

ZONING PRACTICE

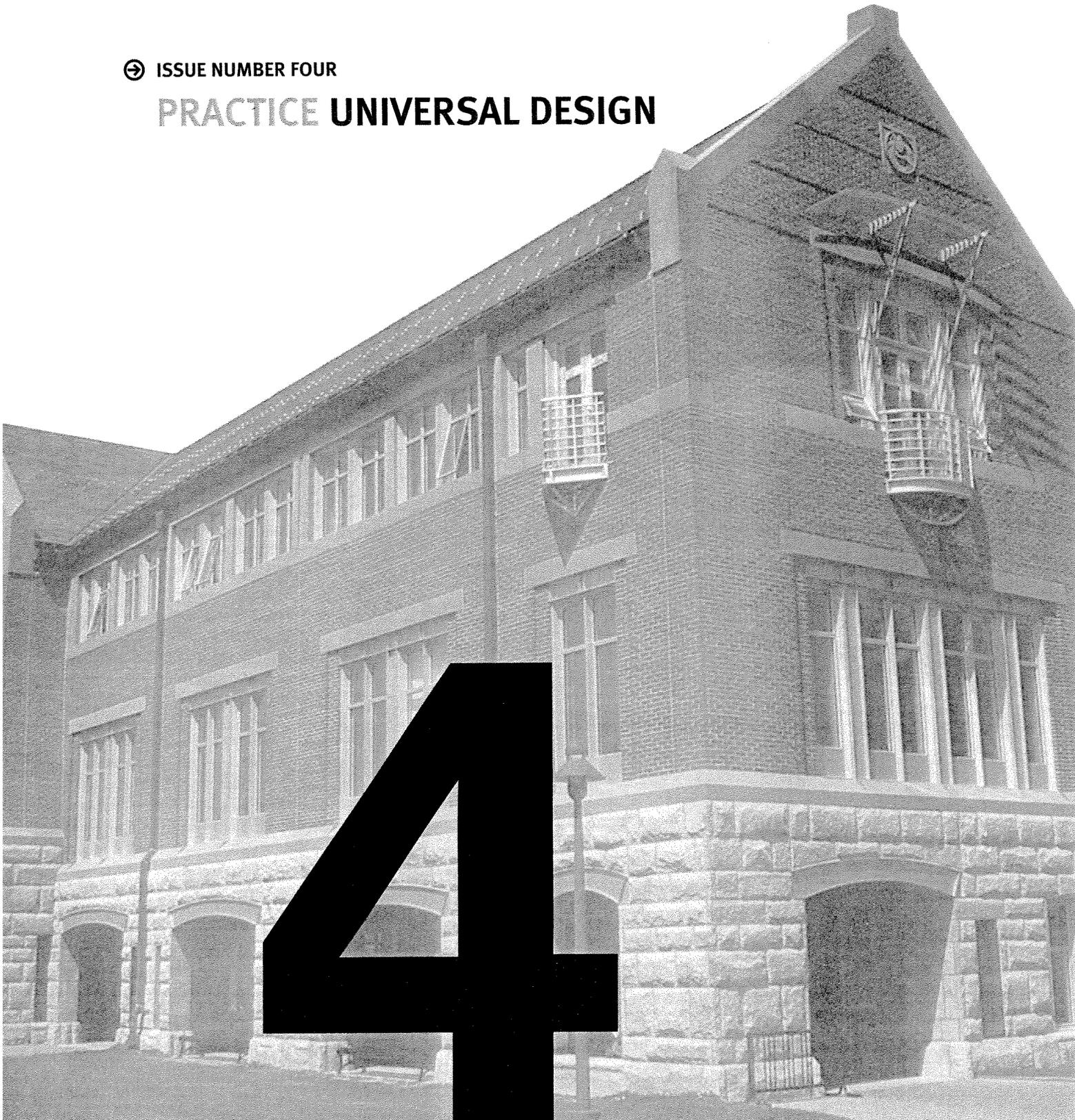
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PRACTICE UNIVERSAL DESIGN



Zoning for Universal Design and Visitability

By Jennifer S. Evans-Cowley, AICP

According to the 2000 U.S. Census, 20 percent of the American population reported some type of disability.

