

**AN ORDINANCE TO AMEND THE CUP (COMMUNITY UNIT PLAN) DISTRICT, CHAPTER 64,  
ARTICLE VI, DIVISION 23**

**BE IT ORDAINED** by the City Council of the City of Milton, GA while in a regularly called council meeting on September 7, 2016 6:00 p.m. as follows:

**SECTION 1.** That the amendment of the CUP (Community Unit Plan) District, Article VI, Division 23 of the City of Milton Zoning Ordinance is hereby adopted and approved; and is attached hereto as if fully set forth herein, and;

**SECTION 2.** All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

**SECTION 3.** That this Ordinance shall become effective upon its adoption.

**ORDAINED** this the 7<sup>th</sup> day of September, 2016.

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Joe Lockwood, Mayor

Attest:

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Sudie AM Gordon, City Clerk

## DIVISION 23. - CUP COMMUNITY UNIT PLAN DISTRICT

### Sec. 64-894. - Scope and intent.

- (a) The regulations in this division are the CUP District regulations. Article IX should be consulted to determine uses and minimum standards for uses allowed by administrative permit or use permit. The CUP district identifies land areas for a variety of housing types within a planned community setting.
- (b) The CUP district is intended to:
  - (1) Encourage the development of land as planned communities.
  - (2) Encourage flexible and creative concepts in site planning.
  - (3) Preserve the natural amenities of the land by encouraging scenic and functional open areas.
  - (4) Provide for an efficient use of land.
  - (5) Provide a stable residential environment compatible with surrounding residential areas.
  - (6) Protect neighboring properties by requiring larger peripheral lots adjacent to larger lot developments.

(Ord. No. 14-10-223, § 1, 10-20-2014)

### Sec. 64-895. - Use regulations.

Within the CUP district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section or as a use allowed by an administrative permit or use permit shall be prohibited.

- (1) Permitted uses. Structures and land may be used for only the following purposes:
  - a. Single-family dwelling.
  - b. Golf, country club, pool and recreation court.
- (2) Accessory uses. A structure or land may be used for uses customarily incidental to any permitted use and a dwelling may be used for a home occupation. Retail and service uses, and clubs accessory to recreation facilities are allowed subject to the following conditions:
  - a. Accessory retail and service uses shall be located wholly within a building with a majority of the floor area designed for recreation uses. No outdoor advertising is allowed.
  - b. Retail and service uses shall be limited to convenience retail and service establishments such as pro shops and personal services. Restaurants accessory to a club are allowed.

(Ord. No. 14-10-223, § 1, 10-20-2014)

### Sec. 64-896. - Development plan.

- (a) The development plan shall be the zoning control document for features depicted graphically. The site plan requirement applicable to rezoning requests shall be adhered to for CUP rezoning requests.
- (b) Administrative guidelines for preparing site plans are available from the director of the community development department.
- (c) A site plan shall become the development plan if the request to rezone is approved without changes or additions.

- (d) If the approval by the board differs in any way from what is depicted on the site plan submitted for the purpose of seeking rezoning, a revised plan must be certified by the community development department before development related permits may be issued.
- (e) A site plan or development plan shall not substitute for plans which are required as a prerequisite for applying for development-related permits.
- (f) The location of all use areas shall be shown on the development plan, and the location on the ground shall be as shown on the development plan.
- (g) Properties that are not served by sanitary sewer shall provide a site plan to determine the maximum number of lots on the subject site as follows:

The number of lots in a CUP development shall not exceed the number of lots that can be reasonably created within an AG-1 zoned development at the same site location. The following items shall be submitted to determine the lot yield for the subject property:

- (1) Indicate all bodies of water and the appropriate buffers;
- (2) Provide a level 3 soil analysis;
- (3) Provide a tree survey indicating specimen and heritage trees;
- (4) Indicate the configuration of lots and associated minimum building setbacks; and
- (5) Show approximate location of house footprint on each lot.

(Ord. No. 14-10-223, § 1, 10-20-2014)

Sec. 64-897. - Development standards.

