



Requested Interpretation		Case Number
<p>In a CX3-PK zoning, can the required amenity area (10%) be considered in the area provided for the 50' Protective Yard? Due to the shape of the site, the Protective yard takes up 18.5% of the site (14,250 s.f.). If the Amenity area cannot be included in the Protective yard, the remainder of developable area is 71.5% (55,027 s.f.). This area does not include the required Parking lot landscape which further reduces the developable area. Per the UDO, an Amenity Area is an area, or areas, for the healthy enjoyment of occupants, invitees, and guests of the development. Nothing in the Amenity Area's description in the UDO prevents this area from being in the Protective yard. By definition, the Amenity Area should not be considered an Encroachment into the Protective yard, as it is just an area. Please see attached email correspondence with additional information.</p>		<p>UI-07-2017</p>
<p>Site Address/PIN: NA</p>		
<p>Date Submitted: 5/23/17</p>	<p>Date Issued: 6-12-2017</p>	<p>Code Sections 1.5.3.B, 3.4.3, 7.2.4</p>

STAFF ANALYSIS

Protective yards are separate and distinct from amenity areas. The amenity area is a space reserved to provide open space for the health enjoyment of occupants, invitees and guests of the development. Therefore it is not just an area as proposed in the request. It serves as an important and positive attribute of the development. The UDO specifically prohibits the use of Tree Conservation Areas (TCA) as the amenity or part of the amenity area. Additionally, the UDO specifically prohibits the use of above ground storm water management areas as part of the amenity area. The specific ordinance sections below address this issue. The language of the UDO is clear and specific.

The amenity area must meet all the requirements specified in section 1.5.3.C. (1 to 8). Additionally, in 3.4.3 the dimensional requirements of a parkway frontage are specified. These requirements specify the landscaping and permitted encroachments into the frontage. Finally, in 7.2.4 the UDO contains the transitional protective yard requirements. This section also specifies the only encroachments permitted in this required yard in 7.2.4.D.

STAFF INTERPRETATION

In summary the UDO prohibits the use of a TCA and above ground storm water management areas as amenity areas. The UDO also prohibits the any encroachments into the protective yard with a few exceptions for breaks for pedestrian and vehicle access. There are no other permitted encroachments into the protective yard and therefore protective yards cannot be used as the amenity area or part of the amenity area.

SIGNATORY



Gary D. Mitchell, AICP
Planning & Zoning Administrator