract and enter a conservation farm option contract if the Secretary determines that such action will reduce net environmental benefits.
(f) Secretarial determinations
(1) Acreage estimates
Prior to each year during which the Secretary intends to offer conservation reserve program contracts, the Secretary shall estimate the number of acres that -
(A) will be retired under the conservation farm option under the terms and conditions the Secretary intends to offer for that program; and
(B) would be retired under the conservation reserve program if the conservation farm option were not available.
(2) Total land retirement
The Secretary shall announce a number of acres to be enrolled in the conservation reserve program that will result in a total number of acres retired under the conservation reserve program and the conservation farm option that does not exceed the amount estimated under paragraph (1)(B) for the current or future years.
(3) Limitation
The Secretary shall not enroll additional conservation reserve program contracts to offset the land retired under the conservation farm option.
(g) Commodity Credit Corporation
The Secretary shall use the funds, authorities, and facilities of the Commodity Credit Corporation to carry out this subsection.
(h) Funding
Of the funds of the Commodity Credit Corporation, the Corporation shall make available to carry out this section -
(1) $7,500,000 for fiscal year 1997;
(2) $15,000,000 for fiscal year 1998;
(3) $25,000,000 for fiscal year 1999;
(4) $37,500,000 for fiscal year 2000;
(5) $50,000,000 for fiscal year 2001; and
(6) $62,500,000 for fiscal year 2002

Food Security Act of 1985. U.S. Congress. 1985. Sec. 3839bb.

Brownfields Tax Incentive of the Taxpayer Relief Act of 1997

Public Law 105-304 Taxpayer Relief Act
Subtitle E--Brownfields SEC. 941.
EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.
(a) In General.--Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:
[[Page 111 STAT. 883]]
"SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.
"(a) In General.--A taxpayer may elect to treat any qualified environmental remediation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.
"(b) Qualified Environmental Remediation Expenditure.--For purposes of this section--
"(1) In general.--The term 'qualified environmental remediation expenditure' means any expenditure--
"(A) which is otherwise chargeable to capital account, and
"(B) which is paid or incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.
"(2) Special rule for expenditures for depreciable property.--Such term shall not include any expenditure for the acquisition of property of a character subject to the allowance for depreciation which is used in connection with the abatement or control of hazardous substances at a qualified contaminated site; except that the portion of the allowance under section 167 for such property which is otherwise allocated to such site shall be treated as a qualified environmental remediation expenditure.
"(c) Qualified Contaminated Site.--For purposes of this section--
"(1) Qualified contaminated site.--
"(A) In general.--The term 'qualified contaminated site' means any area--
"(i) which is held by the taxpayer for use in a trade or business or for the production of income, or which is property described in section 1221(1) in the hands of the taxpayer,
"(ii) which is within a targeted area, and
"(iii) at or on which there has been a release (or threat of release) or disposal of any hazardous substance.
"(B) Taxpayer must receive statement from state environmental agency.--An area shall be treated as a qualified contaminated site with respect to expenditures paid or incurred during any taxable year only if the taxpayer receives a statement from the appropriate agency of the State in which such area is located that such area meets the requirements of clauses (ii) and (iii) of subparagraph (A).
"(C) Appropriate state agency.--For purposes of subparagraph (B), the chief executive officer of each State may, in consultation with the Administrator of the Environmental Protection Agency, designate the appropriate State environmental agency within 60 days of the date of the enactment

