

## Section 7.10 Open Space Regulations.

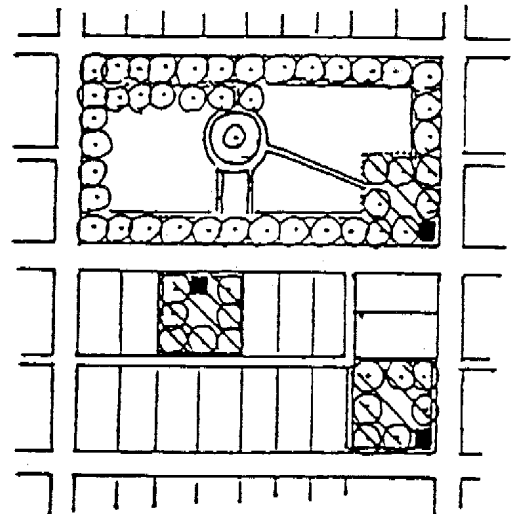
Intent – While *open space* may vary widely in terms of type, size, use and location, is a critical element in determining the quality of the built environment. *Open space* is encouraged to: provided recreational opportunities ranging from tot lots to large community parks; be small courtyards or plazas located in a densely developed commercial or business area; or, be areas set aside for the preservation of existing trees and vegetation. Due to the wide variety of types of *open space*, the regulations of this Section are intended to guide the development or preservation of *open space* to assure that such *open space* is safe, visually attractive, useable, naturally sustainable, and maintained. When the *open space* regulations of this Section are used in connection with *development options* for residential *districts* or as part of Preservation Landscape Plan, such *open space* will function to preserve significant view corridors, existing natural site features and native vegetation. [Amended Ordinance #10-11]\*

### A. Types of Open Space.

The design of an individual *open space* shall be subject to the approval of the individual, agency or board to whom determination authority has been delegated pursuant to Section 9.09 – Decision Matrix of this UDO.

*Open space*, when required by the terms of any regulation of this UDO, shall, based upon the type of *open space* required, comply with the following regulations :

1. *Playground* (which may be developed within a *square* or *park* or may stand alone within a *block*) – All *playgrounds*:
  - a. shall be equipped with an open shelter or benches in an amount and style approved as being appropriate for the proposed development;
  - b. may be covered in sand, mulch or crushed gravel as approved as being appropriate for the proposed development;
  - c. shall be landscaped around the perimeter in compliance with the requirements of Section 7.01 – Landscape Regulations of this UDO for a Type A landscaping with a *plant unit value* of not less than twenty (20); and,
  - d. are generally between 2,500 square feet and 15,000 square feet in area.

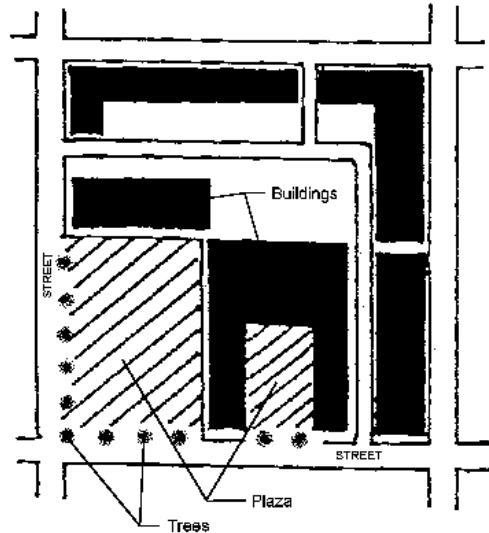


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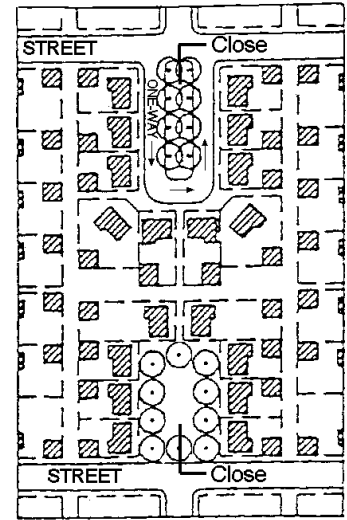
2. *Plaza – All plazas:*

