

From: [Tiffany Antol](#)
To: [Nat White](#)
Cc: [Robert Wallace](#); [Bethan X. Heng](#); [Michelle J. McNulty](#)
Subject: RE: PZ-23-00130 ; open space definitions
Date: Monday, October 16, 2023 12:05:28 PM

Hi Nat!

I am not sure that I am following your logic on Civic Space and legally designated open space. We are more than happy to meet to go over your questions/comments in person.

Clear definitions are very important to the application of the Zoning Code.

The requirement for Civic Spaces is found in 10-30.60.090 which states that residential developments with 50 or more dwelling units shall provide a minimum of five percent of the Development Site Area in civic spaces that are either **privately held and open to the public or publicly owned** and set aside as civic spaces. The Code references that appropriate civic types are found in Chapter 10-70 which are specific to the Transect Zones – this section states that these standards **may** be used in the non-transect zones with Director approval. Because the standards are written specifically for the transect zones it is hard to relate how the spaces work within the conventional zoning. It is hard for planners to enforce words such as “may”. This section of the code is used as reference only when working with required civic spaces in conventional zoning districts. The proposed amendment does not change anything in relation to the requirements for civic space.

Common Open Space (which is proposed to become Common Space and is commonly abbreviated to Open Space in the code) is not a listed land use, rather a Development Standard (Table 10-40.30.030.C – Residential Zones- Building Form and Property Development Standards). It is grouped with other development requirements such as landscaping, fencing, lighting, and parking. Common Open Space may include resource protection areas, setbacks, landscape areas, as well as amenities for the enjoyment of the property owners or residents.

Common Open Space is only required in three instances (15% of gross development area):

- For multi-family developments within the Medium Density Residential and High Density Residential zones – subject to Table 10-40.30.030.A
- For multi-family developments within the Commercial zones
- For developments utilizing the Planned Residential Development option

Open Space is a listed land use under the Public Open Space zone (Table 10-40.30.060.B – Public and Open Spaces Zones – Allowed Uses). It is important to note here that Open Space is not a listed use in the Residential Zones, Commercial Zones, or Industrial Zones. The existing definition of Open Space specifically applies to this listed land use as all land uses are defined within the zoning code. The proposed text amendment will not change this definition.

Dedicated Open Space is not a definition found in the zoning code. The word dedication is defined

in the code and refers to the transfer of property. Dedications are typically found on subdivision plats. For example: a new road is developed, and the right-of-way is dedicated to the city.

Legally designated open space is also not a definition found in the zoning code nor is that term used as a development standard or as a land use. Property can be legally designated in several ways. One is through zoning. For example, if a property is rezoned to Public Open Space the number of uses that could be permitted on the property would be limited to those permitted in the zone – unless an Ordinance or Development Agreement further restricts the allowances of the zone specifically to open space. Property can also be legally designated without the zoning code. Properties can be restricted to open space with conservation easements, deed restrictions, CC&Rs, etc. which are not regulated by the zoning code.

Linwood Heights was developed under the Land Development Code prior to requirement for civic space. Linwood Heights is a Planned Residential Development and was required to preserve 15% of the gross acreage as Common Open Space which overlaps with the required Resource Protection areas. This allowed the subdivision to create smaller lots than were allowed by the underlying zoning district. This is often referred to as conservation subdivision design. If the civic space requirements were in place at that time – they might have provided the access you mention below but it is not a guarantee. Staff can make a developer meet the letter of the code which may or may not result in the access you mention.

Staff is proposing in a separate zoning code amendment to remove the requirement for civic space within residential developments. Residential subdivisions using the PRD and Multi-family residential developments struggle to provide both 15% open space and 5% civic space while meeting minimum density requirements and preserving the highest levels of resources. Many of these civic spaces are intended as amenity space for the property owners and residents who also pay to maintain these areas but require them to be accessible to the public.

We are making every effort to keep the existing terms and definitions clear.

Tiffany Antol, AICP

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From: Nat White <white@lowell.edu>
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Subject: PZ-23-00130 ; open space definitions

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Open Space Definitions:

Tiffany,

PZ-23-00130

I appreciate the attempt to clarify 'Open Space Terminology'.

I believe clear definitions in all appropriate zoning codes, or reference to, regarding the three general categories of open spaces is important.

It benefits the citizens and encourages the growth of a unique outdoor themed city. Reminders of all categories provides the opportunity for big and small developers to consider how to incorporate or even considering 'gifting or trading' legally designated open space.

On the definition of open spaces:

Here is what this novice found when trying to find definitions of open space.

Civic spaces include every thing from a pocket park to Observatory Mesa as long as the city owns it.

Common open space can be anything that falls under civic space but is reserved for the use and enjoyment of all owners and occupants.

Dedicated open space seems to be that open area associated with a home.

Legally designated open space generally preserves some characteristic of value and is owned by the city. Apparently, this is a subset of civic space.

A relevant point from history. When Jimmy Jamison developed Linwood Estates, there was a lot of land on the side of Observatory Mesa difficult or not possible to develop. It was several tens of acres now common space.

If he and the city were aware at the time (option contained in the code if only by definition) a portion of that land might have been designated as civic open space. It now blocks a natural northern access point to city owned land on Observatory Mesa.

Thanks for taking the time to read all this. My point, keep the definitions clear and options prominent.

Nat White