of this section. If the chief executive officer of a State has not designated an appropriate State environmental agency within such 60- day period, the appropriate environmental agency for such State shall be designated by the Administrator of the Environmental Protection Agency.
 "(2) Targeted area.--
[[Page 111 STAT. 884]]
"(A) In general.--The term 'targeted area' means--
"(i) any population census tract with a poverty rate of not less than 20 percent,
"(ii) a population census tract with a population of less than 2,000 if--
"(I) more than 75 percent of such tract is zoned for commercial or industrial use, and
"(II) such tract is contiguous to 1 or more other population census tracts which meet the requirement of clause (i) without regard to this clause,
"(iii) any empowerment zone or enterprise community (and any supplemental zone designated on December 21, 1994), and
"(iv) any site announced before February 1, 1997, as being included as a brownfields pilot project of the Environmental Protection Agency.
"(B) National priorities listed sites not included.--Such term shall not include any site which is on, or proposed for, the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this section).
"(C) Certain rules to apply.--For purposes of this paragraph the rules of sections 1392(b)(4) and 1393(a)(9) shall apply.
"(d) Hazardous Substance.--For purposes of this section--
"(1) In general.--The term 'hazardous substance' means--
"(A) any substance which is a hazardous substance as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and
"(B) any substance which is designated as a hazardous substance under section 102 of such Act. '
'(2) Exception.--Such term shall not include any substance with respect to which a removal or remedial action is not permitted under section 104 of such Act by reason of subsection (a)(3) thereof.
"(e) Deduction Recaptured as Ordinary Income on Sale, Etc.--Solely for purposes of section 1245, in the case of property to which a qualified environmental remediation expenditure would have been capitalized but for this section--
"(1) the deduction allowed by this section for such expenditure shall be treated as a deduction for depreciation, and
"(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.
"(f) Coordination With Other Provisions.--Sections 280B and 468 shall not apply to amounts which are treated as expenses under this section.
"(g) Regulations.--The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.
"(h) Termination.--This section shall not apply to expenditures paid or incurred after December 31, 2000."
[[Page 111 STAT. 885]]
(b) Clerical Amendment.--The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:
"Sec. 198. Expensing of environmental remediation costs."

(c) Effective Date.--The amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

Brownfields Tax Incentive of the Taxpayer Relief Act of 1997. U.S. Congress. 1997. Subtitle E Sec. 941.

Appendix B

SELECTED EXCERPTS FROM STATE LEVEL LEGISLATION

Facade and Conservation Easements Act of 1976 and the Georgia Uniform Conservation Easement Act of 1992

Sec. 44-10-2.
As used in this article, the term:
(1) '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.
(2) 'Holder' means:
(A) A governmental body empowered to hold an interest in real property under the laws of this state or the United States; or
(B) A charitable corporation, charitable association, or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of real property; assuring the availability of real property 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.
(3) 'Third-party right of enforcement' means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, charitable corporation, charitable association, or charitable trust, which, although eligible to be a holder, is not a holder.

Sec. 44-10-3
(a) Except as otherwise provided in this article, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements, except that a conservation easement may not be created or expanded by the exercise of the power of eminent domain.
(b) No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance.
(c) Except as provided in subsection (c) of Code Section 44-10-4, a conservation easement is unlimited in duration unless the instrument creating it otherwise provides.

(d) An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a party to the conservation easement or consents to it.
(e) The ownership or attempted enforcement of rights held by the holder of an easement shall not subject such holder to any liability for any damage or injury that may be suffered by any person on the property or as a result of the condition of such property encumbered by a conservation easement.

Sec. 44-10-4.
(a) An action affecting a conservation easement may be brought by:
(1) An owner of an interest in the real property burdened by the easement;
(2) A holder of the easement;
(3) A person having a third-party right of enforcement; or
(4) A person authorized by other law.
(b) The easement holder shall be a necessary party in any proceeding of or before any governmental agency which may result in a license, permit, or order for any demolition, alteration, or construction on the property.
(c) This article does not affect the power of a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

Sec. 44-10-5
A conservation easement is valid even though:
(1) It is not appurtenant to an interest in real property;
(2) It can be or has been assigned to another holder;
(3) It is not of a character that has been recognized traditionally at common law;
(4) It imposes a negative burden;
(5) It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;
(6) The benefit does not touch or concern real property; or
(7) There is no privity of estate or of contract.

