

Open Space Discussion

Purposes Stated in 197-43.1

1. Opportunities for residential development

2. Conserve open land and environmentally sensitive areas

The criterion for open spaces support (197-50 C.(4)) requires at 30% of open land be adjacent to existing or planned open areas such as public parks, wetlands or other preserved open areas.

3. Provide development options that minimize impacts on sensitive environmental resources, reduce disturbance of natural and cultural features, and conserve scenic views

While the criterion (197-50 C. (3)) states that 30% of the open space cannot contain any wetlands, the criteria that addressed natural and cultural features, or scenic views don't appear to be addressed.

4. Design Flexibility

The criteria provide for flexibility in the design of open spaces but set criteria concerning: i. Permanent; ii. Contiguous; iii. 30% Useable; iv. Adjacent to other open spaces; v. Dedication to maintain; vi. Situations on which trails/pathways may be counted; vii. Uses excluded.

Comprehensive Plan	
Align open spaces	Comp Plan Open Space Policy and Recommendations (ii) specifically recommends using open space requirements in the Subdivision ordinance to align open spaces between adjacent developments to maximize open spaces. The Open Space criteria (197-50 C. (3)) is consistent with this recommendation.
Protect environmentally sensitive	Te Comp Plan policy supports the use of regulations to protect these areas. The current regulations address in part environmentally sensitive areas. When discussing open areas, the requirement is that 30% of the open space be useable and not contain any wetlands (tidal or non-tidal).

Definitions

- Open Space
 - Currently no definition is provided
 - Open Areas are defined in 170:6 as “Land or water other than lots, streets and sidewalks set aside by the developer and so arranged to permit ingress, egress, or passage, over and through the area.”
 - The M&CC ranked the action item of “Open Space - require meaningful, useable, communal, recreational open space” as a High priority and commented “AGREE COMPLETELY; Should be easy, just amend the definition.”

Other Definitions

- The Open Space Development Model Ordinance on the EPA site https://www.epa.gov/sites/production/files/2017-03/documents/os_model_ordinance1.pdf defines:
 - **Open Space:** A portion of a development site that is permanently set aside for public or private use and will not be developed. Open space may be used as community open space or preserved as green space.
 - **Green Space:** Open space maintained in a natural, undisturbed, or revegetated condition.
 - **Community Open Space:** The area of open space remaining after natural open space has been designated. The area may be used for passive or active recreation for stormwater management.

Key Points for Discussion

1. Should the code include a definition of Open Spaces?
2. Does the current code sufficiently address the stated purposes of: conserving lands that contain unique resources such as woodlands, and reducing disturbance of natural and cultural features, and conserving scenic views?
3. Should open space be “useable”? If so, how should useability be defined and are more criteria needed to ensure a level of useability?
4. Does the current code provide sufficient protection of environmentally sensitive areas?

Issues to Consider re Open Space Definition and Requirements

- **Delineation of Open Space:**
- **Inclusion Criteria:**
- **Exclusions**
- **Accessibility:**
- **Uses Permitted/Excluded**
- **Ownership and Maintenance:**

Open Space –items to discuss #1

Delineation of Open Space:

- Minimum dimension, minimum area, minimum ratio.
 - No single dimension of the open space be less than x feet
 - Minimum size of an area qualifying as open space shall be y sq. ft.
 - The ration of length to width must be no greater than 4:1.
- No slope in the open space be greater than y%
- Ready accessibility of the space
- Adjacency – contiguous with adjacent open areas, greenways

Accessibility:

- Homeowners, Community residents, Public
- Ways to access – frontage on roads, pathways

Open Space –items to discuss #2

Inclusion Criteria:

- Protect unique natural feature
- Historic resources
- Mature trees,
- Scenic views and vistas
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Exclusions from the Open Space Calculation:

- Storm retention basins? Some limit the % of open space occupied by “water supply and sewage disposal systems, and stormwater “best management practices” (BMP) facilities”
- Parking areas?
- Other

Open Space –items to discuss #3

Uses of Open Space:

- Outdoor recreation, landscaping, viewing, or sitting
- BMPs for water management
- Amenities and structures can only cover x% of the open area
- Agricultural and horticultural uses. Cultivation of crops, nursery stock, orchards
- Pastureland for animals
- Wildlife habitat, game preserve
- Conservation of land in its natural state
- Golf courses
- Easements for sewer or water lines

Excluded Uses:

- No obstructions other than play structure, benches, fountains, and/or landscaping
- Commercial operations
- Shooting ranges
- Motorized vehicles

Open Space –items to discuss #4

Ownership and Maintenance:

- Homeowners Assoc., Condo Assoc, property owner, Conservation Organization, City?
- Some permit the Homeowners Assoc to lease the open space land out
- Penalties for failure to maintain