

ARTICLE 7 GENERAL REGULATIONS

SECTION 21-07 GENERAL REGULATIONS

Section 21-07.01 Landscape Regulations.

Intent - Landscaping is an essential element of the site design process and is an important feature in promoting the public health, safety, comfort, convenience and general welfare of the City of South Bend. Landscaping is intended to: mitigate incompatibilities between adjacent land uses; reduce the negative impacts of higher intensity land uses on less intense adjacent land uses; provide a critical visual and noise buffering effect between higher intensity *districts* and less intense *districts*; lessen the impact of development on the environment by reducing *glare* and heat buildup; and, break up large expanses of pavement so as to reduce impervious surface area, storm water run-off and the level of pollutants from non-point sources.

(a) General Landscaping Provisions.

- (1) Applicability – Within the City of South Bend, all new developments and all additions to existing development (i.e., *building* additions, *parking area* expansions, etc.) shall provide landscaping as required by this Section for such new development or addition.
- (2) Location of Landscaping – Required landscaping areas shall consist of four (4) locations on a site: (i) landscaping of required perimeter *yards* or *residential bufferyards*; (ii) *foundation landscaping*; (iii) interior *parking area* landscaping; and, (iv) *parking area* screening.
- (3) Types of Landscape Screening – Three (3) types of landscape screening are provided for in this Section: (i) Type A: Open; (ii) Type B: Partial Screening; and, (iii) Type C: Full Screening. These three (3) types of landscape screening are intended to provide a progression of screening options suitable to a variety of landscaping and buffering needs between land *uses* and *districts*.
 - (A) Type A: Open – The Type A: Open landscaping creates a pleasant visual experience but provides a minimal visual or sound barrier. Therefore, Type A: Open landscaping is intended for use on *lots* where the *district* of the abutting *lots* includes *permitted uses* with similar intensities, lights, sounds and regular operations and would have minimal, if any, negative impact on adjacent properties. Type A: Open landscaping requires a majority of the landscape materials to be of a shade tree variety with flexibility to add color, interest or heavier visual screening, if desired.

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- (B) Type B: Partial Screening – The Type B: Partial Screening landscaping creates a partial visual and sound barrier and is intended for use on *lots* where the *district* of the abutting *lots* includes *permitted uses* that may be similar in land use intensity, but may still contain lights, sounds and regular operations which may adversely impact adjacent properties. Type B: Partial Screening landscaping requires the use of evergreen trees to provide year-round buffering while allowing flexibility to add color and interest with deciduous trees or shrubs/hedge plants.
- (C) Type C: Full Screening – The Type C: Full Screening landscaping shall be designed to create a substantial visual barrier from *grade* to at least six (6) feet above *grade* at time of planting. Type C: Full Screening landscaping should also provide a sound barrier effect. Type C: Full Screening landscaping is intended to be placed on *lots* in higher intensity *districts* which abut *lots* located in lesser intense *districts* that may be adversely impacted by the lights, sounds and regular operations of the higher intensity *district*. Type C: Full Screening landscaping requires significant use of evergreen trees to provide year-round buffering while allowing flexibility to add color and interest with deciduous trees or shrubs/hedge plants. Any evergreen species that drops its lower branches (e.g., white pines, etc.) shall not be permitted as a "evergreen" tree in a Type C: Full Screening landscape area.



Example of Type A – Open Landscaping



Example of Type C: Full Screening
Landscaping

- (4) Live Vegetation - All trees and shrubs required by this Section shall be living vegetation.

- (5) Ground Cover - Ground cover within landscape areas may consist of: grasses; preserved existing natural vegetation (i.e., thickets); or, mulch, chipped bark or other natural forms of ground cover. Loose stone, rock or gravel may be used as a landscaping accent, but shall not exceed twenty (20) percent of the area of the required landscape area in which it is used.

(b) Landscaping of Required Perimeter Yards and Residential Bufferyards.