Sec. 44-10-6
(a) This article applies to any interest created after July 1, 1992, which complies with this article, whether designated as a conservation or facade easement, or as a covenant, protective covenant, equitable servitude, restriction, easement, or otherwise.
(b) This article applies to any interest created before July 1, 1992, if such interest would have been enforceable had such interest been created after July 1, 1992, unless retroactive application contravenes the Constitution or laws of this state or the United States.
(c) This article does not invalidate any interest, whether designated as a conservation or preservation or facade easement or as a covenant, protective covenant, equitable servitude, restriction, easement, or otherwise, that is enforceable under other law of this state.

Sec. 44-10-7.
This article shall be applied and construed to effectuate its general purpose to make uniform the laws with respect to the subject of this article among states enacting it.

Sec. 44-10-8.
A conservation easement may be recorded in the office of the clerk of the superior court of the county where the land is located. Such recording shall be notice to the board of tax assessors of such county of the conveyance of the conservation easement and shall entitle the owner to a revaluation of the encumbered real property so as to reflect the existence of the encumbrance on the next succeeding tax digest of the county. Any owner who records a conservation easement and who is aggrieved by a revaluation or lack thereof under this Code section may appeal to the board of equalization and may appeal from the decision of the board of equalization in accordance with Code Section 48-5-311.

Official Code of Georgia Annotated, Sec. 44-10-1 et seq.

The Georgia Planning Act of 1989

Sec. 50-8-3.
(a) The local governments of the State of Georgia are of vital importance to the state and its citizens. The state has an essential public interest in promoting, developing, sustaining, and assisting local governments. The natural resources, environment, and vital areas of the state are also of vital importance to the state and its citizens. The state has an essential public interest in establishing minimum standards for land use in order to protect and preserve its natural resources, environment, and vital areas. The purpose of this article is to provide for the department to serve these essential public interests of the state by developing, promoting, sustaining, and assisting local governments, by developing, promoting, and establishing standards and procedures for coordinated and comprehensive planning, by assisting local governments to participate in an orderly process for coordinated and comprehensive planning, and by assisting local governments to prepare and implement comprehensive plans which will develop and promote the essential public interests of the state and its citizens. This article shall be liberally construed to achieve its purpose. This article is enacted pursuant to the authority granted the General Assembly in the Constitution of the State of Georgia, including, but not limited to, the authority provided in Article III, Section VI, Paragraphs I and II(a)(1) and Article IX, Section II, Paragraphs III and IV.

(b) The department shall serve as the principal department in the executive branch of state government for local government affairs. The department shall perform the state´s role in local government affairs by carrying out the state´s duties, responsibilities, and functions in local government affairs and by exercising its power and authority in local government affairs. Without limiting the generality of the purposes served by the department, the department shall:

(1) Develop, promote, sustain, and assist local governments;

(2) Provide a liaison between local governments and other governments, including the state government and the federal government;

(3) Act as the state´s principal department for local government affairs and local government services generally and for programs, functions, and studies in local government affairs and local government services and act as the coordinator on the state government level for such programs, studies, and functions provided by the department and for those provided by others;

(4) Act as the state´s principal department for developing, promoting, maintaining, and encouraging coordinated and comprehensive planning;

(5) Develop, promote, sustain, and assist local governments in the performance of their duties and responsibilities under law to their citizens, including among such duties and responsibilities of local governments coordinated and comprehensive planning; the provision of infrastructure and other public works and improvements; the development, promotion, and retention of trade, commerce, industry, and employment opportunities; the provision of transportation systems; and the promotion of housing supply;

(6) Serve as the representative of the Governor to local governments and in local government affairs on a regular basis and on special assignments as authorized by the Governor;

(7) Assist the Georgia Housing and Finance Authority for any purpose necessary or incidental in the administration and performance of the Georgia Housing and Finance Authority´s duties, powers, responsibilities, and functions as provided in Chapter 26 of this title;

(8) Assist the Georgia Music Hall of Fame Authority for any purpose necessary or incidental in the administration and performance of the Georgia Music Hall of Fame Authority´s duties, powers, responsibilities, and functions as provided in Part 10 of Article 7 of Chapter 3 of Title 12; and

(9) Assist the OneGeorgia Authority for any purpose necessary or incidental in the administration and performance of the OneGeorgia Authority´s duties, powers, responsibilities, and functions as provided in Chapter 34 of this title.