Of those over the age of 65, 28 percent have a physical disability. As the baby boomers age, these figures will increase. As builders seek to accommodate them, the idea of constructing homes so that people can age in place is growing in popularity. Planners generally like the idea of aging in place, but only a handful of cities are actively using their development codes to mandate universal design and visitability.

WHAT IS UNIVERSAL DESIGN AND VISITABILITY?

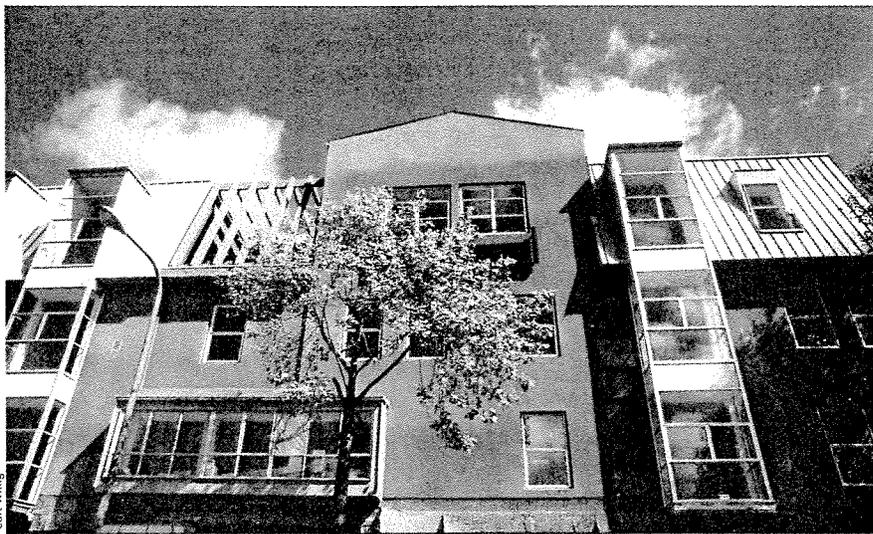
The terms *universal design* and *visitability* are unfamiliar to many planners. Universal design is the design and production of

buildings and products that promote equal opportunity for use by individuals, whether or not they have a disability. The Center for Universal Design, located in the College of Design at North Carolina State University, lists seven principles:

1. Equitable use
2. Flexibility in use
3. Simple and intuitive
4. Perceptible information
5. Tolerance for error
6. Low physical effort
7. Size and space for approach and use

Visitability is another term associated with universal design. Visitability is a movement to change construction standards so that new housing is designed to allow people with mobility impairments to live in the units and visit others. The key features of visitability include wide doorways, at least a half bath on the main floor, accessible placement of electrical controls, and at least one zero-step entrance to a building. Visitability does not ensure complete access in a home, but it ensures that public spaces, such as the entrance, hallways, and bathroom are accessible to someone in a wheelchair. This minimal level of accessibility allows for a person with a disability to access a home, even if that person does not live there, and allows a non-disabled person to continue residing in a home in the event that the person develops a disability.

The Americans with Disabilities Act requires that buildings be accessible to those with disabilities. Planners have incorporated its requirements into zoning codes, such as a specific number of parking spaces to be reserved for those with disabilities. This has typically meant that a ramp was added on the side of a building or an elevator was tucked into a corner. However, those zoning requirements have not been extended to apply to single-family homes. Universal design promotes the idea of creating places that are designed for everyone to access, rather than being retrofitted for accessibility. Some examples include providing no-step ground entryways (to assist those in wheelchairs) with textured surface (to assist the blind), and providing wide interior doors and hallways, bright lighting, handles with a lever rather than a twisting knob, and light controls operated with large



Curt Wittig

University Neighborhood Apartments in Berkeley, California, built by Hearth Homes, is the nation's first affordable housing built with Universal Design principles. The 27-unit development opened in July 2005.

ASK THE AUTHOR JOIN US ONLINE!