- (1) *Yards in All Commercial / Mixed Use Districts, Industrial Districts, Residential Districts for Multifamily Dwelling and Such Yards Along a Limited Access Highway.*

The following landscaping requirements apply to any portion of a *front yard, side yard* or *rear yard*, including yards along a *limited access highway*, which are located in any *Commercial / Mixed Use District, Industrial District, or Residential Districts for multifamily dwellings* and which yard is not occupied by *improvements* permitted in the sub-Section "Use of *Minimum Yards and Residential Bufferyards*" in the applicable *district*:

(A) Deciduous Shade Trees:

A minimum of one (1) shade tree planted for every forty (40) feet of the applicable *lot line*. Such trees may be evenly spaced at forty (40) feet on center or grouped together, provided however, in no case shall spacing between trees exceed eighty (80) feet; or,

(B) Deciduous Ornamental Trees:

A minimum of one (1) ornamental tree planted for every twenty-five (25) feet of the applicable *lot line*. Such trees may be evenly spaced at twenty-five (25) feet on center or grouped together, provided however, in no case shall spacing between trees exceed fifty (50) feet.

- (2) Landscaping of Required *Residential Bufferyards* in All Commercial / Mixed Use Districts, Industrial Districts and Residential Districts for *Special Exception Uses*.

Landscaping required in any portion of a *front residential bufferyard, side residential bufferyard* or *rear residential bufferyard* located in a: (i) *Commercial / Mixed Use District*; (ii) *Industrial District*; or, (iii) *Residential District* occupied by a *special exception use*, and which is not occupied by *improvements* permitted in the sub-Section "Use of *Minimum Yards and Residential Bufferyards*" in the applicable *district*, shall consist of either Type A: Open, Type B: Partial Screening or Type C: Full Screening as specified below and in Table 21-07.01 – A: Residential Bufferyard Landscaping.

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TABLE 21-07.01 – A: RESIDENTIAL BUFFERYARD LANDSCAPING											
Zoning of Adjacent Property	Zoning of Subject Property										
	SE / U⁽¹⁾	OB	MU	O	LB	CB	CBD	GB	LI	GI	PUD
SF1	B	B	B	B	B	B	B	C	C	C	(2)
SF2	B	B	B	B	B	B	B	C	C	C	(2)
MF1	A	B	B	B	B	B	B	C	C	C	(2)
MF2	A	B	B	B	B	B	B	C	C	C	(2)
PUD⁽³⁾	B	B	B	B	B	B	B	C	C	C	(2)

⁽¹⁾ – *Special Exception Use* located in a *Residential District*; or, U – *University District* or other *Special Use Districts*.

⁽²⁾ – Landscaping may be Type A: Open, Type B: Partial Screening or Type C: Full Screening and shall be determined as part of the review and determination of the Planned Unit Development.

⁽³⁾ – Residential portion of a PUD.

A – Type A: Open landscaping. See Section 21-07.01 (b) (1), above,

B – Type B: Partial Screening landscaping shall contain a minimum of two (2) evergreen trees for every twenty-five (25) feet of the length of a *lot line* which abuts a residential *district* or a residential portion of a *PUD district*. Such trees shall be evenly spaced.

C – Type C: Full Screening landscaping shall contain a minimum of four (4) evergreen trees for every thirty (30) feet of the length of a *lot line* which abuts a residential *district* or a residential portion of a *PUD district*. Such trees shall be evenly spaced in a staggered double row where the rows are not more that twelve and one-half (12.5) feet apart.

Utility Easement Landscaping – In those instances where overhead utilities are located within required *yards* or required *residential bufferyards*, plant material selections shall be limited to small growing trees which typically do not exceed twenty-five (25) fee in height at maturity. Appropriate utility easement plant materials include: ornamental trees, such as the redbud, dogwood and crabapple; or, evergreen trees (narrow spread), such as the emerald green arborvitae. See Section 21-07.01 (i) - Alternate Landscape Plan Approval for additional limitations.

Note: See Section 21-07.01 (i) - Alternate Landscape Plan Approval for alternate landscape materials or landscape design options.

- (3) Landscaping of Required *Residential Bufferyards* for permitted non-residential uses in the SF1 Single and Two Family Residential Districts, SF2 Single and Two Family Residential District, MF1 Urban Corridor Multifamily District and MF2 High Density Multifamily District.

Landscaping required in any portion of a *front residential bufferyard*, *side residential bufferyard* or *rear residential bufferyard* which is not occupied by *improvements* permitted in sub-Section “Use of Minimum Yards and Residential Bufferyards” in the applicable district, shall consist of Type A: Open. (Ord. No. 9653-06)

(c) Foundation Landscaping.