The Georgia Planning Act of 1989. Official Code of Georgia Annotated. 1989. Sec. 50-8 et seq.

Georgia Environmental Policy Act of 1991 (GEPA)

Sec. 12-16-2.
The General Assembly finds that:
(1) The protection and preservation of Georgia´s diverse environment is necessary for the maintenance of the public health and welfare and the continued viability of the economy of the state and is a matter of the highest public priority;
(2) State agencies should conduct their affairs with an awareness that they are stewards of the air, land, water, plants, animals, and environmental, historical, and cultural resources;
(3) Environmental evaluations should be a part of the decision-making processes of the state; and

(4) Environmental effects reports can facilitate the fullest practicable provision of timely public information, understanding, and participation in the decision-making processes of the state.

Georgia Environmental Policy Act of 1991. Official Code of Georgia Annotated. 1991. Sec. 12-16-1 et seq.)

Right-to-Farm Law

Sec. 41-1-7

(a) It is the declared policy of the state to conserve, protect, and encourage the development and improvement of its agricultural land and facilities for the production of food and other agricultural products. When nonagricultural land uses extend into agricultural areas or when there are changed conditions in or around the locality of an agricultural facility, agricultural operations often become the subject of nuisance actions. As a result, agricultural facilities are sometimes forced to cease operations. Many others are discouraged from making investments in farm improvements or adopting new technology or methods. It is the purpose of this Code section to reduce losses of the state´s agricultural resources by limiting the circumstances under which agricultural facilities and operations may be deemed to be a nuisance.

(b) As used in this Code section, the term:

(1) 'Agricultural area' means any land which is, or may be, legally used for an agricultural operation under applicable zoning laws, rules, and regulations at the time of commencement of the agricultural operation of the agricultural facility at issue and throughout the first year of operation of such agricultural facility. Any land which is not subject to zoning laws, rules, and regulations at the time of commencement of an agricultural operation of an agricultural facility and throughout the first year of operation of such agricultural facility shall be deemed an 'agricultural area' for purposes of this Code section.

(2) 'Agricultural facility' includes, but is not limited to, any land, building, structure, pond, impoundment, appurtenance, machinery, or equipment which is used for the commercial production or processing of crops, livestock, animals, poultry, honeybees, honeybee products, livestock products, poultry products, or products which are used in commercial aquaculture. Such term shall also include any farm labor camp or facilities for migrant farm workers.

(3) 'Agricultural operation' means:
(A) The plowing, tilling, or preparation of soil at an agricultural facility;
(B) The planting, growing, fertilizing, or harvesting of crops;
(C) The application of pesticides, herbicides, or other chemicals, compounds, or substances to crops, weeds, or soil in connection with the production of crops, livestock, animals, or poultry;
(D) The breeding, hatching, raising, producing, feeding, keeping, slaughtering, or processing of livestock, hogs, equines, chickens, turkeys, poultry or other fowl normally raised for food, mules, cattle, sheep, goats, dogs, rabbits, or similar farm animals for commercial purposes;
(E) The production and keeping of honeybees, the production of honeybee products, and honeybee processing facilities;
(F) The production, processing, or packaging of eggs or egg products;
(G) The manufacturing of feed for poultry or livestock;

(H) The rotation of crops;
(I) Commercial aquaculture;
(J) The application of existing, changed, or new technology, practices, processes, or procedures to any agricultural operation; and
(K) The operation of any roadside market.

