

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**ZOTA 2012-15: AMEND ARTICLES 1, 4 & 16 TO CLARIFY
PARKING, PRIVATE WALKWAYS AND PAVED AREAS IN RESIDENTIAL ZONES**

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: See Attached

STAFF REVIEW:

This text amendment was initiated by the Urban County Planning Commission in August 2012 at the request of the Division of Planning staff due to zoning enforcement issues in residential neighborhoods. These enforcement issues have likely been occurring or accumulating for many years, and they are related to inappropriately parking vehicles in the front and rear yards of single- and two-family residences, which impacts the character of the neighborhood and can create unsafe situations. The staff became aware that private walkways and other paved areas were being constructed in a manner that would allow additional parking spaces in order to circumvent the parking maximums set out in the Zoning Ordinance, which were established in the Infill and Redevelopment Area more than 10 years ago. It should also be noted that these circumventions have also had the effect of violating the intent of Zoning Ordinance restrictions which set the threshold size for requirements for landscaping and stormwater controls for parking areas.

In order to address the issues, the staff proposed defining two new terms – “private walkways” and “paved area” – and modifying the definition of “driveway, for single-family and two-family dwellings” to allow an additional two feet of width in the Infill and Redevelopment Area and an additional four feet of width in the rest of the community. The staff also proposed adding private walkways to the list of areas that require a paving permit from the Division of Building Inspection, explicitly prohibiting decorative rock when used for parking, and moving all provisions related to parking non-conformities to a new section of Article 4 of the Zoning Ordinance.

Currently, the Zoning Ordinance does not require that private walkways - that is an area used for pedestrian activity outside of the right-of-way such as sidewalks or entrance pathways on private property – be indicated on building permit applications or identified as part of any paving permit. This has created a loop hole, whereby property owners can be issued a building or paving permit without providing information about a planned private walkway. This allows a walkway to be built adjacent or parallel to an existing or new driveway, which then allows for the parking of one side of the vehicle on the walkway and the other side on the driveway, straddling an unpaved space (typically filled with grass or decorative rock), which is considered by the staff as a circumvention of the Zoning Ordinance in that a parking space is being created in the front yard of a single- or two-family residence. This activity is prohibited by Article 16-4(a) of the Zoning Ordinance. It is important that these private walkways that are constructed adjacent or parallel to driveways be identified prior to being constructed so that zoning violations can be prevented, thereby reducing staff time in the enforcement of such illegal parking. In addition to private walkways being an issue, the construction of at-grade patios in the front and sometimes in the rear yard has been another method for creating additional parking spaces that the staff is hoping to curb.

The proposed text amendment also clearly states that the design of any private walkway will be evaluated based upon whether it can be driven upon and ultimately used as a parking space. The staff believes that there are some simple ways to design a private walkway to prevent driving or parking on it, such as: a grade change, landscaping, fencing, or a retaining wall.

Lastly, after a presentation to the Planning Commission at a Work Session, the staff drafted language that would permit some additional pavement in the required front yard or side street side yard for a walkway that would be proportionate to the lot depending on whether it is located inside or outside of the Infill and Redevelopment Area boundary. Inside the boundary, 10% of the required yard could be dedicated to private walkways as long as the other provisions are met related to design of the walkways. Outside of the boundary, a total of 60% of the required yard could be paved and utilized for either parking or private walkways. While the two approaches are slightly different, they address a need for the review of private walkways, because without permits such walkways could be too intrusive.

Since the staff sent mailed notice to neighborhood associations in November, a number of citizens have expressed concern about permitting a 12-foot wide driveway in the Infill and Redevelopment Area, by altering the definition of driveway. Their primary concern has been that two vehicles will attempt to park side-by-side, where neither vehicle is wholly parked on the driveway, and that stormwater runoff will increase in an area of our community that already experiences stormwater issues. For this reason, the staff has decided to withdraw the suggested change that would permit a driveway to be 12 feet wide rather than the existing permitted 10 feet wide as part of the definition of driveway. Outside of the defined Infill and Redevelopment Area, the staff continues to recommend a maximum driveway width increase to 24 feet in order to allow homeowners who wish to have 2 single-wide garage doors rather than a single double-wide garage door adequate room to accommodate that design choice.

Staff Alternative Text:

DRIVEWAY, FOR SINGLE FAMILY AND TWO-FAMILY DWELLINGS - A private paved vehicular access, a maximum of twenty-four (24) feet in width, or ten (10) feet in width when inside the Infill and Redevelopment Area, extending on the shortest reasonable path through the front yard or side street side yard to the required off-street parking area. All other areas paved for vehicular use within any front or side street side yard shall be considered additional parking and shall be subject to the area limitations and landscaping requirements of this Zoning Ordinance.

The Staff Recommends: Approval, of the staff alternative text for the following reason:

1. The proposed text amendment will enhance zoning compliance and enforcement by clarifying parking regulations and closing certain loop holes that were being used to circumvent the Zoning Ordinance requirements for maximum parking, landscaping and stormwater controls.
2. Adoption of the staff alternative text will further the intent of the Zoning Ordinance by clarifying certain design standards related to parking for single- and two-family homes, thereby reducing the potential for zoning violations.

TLW/JWE/CDK

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