Foundation landscaping shall be provided for all new *buildings* and *building* additions in all *districts* (except for the following: buildings in the MU – Mixed Use *District*; buildings in the CBD – Central Business *District*; and, *single family dwellings* or *two family dwellings*) in compliance with the following requirements.

- (1) *Foundation landscaping* shall be applicable to any elevation of a new *building* or *building* addition which is:
- (A) over thirty-five (35) feet in width; and,
 - (B) includes the main or primary customer entrance or is oriented toward a *front yard*.



Example of Foundation Landscaping

- (2) When required, *foundation landscaping* shall be provided at a rate of:
- (A) one (1) shade tree for every fifty (50) feet of width of the applicable elevation;
 - (B) one (1) ornamental tree or one (1) evergreen tree for every thirty-five (35) feet of width of the applicable elevation; or,
 - (C) ten (10) hedge plants or shrubs for every fifty (50) feet of width of the applicable elevation.

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The above rates of *foundation landscaping* may be combined or pro-rated, as necessary, based upon the length of the applicable elevation.

- (3) *Foundation landscaping areas* shall maintain a minimum dimension of six (6) feet in the smallest dimension, with a minimum of thirty-six (36) square feet of foundation landscaping area provided for each tree and for every two hedge plants or shrubs.
- (4) Location – *Foundation landscaping areas* shall be located along or adjacent to each applicable *building* elevation, provided, however, where a portion of the *building* elevation is devoted to pedestrian ingress/egress, vehicular ingress/egress, loading or drop-off zones, *foundation landscaping areas* may be aggregated into one or more locations along or abutting such *building* elevation.
- (5) Relationship to Buildings - *Foundation landscaping areas* shall be located:
(i) adjacent to the *building*; or, (ii) so as to begin within fifteen (15) feet of the *building* (i.e., to allow for a *walkway* or similar *improvements* adjacent to the *building*).

(d) Interior Off-Street Parking Area Landscaping.

All new surface, *off-street parking areas* containing thirty (30) *parking spaces* or more and all expanded surface *off-street parking areas* which are increased by thirty (30) *parking spaces* or more, whether such increase occurs at one (1) time or in successive stages, shall be subject to the following regulations:

- (1) All such *off-street parking areas* shall include at least one (1) required interior landscape island for every fifteen (15) *parking spaces* (or fraction thereof), or five-thousand (5,000) square feet of *off-street parking area*, whichever yields the greater number.
- (2) Each required interior landscape island shall measure a minimum of eight feet by eighteen feet (8' X 18').
- (3) Each required interior landscape island shall contain a minimum of one (1) deciduous shade tree, one (1) deciduous ornamental tree or one (1) evergreen tree.
- (4) Interior landscape islands shall be located at the end of parking bays so as to define vehicular and pedestrian traffic patterns.
- (5) All trees shall comply with the size at time of planting as indicated in Table 21-07.01 – B: Minimum Size at Time of Planting.

- (6) Area devoted to interior landscape islands shall be in addition to any required perimeter *yard* landscaping, *foundation landscaping* or *parking area* screening required by this Section 21-07.01.



Example of Interior Off-Street Parking Area Landscaping

- (7) *Off-street parking areas* shall include areas used for the parking or display of automobiles, boats, truck or farm equipment associated with a dealership or leasing business.
- (8) *Off-street parking areas* shall not include areas used for semi-truck *loading areas*, semi-truck maneuvering areas and semi-truck *parking areas*.

(e) Off-Street Parking Area Screening.

The regulations of this sub-Section shall apply to all new surface, *off-street parking areas* and expanded surface *off-street parking areas* for any use except a *single family dwelling* or *two family dwelling*.

In addition to perimeter *yard* landscaping, *foundation landscaping* and interior *parking area* landscaping, if an *off-street parking area* is located: between a *front building line* and a *front lot line*; between a *side building line* and any required *side residential bufferyard*; or, between a *rear building line* and any required *rear residential bufferyard*, the edge of the *parking area* facing such *front lot line*, *side residential bufferyard* or *rear residential bufferyard* shall be screened by a compact row of shrubs/hedge plants planted three feet on-center (3' o.c.) across the front of the



Example of Off-Street Parking Area Screening

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parking area located between such *front lot line*, *side residential bufferyard* or *rear residential bufferyard* and the edge of the *parking area*. Minimum planting size shall meet the requirements of Table 21-07.01-B for Hedge Plants / Shrubs, and be maintained at a maximum allowable growth height of thirty-six inches (36"). (Ord. No. 9783-07)

(f) Minimum Plant Material Sizes at Time of Planting.