(4) 'Changed conditions' means any one or more of the following:
(A) Any change in the use of land in an agricultural area;
(B) An increase in the magnitude of an existing use of land in or around the locality of an agricultural facility and includes, but is not limited to, urban sprawl into an agricultural area in or around the locality of an agricultural facility, or an increase in the number of persons making any such use, or an increase in the frequency of such use; or
(C) The construction or location of improvements on land in or around the locality of an agricultural facility closer to an agricultural facility than those improvements located on such land at the time of commencement of the agricultural operation or the agricultural facility at issue and throughout the first year of operation of said agricultural facility.

(5) 'Urban sprawl' means either of the following, or both:
(A) The conversion of agricultural areas from traditional agricultural use to residential use; or
(B) An increase in the number of residences in an agricultural area which increase is unrelated to the use of the agricultural area for traditional agricultural purposes.
(c) No agricultural facility or any agricultural operation at an agricultural facility shall be or shall become a nuisance, either public or private, as a result of changed conditions in or around the locality of such agricultural facility if the agricultural facility has been in operation for one year or more. The provisions of this subsection shall not apply when a nuisance results from the negligent, improper, or illegal operation of any agricultural facility.
(d) For purposes of this Code section, the established date of operation is the date on which an agricultural operation commenced operation. If the physical facilities of the agricultural operation are subsequently expanded or new technology adopted, the established date of operation for each change is not a separately and independently established date of operation and the commencement of the expanded operation does not divest the agricultural operation of a previously established date of operation.

Right to Farm Law. Official Code of Georgia Annotated. 1988. Sec. 41-1-7.

Green Space Program

Sec. 36-22-1
The intent of this chapter is to provide a flexible framework within which populous and rapidly growing cities and counties in this state can develop a program of community greenspace preservation. The General Assembly recognizes that the unique characteristics of each region throughout the state preclude a mandated legislative outcome for the preservation of greenspace in every region. The process provided by this chapter is intended to promote adoption in developed and rapidly developing areas of policies, rules, and regulations which will have the

effect of preserving at least 20 percent of the land area as connected and open greenspace which can be utilized for informal recreational activities and protection of natural resources. This chapter will also provide a resource of funding for preservation of such greenspace, which will augment currently available local, state, and federal funding.

Sec. 36-22-6.
In the development of a greenspace program, the following criteria shall be met:
(1) The program shall promote the permanent protection of greenspace constituting a minimum of 20 percent of the geographic area of the county;

(2) The program shall: (A) identify legal and structural barriers to the achievement of a goal of preservation of a minimum of 20 percent of the geographic area of the county as permanently protected greenspace; (B) propose a ten-year strategy for the mitigation or elimination of such barriers by local action, including, but not limited to, zoning and land use ordinance changes, local legislation to be enacted by the General Assembly, and local conservation and preservation ordinances; and (C) identify, and commit to the employment of, existing local land use ordinances, policies, and regulations which will further the achievement of the preservation of permanently protected greenspace; and

(3) The program shall specify a program and method for allocation of greenspace funds by the county to municipalities electing to participate in a cooperative greenspace program with the county and located wholly or partly within the county which provide for population based proportional sharing of greenspace funds allocated under this chapter and cooperative expenditure of resources.

Sec. 36-22-4.
(a) There is established the Georgia Greenspace Trust Fund to consist of any moneys appropriated to such fund, voluntary contributions to such fund, any federal moneys deposited in such fund, and other moneys acquired for the use of such fund by any fund raising or other promotional techniques deemed appropriate by the Department of Natural Resources, and all interest thereon. All balances in the fund shall be deposited in an interest-bearing account and shall be carried forward each year so that no part thereof may be deposited in the general treasury. The Department of Natural Resources shall administer the fund, shall expend moneys held in the fund in furtherance of the purposes of and pursuant to the provisions of this chapter, and shall prepare, by February 1 of each year, an accounting of the funds received and expended from the fund. The report shall be made available to the commission, to the members of the General Assembly, and to members of the public on request.