- a. shall be located adjacent to or as a part of a civic building or common area facility developed as project amenity;
- b. shall be surfaced with a brick or other form of paver approved as being appropriate for the proposed development;
- c. shall maintain surface areas at a slope of less than 3%. Surface areas may be stepped, in a manner approved as being appropriate and necessary to accommodate natural topography;
- d. may include a limited number of on-street *parking spaces* along the perimeter of the plaza abutting a *public street*, as approved by the *Director of Engineering*;
- e. shall not exceed in horizontal length or width more than three (3) times height of adjacent *buildings*;
- f. are not required to be landscaped, provided however, if a *plaza* abuts a *street right-of-way*, that portion of the *plaza* perimeter abutting the *street right-of-way* shall be landscaped in compliance with the requirements of Section 7.01 – Landscape Regulations of this UDO for a Type A landscaping with a *plant unit value* of not less than twenty (20); and,
- g. are generally between 2,000 square feet and 30,000 square feet in area.



3. *Close* - All closes:

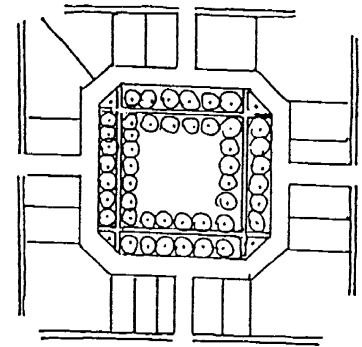
- a. shall be landscaped along their perimeter in compliance with the requirements of Section 7.01 – Landscape Regulations of this UDO for a Type A landscaping with a *plant unit value* of not less than twenty (20); and,
- b. are generally between 2,500 square feet and 15,000 square feet in area.



CLOSE

4. *Square* – All squares:

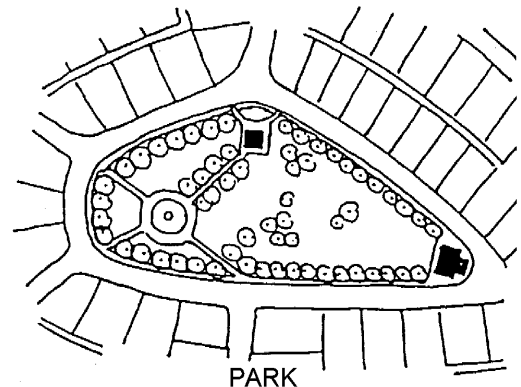
- a. may be surfaced in any combination of grass, crushed gravel, brick pavers, or other suitable ground cover as approved;
- b. shall be landscaped along their perimeter in compliance with the requirements of Section 7.01 – Landscape Regulations of this UDO for a Type A landscaping with a *plant unit value* of not less than twenty (20); and,
- c. are generally between 200 square feet and one (1) acre in area.



SQUARE

5. *Park* – All parks:

- a. shall be landscaped along their perimeter in compliance with the requirements of Section 7.01 – Landscape Regulations of this UDO for a Type A landscaping with a *plant unit value* of not less than twenty (20);
- b. may include, but not be limited to, such passive recreational use amenities as benches, picnic tables, gazebos, *playground*, stages or band stands as approved; and,
- c. are generally between one (1) and five (5) acres in area.