All plant materials specified by this Section 21-07.01 – Landscape Regulations shall comply with the minimum sizes at time of planting as specified in Table 21-07.01 – B: Minimum Size at Time of Planting.

TABLE 21-07.01 – B: MINIMUM SIZE AT TIME OF PLANTING	
<u>Plant Category</u>	<u>Minimum Size</u>
Deciduous Shade Tree (a.k.a. Overstory Tree)	2 ½ inch caliper at 6" above the ground
Deciduous Ornamental Tree (a.k.a. Understory Tree)	1 ½ inch caliper at 6" above the ground
Evergreen Tree	6' high
Evergreen Tree (Narrow Spread)*	4' high
Hedge Plants / Shrubs	24" high

* – Evergreen Tree (Narrow Spread), such as arborvitae, may only be used as an alternate plant material subject to the provisions of Section 21-07.01 (i) – Alternate Landscape Plan Approval.

(g) Installation of Landscaping.

All landscaping required by this Section shall be installed prior to the issuance of a final *certificate of occupancy* for the use on the real estate. If seasons, weather conditions or other conditions beyond the applicants' control create a situation which is not appropriate for the installation of landscaping immediately prior to the issuance of a final *certificate of occupancy*, the *Zoning Administrator* may issue a temporary *certificate of occupancy* pending the installation of landscaping required by this Section not later than three (3) months after the start of the next planting season after the use of the real estate is commenced. The start of planting seasons shall be March 15 and August 15 of each year.

(h) Maintenance of Landscaping.

The owner shall be responsible for the replacement of any required planting, which is removed or dies after the date of planting. Such replacement shall occur within three (3) months after the start of the next planting season.

Failure to maintain required landscape areas shall constitute a violation of this Ordinance enforceable under the provisions of Section 21-10 – Enforcement.

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(i) Alternate Landscape Plan Approval.

The *Zoning Administrator*, upon request by an applicant, shall have the authority to approve an alternate landscape plan prepared in accordance with the following requirements:

- (1) **Redistribution of Plant Materials** – The *Zoning Administrator* may approve a redistribution of plant materials required for perimeter *yard* landscaping to other locations on the *lot*, or, a redistribution of plant materials required for a *foundation landscaping area* to other locations on the *lot*. The *Zoning Administrator* shall not have the authority to modify the landscape requirements of this Section 21-07.01 pertaining to required *residential bufferyards*.
- (2) **Credit for Preservation of Existing Trees and Vegetation** – In order to encourage the preservation of existing trees and vegetation, the *Zoning Administrator* may approve a Preservation Landscape Plan which utilizes the designation of one or more Tree Save Areas in lieu of new plantings within a required *yard*, a required *residential bufferyard*, a required *foundation landscaping area* or an interior *parking area* island. Such Preservation Landscape Plan shall:
 - (A) demonstrate that sufficient trees or vegetation shall be preserved to equal or exceed the level of screening required by the basic provisions of this Section 21-07.01 – Landscape Regulations; and,
 - (B) provide that, in the event trees designated for saving in the Tree Save Area are damaged or die within three (3) years of completion of construction on the site, replacement trees shall be planted in the designated Tree Save Area sufficient to provide landscaping which is, at a minimum, equivalent to the minimum requirements of this Section 21-07.01 – Landscape Regulations for new plantings.
- (3) **Alternatives for *Front Yard*, *Side Yard* and *Rear Yards* in All Commercial / Mixed Use Districts, Industrial Districts, Residential Districts for Multifamily Dwellings and Along A Limited Access Highway** – In order to provide flexibility and creativity in landscape designs, the *Zoning Administrator* may approve the following plant substitutions in a required *front yard*, *side yard* or *rear yard*:
 - (A) Hedge plants or shrubs may be substituted for a maximum of twenty-five (25) percent of the required number of shade trees (rounded down to the nearest whole number) at a rate of ten (10) hedge plants or shrubs for each shade tree so replaced.

