

B. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **ZOTA 2014-3: AMENDMENT TO ARTICLE 15-5(a) FOR HANDICAP RAMPS** – petition for a Zoning Ordinance text amendment to Article 15-5(a) to further the goals of the Americans with Disabilities Act by permitting handicap accessible ramps for mobility purposes when located in the required front, side or rear yards of any zone.

REQUESTED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: (Note: Underlined text indicates an addition to the current Zoning Ordinance.)

**GENERAL REGULATIONS FOR HEIGHTS,
YARDS, WALLS, FENCES, PROJECTIONS, ACCESSORY STRUCTURES and
INFILL/REDEVELOPMENT CONSTRUCTION**

15-5 PROJECTIONS

- 15-5(a) COVERED PORCHES, STAIRWAYS, TERRACES** - Covered porches, stairways, terraces or other similar features, the floor level of which is not over three (3) feet above the established grade and does not extend above the level of the first floor of the building, when open and unenclosed, may project into a required front, side or rear yard no more than eight (8) feet; provided that such covered porches, stairways, terraces, or other similar features conform to the provisions of Section 15-5(d). Ramps providing handicap access for mobility purposes shall be permitted to extend into any required yard to the extent necessary to further the goals of the Americans with Disabilities Act.
- 15-5(b) OUTSIDE STAIRWAYS** - Outside stairways may extend up to (3) feet into any required side yard, provided the projection is at least three (3) feet from all lot lines; however, they may not extend more than five (5) feet into any required rear yard.
- 15-5(c) CHIMNEYS AND ORNAMENTAL FEATURES** - Flues, belt courses, leaders, sills, lintels, ornamental features, cornices, eaves, gutters and the like, may not extend more than twenty-four (24) inches into any required yard. Chimneys and pilasters may extend up to twenty-four (24) inches into any required yard, provided they are at least three (3) feet from all lot lines.
- 15-5(d) MAXIMUM PROJECTION** - Notwithstanding any other provision of this section, no projection, as listed above, shall extend into any required side yard more than one-half (½) the width of such yard, nor within ten (10) feet of the front lot line, within five (5) feet of the rear lot line, nor within three (3) feet of any accessory building. Such limitations shall not apply to terraces and steps inside yards, or to a loading dock or tailboard in connection with an industrial siding.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommended: **Approval** for the following reason:

1. The proposed text amendment is a timely change to the Zoning Ordinance and may lessen the time required to secure a building permit in some cases for the installation of a handicap-accessible ramp for the purposes of mobility. The proposed change will help to meet the intent of the Americans with Disability Act (ADA) and its amendments.

Staff Presentation: Ms. Wade presented the staff's report on this proposed text amendment, which was initiated by the Planning Commission in May of 2014. She stated that, currently, the language of the Zoning Ordinance allows an extension of a covered porch, stairway, or terrace—which has been interpreted to include ramps—into a required front, side, or rear yard, up to eight feet. In some situations in which such a projection had been added, any later attempt to add a ramp for mobility purposes would require a referral to the Board of Adjustment for a dimensional variance. The proposed text amendment would eliminate the necessity for such a variance.

Ms. Wade displayed two photographs of accessibility ramps, one of which had been added to a residential structure, and one to a commercial structure. She noted that the proposed amendment would apply to all zones, allowing any ramp that would project into a required yard, without the need for a variance. The staff believes that the proposed change will further the goals of the Americans with Disabilities Act, which is considered by the Department of Justice as "one of the nation's most comprehensive pieces of civil rights legislation, that prohibits discrimination and guarantees that people with disabilities have the same opportunities as anyone else to participate in the mainstream of American life." Ms. Wade stated that the staff and the Zoning Committee recommended approval of this proposed text amendment, for the reason as listed in the staff report and on the agenda.

* - Denotes date by which Commission must either approve or disapprove request.

Commission Questions: Mr. Penn asked if a building permit is necessary to install an accessibility ramp on a residential structure. Ms. Wade responded affirmatively. Mr. Penn asked if the ramp would be considered as a temporary or permanent structure. Mr. King responded that a ramp could be considered temporary or permanent; but, particularly in commercial uses, they are typically considered as permanent.

Mr. King stated that the staff had found that, particularly in older areas of the county, when the standard yard requirements were applied, it was difficult to fit a ramp into the required yard. He said that he knew from personal experience that, when such a ramp is needed, the property owner does not always have time to stop and wait for a Board of Adjustment meeting to obtain a variance. Mr. King added that the staff had found no opposition to the proposed text amendment, and that they believe that ramps will become more commonplace in the future as the population ages.

Mr. Penn asked if a permit would be necessary to remove a ramp. Mr. King responded that he was not sure if a demolition permit would be required for a ramp.

Action: A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 10-0 (Drake absent) to approve ZOTA 2014-3, for the reason provided by staff.