



What's Developing in Frederick

I live next to an open area! Now what? | August 2018

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Last month we explored the possibility that the area adjacent to your home may or may not be open space. We gave some options for you to make that determination. If you determined that you do, in fact, live next to open space, how do you know what it might be used for?

The Town's Planning staff is ready and willing to help each resident determine what the open space next to them is able to be used for. This is often defined on the legal plat of the subdivision, though on older plats, it may not be clearly defined.

An important thing for you to realize is that the open space next to you is owned and maintained by an entity other than you. Although it may be tempting to plant trees/landscaping or make other improvements to the area, it is not appropriate to do so. Often, these areas serve a purpose that is not evident without exploration of the legal documents associated with their creation. For example, we have a number of neighborhoods that have residences adjacent to designated floodways, which is a watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. These areas are designated by State and Federal agencies and provide for the safe movement of water through our community. While it may seem harmless to plant a tree outside your property within a floodway, imagine if floodwaters are passing through the area, break the tree causing it to flow downstream and potentially cause damming which causes flood waters to back up. No one intends this to happen, however, it is entirely possible.

Another example of an open area you might live next to are setbacks from an oil and gas facility. Each facility within Town is required to have a certain setback around it. Within that setback, improvements to the surface are regulated by an agreement with the well operator. The agreements typically restrict improvements because the operators do not want to be liable for replacing improvements that may be damaged when they need to perform maintenance activities on their facilities. Again, simply planting a tree doesn't seem to be terribly impactful, but when it impacts the activities of the operator to maintain their facility, it can have significant impacts.

A third alternative to this is a Town right-of-way. For simplicity's sake, think of this as the landscape area between the edge of the road and your property line. This area may be the individual property owner's responsibility to maintain or it may be an entity such as a Home Owners Association. Again, adding some landscaping to this area may not seem to have significant negative impacts, however, when the entity responsible for maintaining that right-of-way needs to perform mowing operations, and you've planted a tree squarely in the middle of the landscape area, it can have impacts on how the maintenance is completed. The width of the roadway may expand into this area as well. Additionally, if you are near an intersection, landscaping can create visual impediments to the intersection.



We've all been at an intersection where you just can't quite get a clear view of potential oncoming traffic so it feels as if it's a trick to decide to pull into the intersection.

Another alternative is living next to an open area which may include a trail through it. Sometimes there are improvements within this area that are not obvious to the casual observer. However, if you look at the plat, you will likely find utility easements that impair development and landscaping on the property. These areas are often maintained with native plantings and few trees.

In rare instances, we've seen residents extend significant improvements onto land that they do not own. Not only is this a waste of their financial resources, it creates a potential liability for the owning entity.

If you are unsure where your property line is, the best way to determine where it's at is to call a licensed surveyor. They will look at your plat and then come survey your property to find and/or place your property pins. These are legal markers that indicate where your property line is. All plats are available on the Town's website. In some neighborhoods, the original developer had property pins put in the curb so that they are easily found (if you know they're there).

Once again, should you have questions about any of this, please don't hesitate to call 720.382.5500 and talk with the Planner on duty or make an appointment to stop by and visit with them. We are here to answer your questions!



CONTACT US

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