- (B) Hedge plants or shrubs may be substituted for a maximum of twenty-five (25) percent of the required number of ornamental trees (rounded down to the nearest whole number) at a rate of six (6) hedge plants or shrubs for each ornamental tree so replaced.
 - (C) Evergreen trees may be substituted for ornamental trees at a rate of one (1) evergreen tree for each ornamental tree so replaced.
 - (D) Evergreen trees may be substituted for shade trees at a rate of three (3) evergreen trees for every two (2) shade tree so replaced.
 - (E) Ornamental trees and shade trees may be substituted with each other at a rate of three (3) ornamental trees for every two (2) shade trees.
 - (F) Evergreen trees (narrow spread) may be substituted for evergreen trees at a rate of three (3) evergreen trees (narrow spread) for each evergreen tree.
- (4) *Residential Bufferyard* Landscaping Alternatives – In order to provide flexibility and creativity in landscape designs, the *Zoning Administrator* may approve the following plant substitutions in a *residential bufferyard*:
- (A) Hedge plants or shrubs may be substituted for a maximum of ten (10) percent of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of ten (10) hedge plants or shrubs for each evergreen tree so replaced.
 - (B) Ornamental trees may be substituted for a maximum of ten (10) percent of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of one (1) ornamental tree for each evergreen tree so replaced.
 - (C) Shade trees may be substituted for a maximum of ten (10) percent of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of one (1) shade tree for each evergreen tree so replaced.
 - (D) Evergreen trees (narrow spread) may be substituted for a maximum of ten (10) percent of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of four (4) evergreen trees (narrow spread) for each evergreen tree.
 - (E) In no case shall the total combined percentage of hedge plants or shrubs, shade trees, ornamental trees, or evergreen trees (narrow spread) which are substituted for evergreen trees exceed twenty-five (25) percent.

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- (5) *Foundation Landscape Alternatives* – In order to provide flexibility and creativity in landscape designs, the *Zoning Administrator* may approve a foundation landscape plan which includes any combination of shade trees, ornamental trees, evergreen trees, or hedge plants / shrubs, provided that the total amount of plant materials along the building remains proportional to the base requirements of Section 21-07.01 (c) (2), above.
- (6) *Parking Area Screening Alternatives* – In order to provide flexibility and creativity in landscape designs, the *Zoning Administrator* may approve a *parking area* screening plan which includes hedge plants or shrubs in combination with: an ornamental or decorative fence; a masonry wall; or, an earthen berm, provided that:
- (A) *Between a front building line and a front lot line:*
- i. the ornamental or decorative fence or masonry wall is not less than twenty-four inches (24") in height nor more than thirty-six inches (36") in height, with an open space percentage equal to or less than seventy (70) percent; or,
 - ii. the earthen berm is not less than twenty-four inches (24") in height nor more than thirty-six inches (36") in height; or,
- (B) *Between a side building line and any required side residential bufferyard or between a rear building line and any required rear residential bufferyard:*
- i. the ornamental or decorative fence or masonry wall is not less than three (3) feet in height nor more than:
 - a. six (6) feet in height if the open space of the fence is less than twenty (20) percent; or,
 - b. ten (10) feet in if the open space of the fence is twenty (20) percent or greater; or,
 - ii. the earthen berm has a minimum height of not less than four (4) feet and a maximum height not to exceed ten (10) feet; and,
- (C) the total number of shrubs/hedge plants shall not be reduced by more than fifty (50) percent of the number of shrubs/hedge plants required in Section 21-07.01 (e) - Off-Street Parking Area Screening, above.

(7) Fence, Wall or Berm Alternatives – In order to provide flexibility and creativity in landscape designs, the *Zoning Administrator* may approve a fence, wall or berm installed in compliance with the following regulations as a substitute for up to fifty (50) percent of the number of shade trees, ornamental trees or evergreen trees required to be installed in a perimeter *yard* or *residential bufferyard* pursuant to Section 21-07.01 (b) – Landscaping of Required Perimeter Yards and Residential Bufferyards.

(A) Fence or Wall in a *Front Yard* or *Front Residential Bufferyard*.