- (a) Height regulations. The height of non-single family residential structures are as approved per the conditions of zoning.
- (b) Minimum land area per unit shall be as specified in conditions.
- (c) Minimum lot area per unit shall be as specified in conditions.
- (d) Minimum CUP size shall be four contiguous acres.
- (e) Maximum density shall be as follows:
  - (1) Single-family dwelling: 5.0 units per gross acre.
- (f) Minimum lot width. There shall be none, unless specified in conditions.
- (g) Minimum CUP development frontage shall be 150 feet.
- (h) Minimum lot frontage shall be 20 feet adjoining a street.
- (i) Minimum heated floor area per unit shall be as specified in conditions.
- (j) Minimum perimeter setback (entire CUP development) shall be as specified in conditions.
- (k) Minimum interior setbacks:
  - (1) Minimum front yard shall be as specified in conditions.
  - (2) Minimum side yard shall be as specified in conditions.
  - (3) Minimum rear yard shall be as specified in conditions.
- (l) Minimum accessory structure requirements:
  - (1) Accessory structures may be located within the side or rear yards subject to perimeter and minimum yard setbacks.

- (m) Minimum building separation (more than one dwelling per lot). All building separations shall be as specified by the city's building code.
- (n) Other minimum standards.
  - (1) Agreements, covenants, declarations and other contracts which govern the use, maintenance, and protection of a CUP development among its owners areas shall be part of the official zoning file, and changes thereto shall have no force and effect until a copy has been provided to the director of the community development department.
- (o) Entrances off of a public right-of-way for subdivisions with more than three lots shall be rural, simple and rustic in design. These entrances shall be subject to the approval of the city architect. These entrances shall comply with the following requirements:
  - (1) Signage shall be one of the following designs:
    - a. Shingle style
    - b. Sign mounted in or on pillar
      - i. Pillar shall not exceed eight (8) feet in height.
  - (2) Walls:
    - a. Knee walls may be utilized where required by existing topography and shall not exceed 20 linear feet on either side of the subdivision's road entrance.
      - i. Knee walls shall be constructed of natural materials such as boulders, stacked stone, or wood formed brick or materials designed to give the appearance of such natural materials. Stucco is prohibited.
  - (3) Gate or guard structures shall be setback a minimum of 60 feet from the exterior street's right of way.
  - (4) No water features are permitted.
- (p) Rural viewshed.-The following requirements of this subsection shall only apply to subdivisions with more than three lots. The requirements of this subsection except for Section 64-416(k)(4) shall not apply to a single lot of record or to subdivisions with three or less lots where no individual lot abuts an exterior street.
  - (1) Provide a 40-foot primary rural viewshed setback from all proposed Milton Trail or sidewalk easements or proposed rights-of-way, whichever is more restrictive, along the exterior streets for buildings, accessory structures, and swimming pools for lots adjacent to exterior streets:
    - a. No disturbance within the 40 foot primary rural viewshed setback shall be allowed until a design review process is completed and the design of the rural viewshed is approved by the design committee.
    - b. Driveways accessing exterior streets shall be prohibited within the 40-foot primary rural viewshed setback, except where they cross the rural viewshed in a perpendicular manner.
    - c. Individual septic systems may be installed in the primary rural viewshed setback with an approved primary variance if the primary and secondary septic fields fail and the property may be condemned by the Fulton County Health Department without such variance. The property owner shall provide proof of such potential condemnation prior to the application for a primary variance.
  - (2) Provide a 20-foot secondary rural viewshed setback from the primary rural viewshed setback for buildings, accessory structures, and swimming pools for lots adjacent to exterior streets;
    - a. Individual septic systems may be installed in the secondary rural viewshed setback with an approved primary variance.

b. Driveways accessing exterior streets shall be prohibited within the 20-foot secondary rural viewshed setback, except where they cross the rural viewshed in a perpendicular manner.

c. No disturbance within the 20 foot secondary rural viewshed setback shall be allowed until a design review process is completed and the design of the rural viewshed is approved by the design committee.

(3) The intent of the rural viewshed is to preserve the bucolic views from the roads throughout the Rural Milton Overlay. The views may contain natural vegetation as well as equestrian related structures and uses. It is the intent to utilize the existing vegetation when possible as well as provide additional native plantings to enhance the existing viewshed when needed.

a. When performing a design review of the primary rural viewshed and secondary rural viewshed setbacks, the design committee shall address the following:

i. Evaluation of current state of site including vegetation of the rural viewshed, both the primary and secondary rural viewshed setbacks;

ii. Determination of whether existing vegetation should be removed or vegetation should be planted to enhance the rural viewshed;

iii. Consideration of whether screening of the structures is necessary; and

iv. Consideration of the existence of pastoral or agricultural operations in area.