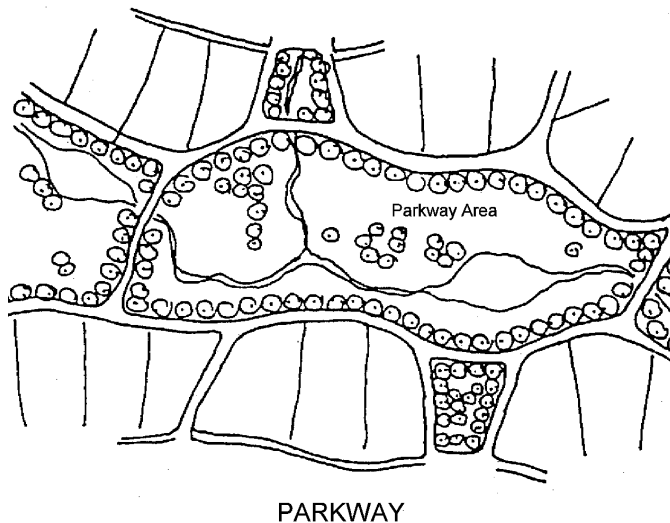


PARK

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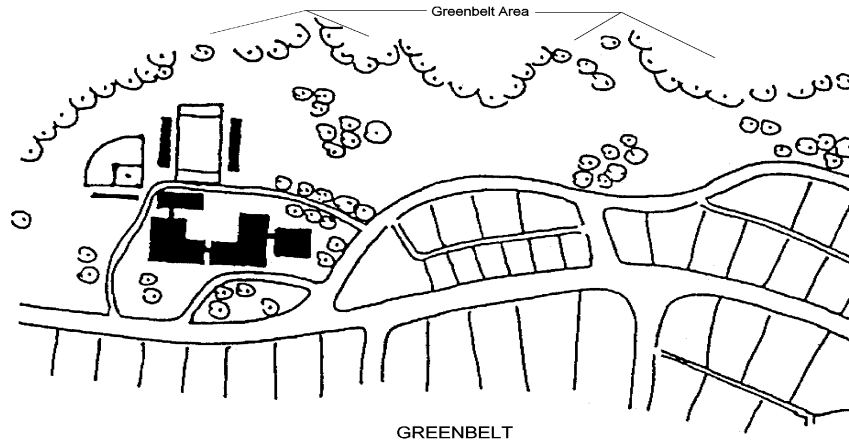
6. *Parkway* – All parkways:
- a. shall retain, to the greatest extent possible, natural or pre-existing contours, topography, water courses and vegetation;
  - b. if sparsely vegetated, shall be provided with supplemental interior landscaping of an informal design;
  - c. shall be landscaped along their perimeters in compliance with the requirements of Section 7.01 – Landscape Regulations of this UDO for a Type A landscaping with a *plant unit value* of not less than twenty (20); and,
  - d. are generally a minimum of one (1) acre in area and have a minimum width of fifty (50) feet of *open space* between from back of curb / edge of pavement to back of curb / edge of pavement.



7. *Greenbelt* – All greenbelts:
- a. shall be maintained in their natural, vegetative state or enhanced with landscape materials to obtain a *landscape buffer* in compliance with the regulations of Section 7.01 – Landscape Regulations of this UDO for a Type B landscaping with a *plant unit value* of not less than seventy-five (75), for the first twenty (20) feet from a perimeter of the *project*, unless a different type or *plant unit value* of landscaping is established by an applicable *district* or *overlay district*;
  - b. may, in areas within a *greenbelt* which are located more than twenty (20) feet from a perimeter of the *project*, include a *sidewalk*, *footpath*, *walkway* or combined pedestrian / bikeway system;

- c. may include areas of minor disturbance, only to the extent minimally required for utility service or access; and,
- d. shall comply with the following area requirements:

Minimum Width: 20 feet  
Maximum Width: unlimited



[Removed Ordinance #12-11]\*

- 8. Active Recreational Facilities (Mini-Parks).
  - a. Mini-Park Facilities – The purpose of the mini-park is to provide adequate active recreational facilities to serve the residents of the immediate surrounding neighborhood or *subdivision*. The following are illustrative of the types of facilities which shall be deemed to serve active recreational needs of the residents of the immediate surrounding neighborhood or subdivision and therefore count toward satisfaction of the mini-park requirements of this UDO: tennis court; racquetball courts; swimming pools; sauna; exercise rooms; meeting or activity rooms within clubhouses; basketball courts; slides; and, play apparatus.
  - b. Tot Lots – Each mini-park shall include the types of recreational facilities that are most likely to be suited to and used by the age bracket of persons likely to utilize the mini-park. However, unless it appears that less than five percent (5%) of the residents of any development are likely to be children under twelve (12), then at least fifteen percent (15%) of the mini-park must be satisfied by the construction of "tot lots" (i.e.. areas equipped with imaginative play apparatus oriented to younger children as well as seating accommodations for parents).

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- (1) Mini-parks shall be attractively landscaped and shall be provided with sufficient natural or manmade screening or buffer to minimize any negative impact on adjacent residences.
  - (2) Each mini-park shall be centrally located, easily accessible, and conveniently and safely reached and used by those persons the mini-park is designed to serve.
  - (3) Each mini-park shall be constructed on land that is relatively flat, dry and capable of serving the intended purposes of this Section.
  - (4) For developments in which the total dedicated land area for active recreational space exceeds 2,000 square feet, the total dedicated land area shall be divided into mini-parks of not less than 2,000 square feet and not more than 30,000 square feet.
- c. Special Regulations for Swimming Pools – Any swimming pool constructed in conjunction with land dedicated to meet the recreational and *open space* requirements of this UDO shall be subject to the following regulations:
- (1) A fence of at least five (5) and no more than six (6) feet in height above *grade* shall enclose the swimming pool, including but not limited to decks, patios and *walkway*.
  - (2) A minimum of one (1) residential *lot*, conforming to the minimum *lot area*, *lot width* and *lot depth* requirements of the applicable *district* shall be located between all pool facilities and all state-maintained roads.
  - (3) All swimming pool facilities shall be in compliance with the regulations of:
    - (a) this UDO;
    - (b) the standards set forth by the North Carolina Department of Environmental, Health and Natural Resources; and,
    - (c) the Wake County Board of Health.
9. Passive Recreation and Usable *Open Space* [Corrected Typographical Error: Supplement #15]\*
- For the purposes of this UDO, usable *open space* shall be permanently maintained and shall mean an area that:
- a. is not encumbered with any substantial structure;