An ornamental, decorative fence or masonry wall may be used in conjunction with the landscaping required in a *front yard*, *front residential bufferyard* or in a residential *district* for a *special exception use*, provided such fence or wall used in a *front yard* shall:

- i. maintain a minimum height of three (3) feet with a maximum open space of twenty (20) percent;
- ii. not exceed three (3) feet in height if the open space of the fence is less than twenty (20) percent; or,
- iii. not exceed four (4) feet in height if the open space of the fence is less than fifty (50) percent but greater than twenty (20) percent.

(B) Fence or Wall in a *Side Yard*, *Rear Yard*, *Side Residential Bufferyard*, *Rear Residential Bufferyard* or in Residential *Districts* for *Special Exception Uses*

An ornamental, decorative fence or masonry wall may be used in conjunction with the landscaping in a required *side yard*, *rear yard*, *side residential bufferyard*, *rear residential bufferyard* or in a residential *district* for a *special exception use*, provided such fence or wall shall not exceed:

- i. maintain a minimum height of six (6) feet with a maximum open space of twenty (20) percent;
- ii. six (6) feet in height if the open space of the fence is less than twenty (20) percent;
- iii. ten (10) feet in height in any *Commercial / Mixed Use District* or *Industrial District* if the open space of the fence is less than fifty (50) percent but greater than twenty (20) percent or greater.

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(C) Berm Regulations.

i. Berm in a *Front Yard* or *Front Residential Bufferyard*.

An undulating earthen berm, may be used in conjunction with the landscaping required in a *front yard*, *front residential bufferyard* or in a residential *district* for a *special exception use*, provided such berm shall have a maximum height not to exceed:

- a. Residential *District* or Commercial/Mixed Use *District* - three (3) feet; or,
- b. Industrial *District* - six (6) feet.



Example of 6' Berm with Mature Landscaping

ii. Berm in a *Side Yard*, *Rear Yard*, *Side Residential Bufferyard* or *Rear Residential Bufferyard*.

An undulating earthen berm, may be used in conjunction with the landscaping in a required *side yard*, *rear yard*, *side residential bufferyard*, *rear residential bufferyard* or in a residential *district* for a *special exception use*, provided such berm shall have a minimum height of not less than four (4) feet and a maximum height not to exceed ten (10) feet.

iii. Construction of Berm.

A berm utilized as a landscaping element shall be constructed in accordance with the following regulations:

- a. Each berm shall have a minimum crown width of two (2) feet;
- b. Each berm shall have a side slope of not greater than three feet horizontal to one foot vertical (3:1);
- c. Each berm shall be planted and covered with live vegetation; and,
- d. A retaining wall may be used on the side of the berm facing away from the *public right-of-way* or away from the *side lot line* or *rear lot line*.

iv. General Regulations for a Fence, Wall or Berm.

A fence, wall or berm may be used as an element of a landscape plan subject to the following regulations.

a. Location of Fence, Wall or Berm.

A fence, wall or berm shall be located in such a manner as to not interfere with any regulations of Section 21-01.01 (t) – Clear Sight Area Requirements of this Ordinance.

b. Design of Fence, Wall or Berm.

A fence, wall or berm shall be designed to not interfere with any walkway or pedestrian/bikeway system serving the site.

- (8) Interior Landscape Island Design Alternatives – The *Zoning Administrator* may approve a design in which the area devoted to individual interior landscape islands may be aggregated into one or more larger landscape islands. When aggregated into one or more larger landscape islands, such larger landscape islands shall, at a minimum, include the number of trees and area of landscaping as required for individual interior landscape islands, and shall function to: preserve existing trees; create boulevard treatments; create landscape features; create common open space areas for passive recreational activities; or, define vehicular and pedestrian traffic patterns.

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Example of Aggregating Interior Off-Street Parking Area Landscaping

- (9) Appeals – If the *Zoning Administrator* disapproves of a proposed alternative landscape plan, the applicant may, within five (5) business days, appeal the *Zoning Administrator's* decision by filing an Administrative Appeal with the *Board of Zoning Appeals*, stating the reasons and justification for the appeal. Such petition shall be filed consistent with the provisions of Section 21-09.03 of this Ordinance and any applicable Rules of Procedure.