(4) For structures located on lots subject to a rural viewshed, an architectural review process is required. Such process will include a review of building elevations and landscape plans by the city architect. These structures shall be designed with 360-degree architecture and shall meet the intent of section 64-1151; and

(5) After issuance of the necessary permits to disturb the property but before the required pre-construction meeting, the developer shall install a 4 foot high orange tree save fence at least at the combined primary rural viewshed and secondary rural viewshed setback measured from the proposed Milton Trail or sidewalk easement or the proposed right of way. The fence shall be installed so as to protect heritage trees, protected trees and specimen trees as defined in Chapter 60 of the City Code or any other significant vegetation as determined by the city arborist. Location of such fencing shall be approved by the city arborist. In addition, a sign shall be posted on the fence every 25 feet indicating "rural viewshed" Tree save fence shall be removed at such time as issuance of certificate of occupancy for each lot abutting the viewshed;

(6) Notwithstanding anything to the contrary in this subsection, agricultural operations may occur in the primary rural viewshed and secondary rural viewshed setbacks.

(7) Prior to the transfer of any legal interest in a CUP zoned parcel that is subject to a rural viewshed, every legal or beneficial owner of such a parcel shall ensure that there is recorded in the chain of title for the parcel an Affidavit stating the following:

"At the time of the execution of this Affidavit, the property with respect to which this Affidavit is filed is subject to certain restrictions contained in the City of Milton Zoning Ordinance, located in Chapter 64 of the Code of Ordinances of the City of Milton, Georgia. Such restrictions may include restrictions on development and disturbance of property located in the rural viewshed, which includes portions of property adjacent to streets not located within a platted subdivision."

In addition, a copy of the Affidavit must be provided to any transferee of a legal interest in the parcel no later than the final closing of the transfer.

#### Sec. 64-898 – Fencing.

(a) Fencing along exterior streets shall be as follows:

(1) Allowed fencing material shall be three or four board wooden fencing with wood, stone or masonry posts.

- (2) Fences shall not exceed 60 inches in height from finished grade.
  - (3) Fences shall be white, black, or dark brown in color.
  - (4) Opaque fences are prohibited.
  - (5) Chain link fences are prohibited.
  - (6) Fences shall be set back a minimum of three feet from a public right-of-way.
  - (7) If the side, side corner or rear yard is adjacent to an exterior street, any type of fence including opaque may be installed as long as the opaque fence is not visible from the street at any time of the year.
- (b) Fencing along interior subdivision streets, including front, side corner, side and rear of platted subdivision lots shall be as follows:
- (1) Allowed fencing material and type along the front is limited to three or four board wooden fencing or as otherwise subject to the approval of the community development director; and
  - (2) Along sides and rear of a lot fencing material can be of any type.
  - (3) Fences shall not exceed eight feet in height but not including fencing in the front which shall not exceed 60 inches in height from finished grade.
  - (4) If a front, side, side corner, or rear lot line borders an exterior street, subsection (j) applies.
- (c) Fencing along side, side corner, or rear of nonsubdivision lots:
- (1) Allowed fencing material and type is not limited to three or four board wooden fencing.
  - (2) Fences shall not exceed eight feet in height.
  - (3) If a front, side, side corner or rear lot line borders an exterior street, see subsection (j).
- (d) Barbed wire is prohibited on any single-family residential lots, except when part of a legitimate agricultural use.

**Sec. 64-899 - Pre-Development Notification and Public Informational Meeting**

- (a) Prior to the approval of a conceptual plan for residential uses or a land disturbance permit for non-residential uses, the community development department shall hold a public informational meeting at city hall within 30 days of the conceptual plan or Land Disturbance Permit being submitted.
- (b) The applicant or agent shall post a sign as directed by the community development department in a conspicuous location on each street frontage of the subject property at least 14 days prior to the public informational meeting. It will be the applicant's responsibility to ensure the posting remains in a conspicuous location on site until after the scheduled public site informational meeting.
- (c) The department shall give notice of the public informational meeting by regular mail to all property owners or current residents within 500 feet of the boundaries of the subject property and a minimum of 75 owners who appear on the city tax records as retrieved by the city's geographic information system in the surrounding area around the subject property, which 75 owners may include those located within 500 feet of the subject property. The notices shall be mailed a minimum of 14 days prior to the public informational meeting.
- (d) The mailed notices shall contain the time, place, and purpose of the public informational meeting, the location of the property, and description of the proposed development. The posted sign shall include all of the items required in the mailed notice except the location of the property.
- (e) At least one City Staff member shall be present at the public informational meeting.
- (f) Members of the City Council and Planning Commission shall be notified of the public informational meeting.