(b) Within the Georgia Greenspace Trust Fund, moneys obtained by appropriation by the General Assembly, and interest thereon, shall be segregated from all other moneys. Such appropriated funds shall be made available in each fiscal year for grants to counties having an approved greenspace program as follows:

(1) The total amount of such funds shall be divided into grant amounts derived by:

(A) Determining the amount of state funds obtained in the immediately prior fiscal year by the application of the state property tax levy on residential property in each county eligible to submit a greenspace program under Code Section 36-22-10;

(B) Dividing that number by the amount of state funds obtained in the immediately prior fiscal year by the application of the state property tax levy on residential property in all counties eligible to submit a greenspace program under Code Section 36-22-10, such that a percentage of the aggregate number is obtained applicable to each such county; and

(C) Applying the applicable percentage for each eligible county to the sum of appropriated moneys, such that a discrete amount is identified for each eligible county;

(2) Upon approval of a greenspace program in an eligible county pursuant to the terms and conditions of this chapter, there shall be disbursed from the appropriated funds a grant in the amount resulting from the calculation in paragraph (1) of this subsection, to be deposited into the county´s Community Greenspace Trust Fund;

(3) For any county which is entitled to receive appropriated funds in excess of $500,000.00 pursuant to paragraph (1) of this subsection and upon the approval of the commission as provided in this chapter, the Department of Natural Resources shall make disbursements as follows:

(A) One or more grants totaling 90 percent of the amount the county is authorized to receive shall be allocated to the Community Greenspace Trust Funds created by the county and each municipality located in whole or in part within the county as provided in paragraph (3) of Code Section 36-22-6; and

(B) Ten percent of the amount the county is authorized to receive shall be allocated to the participating municipalities located within the county as one or more matching grants for greenspace acquisition. The Board of Natural Resources shall promulgate rules necessary to implement such matching grant program in such a manner as to encourage municipalities to generate local funds for such purposes as greenspace planning, acquisition, and management. Any such matching funds not disbursed by the date determined pursuant to paragraph (4) of this subsection shall be disbursed to the county´s Community Greenspace Trust Fund; and

(4) Prior to the conclusion of each fiscal year, at a time to be determined by regulation of the Department of Natural Resources, any appropriated funds not previously disbursed pursuant to this subsection shall be divided among the counties having an approved greenspace program in proportion to the ratio of each county´s grant under paragraph (2) of this subsection to the total amount of grants in the fiscal year under said paragraph (2) and granted to such counties in such amounts for deposit into the counties´ Community Greenspace Trust Funds. The regulations implementing this paragraph shall provide for a date certain, as close as reasonably practicable to the end of the state´s fiscal year, on and after which no further approval of greenspace programs applicable to that fiscal year will be granted. Any program approval on or after such date shall be deemed applicable to any funds appropriated for the next fiscal year.

(c) Any municipality electing to cooperate in a county´s greenspace program pursuant to the provisions of Code Section 36-22-6 shall establish a Community Greenspace Trust Fund subject to the same terms and conditions applicable to a county´s Community Greenspace Trust Fund.

(d) Moneys deposited into a Community Greenspace Trust Fund by grant from the Georgia Greenspace Trust Fund and any matching funds deposited into such a fund pursuant to subsection (e) of this Code section, together with interest thereon, shall be expended solely to defray the costs of acquisition of greenspace as defined in this chapter, or of conservation, scenic, and other easements which contribute to the goals set out for greenspace in Code Section 36-22-2.

(e) The Department of Natural Resources is authorized to match, from funds appropriated to or otherwise available to the department, all or any part of an expenditure of moneys from a city or county´s Community Greenspace Trust Fund which expenditure is made for the purpose of acquiring property adjacent to or within the watershed of the Chattahoochee River, the Flint River, the Altamaha River, or any other river which the department designates by regulation as eligible for a match pursuant to this subsection. The department may, by agreement with such city or county, accept and administer property acquired by a city or county pursuant to this chapter as a unit of the state parks system, or may make such other agreements for the ownership and operation of the property as are outlined by Code Sections 12-3-32 and 27-1-6.

Green Space Program of 2000. Official Code of Georgia Annotated. 2000. Sec. 36-22-1 et seq.