From May 9 to 20, go online to participate in our "Ask the Author" forum, an interactive feature of Zoning Practice. Jennifer S. Evans-Cowley, AICP, will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using an e-mail link. The author will reply, and Zoning Practice will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of Zoning Practice at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA Zoning Practice web pages.

About the Author

Jennifer S. Evans-Cowley, AICP, is an assistant professor of City and Regional Planning at Ohio State University. This research has been funded by a grant from the National Endowment for the Arts Universal Design Leadership Project. If your community has passed a visitability ordinance or is considering one, please e-mail Jennifer Evans-Cowley at Cowley.11@osu.edu.

panels rather than a toggle switch. In the bathroom, grab bars are an important addition. These allow a person in a wheelchair to transfer from the chair to the toilet or bathtub.

WHY IS UNIVERSAL DESIGN IMPORTANT?

The number of people in the United States who have disabilities is growing. One reason is that better health care has allowed people with disabilities to live longer lives. In addition, the portion of the population over the age of 65 has been growing, and aging produces a higher likelihood of disabilities. The number of disabled veterans has also grown.

For those with physical disabilities, buildings can serve as a major obstacle to mobility. Providing for accessibility reduces those obstacles, but does not eliminate them. Even if a disabled person lives in an accessible building, it is still difficult for people with disabilities to access the homes of the non-disabled. This inaccessibility makes it difficult for those with disabilities to visit friends and family.

Homes accessible to people with disabilities are just as convenient for the non-disabled. A wide level entrance to a home makes it easier to move furniture into and out of a building, maneuver a stroller, or get around if a household member has a sprained ankle, for example. Almost everyone has experienced a situation where an object had to be disassembled in order to move it through a doorway.

Many people with disabilities and seniors want to age in place, rather than have to move to an assisted living facility or nursing home. It is more expensive to retrofit a non-accessible house than to have the house made accessible to begin with.

If we know that there is a change in the demographics of our communities, planners should be actively seeking ways to help people age in place.

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BUILDING CODES, UNIVERSAL DESIGN, AND VISITABILITY

Across the nation, citizens groups advocating for the disabled have been effective in winning passage of state and local legislation that incorporates standards for visitability. According to the University of Buffalo, 14 states have passed such legislation. In 1992, Georgia passed the first visitability legislation, creating the EasyLiving Home certification program for private homes. This voluntary certification program requires new homes to have a zero-step entry and wide interior passage doors, a full bathroom with maneuvering space, and a bedroom on the main floor.

Texas and Kansas have passed legislation requiring visitability for homes receiving public funding. Florida passed legislation requiring that all new homes have a bathroom on the ground level. Vermont, in a

2000 law, requires all homes built on a speculative basis to include visitability standards.

At least 24 cities also have passed visitability legislation modifying their building code, including:

- Atlanta (1992)
- Freehold Borough, New Jersey (1997)
- Austin, Texas (1998)
- Irvine, California (1999)
- Urbana, Illinois (2000)
- Fort Worth, Texas (2000)
- Visalia, California (2001)
- San Mateo County, California (2001)
- Albuquerque, New Mexico (2002)
- San Antonio, Texas (2002)
- Onondaga County, New York (2002)
- Southampton, New York (2002)
- Naperville, Illinois (2002)
- Pima County, Arizona (2002)
- Long Beach, California (2002)
- Iowa City, Iowa (2002)
- Pittsburgh (2002)
- Syracuse, New York (2003)
- Bolingbrook, Illinois (2003)
- Escanaba, Michigan (2003)
- Chicago (2003)
- Houston (2004)
- St. Petersburg, Florida (2004)
- Arvada, Colorado (2005)

- Auburn, New York (2005)
- Scranton, Pennsylvania (2005)
- Toledo, Ohio (2005)

Most of the ordinances are restricted to publicly funded housing projects. However, the legislation in Pima County and Bolingbrook requires all new houses to be built with visitability standards. Bolingbrook worked with developers to promote the ordinance. The city found that the average price increase per home would be no more than 1.5

The ordinance applies to all single-family and duplex homes built in a group of seven or more units and requires a step-free entrance, wider interior doors on the ground floor level, wider hallways, and accessible first-floor bathrooms for a minimum of 15 percent of the units built. An additional 15 percent of the homes constructed must provide a step-free entrance, a maximum slope of 1:12, and an entrance door at least 32 inches in width. The city has also developed a fee-in-lieu of visitability. The developer must pay \$2,500 for each unbuilt visitable

building codes, see the October 2002 issue of *Zoning News*, "Visitability Issues Drive Building Code Changes.")