## Sec. 64-900 – Definitions

*Agricultural operations* used synonymously with *agricultural purposes* means the following activities: raising, growing, harvesting, or storing of crops, including, but not limited to, soil preparation and crop production services such as plowing, fertilizing, seed bed preparation, planting, cultivating, and crop protecting services; feeding, breeding, or managing livestock, equine, or poultry; producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys; producing plants, trees, fowl, equine, or other animals; producing aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry, egg, and apiarian products; processing poultry; post-harvest services on crops with the intent of preparing them for market or further processing, including but not limited to crop cleaning, drying, shelling, fumigating, curing, sorting, grading, packing, ginning, canning, pickling, and cooling; slaughtering poultry and other animals; and manufacturing dairy products. Agricultural operations also include equestrian related activities such as riding rings, dressage fields, and related activities to the equine industry. Agricultural operations does NOT include constructing, installing, altering, repairing, dismantling, or demolishing real property structures or fixtures, including, but not limited to, grain bins, irrigation equipment, and fencing.

*Construction* means the process, act or manner of constructing something.

*Developer* means person or entity listed as the applicant on a land disturbance application or building permit.

*Development* means any manmade change to improved or unimproved real estate including, but not limited to:

- (1) Buildings or other structures;
- (2) Mining;
- (3) Dredging, filling, clearing and grubbing;
- (4) Grading and paving; and
- (5) Any other installation of impervious cover, excavation or drilling operations or storage of equipment or materials.

*Development area* means geographic area included within a land disturbance permit or building permit.

*Design committee* means a committee composed of the Community Development Director, City Architect, City Arborist and if necessary any other city staff as required to provide design review of the rural viewshed.

*Lot* is synonymous with tract and parcel.

*Owner* means the legal or beneficial owner of a site including, but not limited to:

- (1) A mortgagee or vendee in possession;
- (2) Receiver;
- (3) Executor;
- (4) Trustee;
- (5) Lessee; or
- (6) Other person in control of the site.

*Parcel* means the basic lawful unit of land, identifiable by a single deed. A group of two or more contiguous lots owned by the same entity and used for a single use shall be considered a single lot. The terms "lot," "tract" and "parcel" are synonymous.

*Plan, conceptual*, means a drawing that shows the proposed layout of a subdivision in sufficient detail to indicate its workability and feasibility, but is not in final form for recording, pursuant to these regulations. The conceptual plan is the first stage in securing a land disturbance permit.

*Rural Viewshed* means the view that can be seen from an exterior street and its purpose is to protect the scenic view and promote the city's visual and aesthetic character. The viewshed shall be comprised of two sections: a forty (40) foot primary rural viewshed setback, that section located closest to the exterior street; and, a twenty (20) foot secondary rural viewshed setback, located immediately contiguous to, the primary setback.

*Setback, primary rural viewshed* means an area adjacent to an exterior street or easement, whichever is more restrictive, in which no structures shall be constructed.

*Setback, secondary rural viewshed* means a space contiguous to and to the interior of the primary rural viewshed setback in which no structures shall be constructed.

*Site* means the parcel of land being developed, or the portion thereof on which the land development project is located.

*Tract* is synonymous with lot and parcel.

#### Sec. 64-901 – Violations and Penalties

For any disturbance of the rural viewshed before the appropriate approvals are issued, the property shall be barred from being developed for three years and shall restore the land to its original landscape or if applicable with appropriate tree recompense as determined by the City Arborist.

(Ord. No. 14-10-223, § 1, 10-20-2014)

#### Sec. 64-902. - Other regulations.

The following headings contain some additional, but not all, provisions applicable to the CUP district:

- (1) Development regulations: article XVII of this zoning ordinance.
- (2) Exceptions: article II, division 3 of this zoning ordinance.
- (3) Floodplain management: article IV of this zoning ordinance.
- (4) Off-street parking and loading: article VIII of this zoning ordinance.
- (5) Outside storage: article II, division 2 of this zoning ordinance.
- (6) Landscape area and buffer regulations of the TR, A or A-L district shall apply, as corresponding: article III of this zoning ordinance.
- (7) River protection: Metropolitan River Protection Act, O.C.G.A. § 12-5-440 et seq.
- (8) Signs: article XVI of this zoning ordinance.

Secs. 64-903—64-917. - Reserved.