- b. is not devoted to use as a *street, parking area, sidewalk* or waste disposal field;
  - c. is left in its natural or undisturbed state if wooded, except for the cutting of trails for walking or jogging, or, if not wooded at the time of *subdivision* or *project* development, is landscaped for ball fields and picnic areas, or is properly vegetated and landscaped with the objective of creating a wooded area or other area that is consistent with the objective set forth in sub-Section d. below;
  - d. is capable of being used for passive recreation, such as walking or jogging; and,
  - e. is legally and practicably accessible to the residents of the *subdivision* out of which the required *open space* is taken.
10. *Community Garden* – Any *community garden* constructed shall be subject to the following regulations: [Added Ordinance #14-07]
- a. Shall be used primarily for growing and harvesting food crops and ornamental crops, for consumption, donation or for sale;
  - b. Title to the land must be vested in a homeowners association, property owners association, or other private corporation or government agency;
  - c. Detached *accessory structures* such as storage or utility *buildings*, gazebos, arbors, or greenhouse *structures* are permitted, subject to the requirements of Section 2.08. A – Accessory Uses, Buildings and Structures;
  - d. If fences are installed, such shall be in compliance with Section 2.08 A. 3. d. – Fences, except for as specified below:
    - 1. Fences shall be limited to solid, shadow box, stockade, or decorative *ornamental fence*; [Amended Ordinance #19-03]\*
    - 2. Fencing shall not exceed forty-eight (48) inches in height above *grade*.
  - e. Lighting is prohibited.
  - f. The raising of animals or livestock is prohibited;
  - g. *Temporary Seasonal Retail Sales* shall comply with the provisions of Section 2.08 B. 9. – Additional Regulations for Temporary Seasonal Retail Sales and shall be limited to horticultural and agricultural products

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produced on the premises;

- h. Shall have access to Town water services for watering purposes;
- i. The *community garden* shall be deemed abandoned by the Department of Planning & Zoning after twelve (12) months of non-continuous use if upon inspection of the *community garden* it is deemed overgrown with invasive plants or weeds. If such *community garden* is declared abandoned, the community garden shall be converted and maintained as grassed fields by the homeowners association, property owners association, or municipality that holds ownership of the *community garden*.

**B. Access to Open Space.**

Any *open space* regulated by this Section and required to be provided by other applicable regulations of this UDO, except for the first twenty (20) feet of any *greenbelt* abutting the perimeter of a *project*, shall be designed and located so as to be accessible to all residents, owners and users within the *project*, and their guests, by way of *sidewalk*, footpath, *walkway* or combined pedestrian / bikeway.

Any access to and use of a *greenbelt* which is in excess of twenty (20) feet in width, including but not limited to a *sidewalk*, footpath, *walkway* or combined pedestrian / bikeway, shall be subject to the specific approval in connection with the approval of a *project*, provided that the first twenty (20) feet of any *greenbelt* abutting the perimeter of a *project* shall be maintained as a vegetative *landscape buffer*.

**C. Dedication and Maintenance of Open Space.**

Any *open space* regulated by this Section and required to be provided by other applicable regulations of this UDO shall be subject to documentary assurances that the permanent dedication and continuous maintenance of such *open space* shall be made in accordance with the approved plans and that such *open space* shall be made available to the residents, owners and users of the *project* at a reasonable and non-discriminatory rate of charge prior to obtaining a *UDO permit* or *final plat* approval. Such documentary assurances shall be recorded in the Office of the Wake County Recorder or otherwise provided for through legally binding perpetual agreements as approved by the *Town Council*. Such *open space* shall perpetually run with the *project* and shall not be developed or separated from the *project* at a later date (unless no development of any portion of the *project* which is benefited by or required to provide such *open space* has occurred and the entire area of the *project* is presented for a new *UDO permit* or *final plat* approval, the effect of which will be to nullify the prior approval). [Amended Ordinance #04-06]\*