ZONING FOR UNIVERSAL DESIGN IN HOWARD COUNTY, MARYLAND

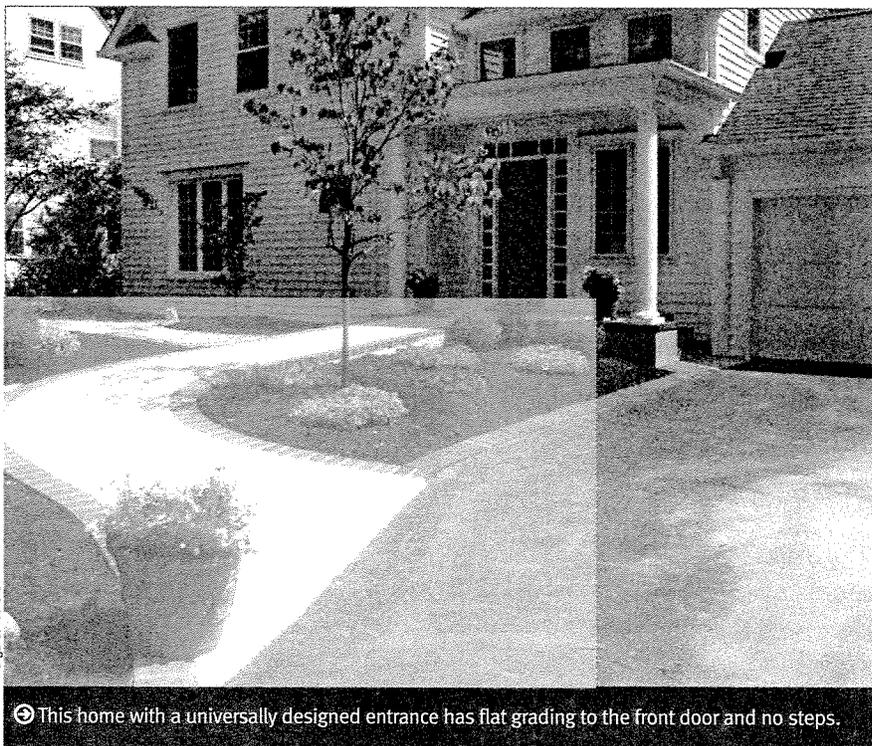
The last decade produced many changes in local building codes. However, zoning codes can also play a role in promoting universal design. Howard County, Maryland, requires universal design features to be incorporated in age-restricted adult housing units through its zoning ordinance.

The county's General Plan 2000 indicated that, over the next 25 years, the county's population over the age of 55 would increase from 19 percent to 31 percent of the total population, or 46,000 people. This will result in significant changes in the county's housing needs as more residents age in place or decide to "downsize" to reduce their home ownership burdens and as larger numbers of older adults move into the county to be closer to their families. The plan identified three goals related to housing for seniors:

- Provide housing for older adults within stable and attractive communities through maintenance, renovation, and modification of existing homes;
- Produce new housing that meets the needs of older adults while not detracting from the existing neighborhoods; and
- Provide affordable and diverse housing to meet the needs of low- and moderate-income seniors.

In an effort to meet these goals, the county council directed the Department of Planning and Zoning to work with the departments of Housing and Community Development; Inspections, Licenses and Permits; Citizen Services; and the Commission on Aging to develop a Seniors Housing Master Plan, which was completed in December 2004. A countywide survey found that 70 percent of older residents want to remain in their homes or nearby.

The county planning department created a committee to decide which universal design features should be required. The county wanted to balance affordability and adaptability. Howard County recognized that housing costs were already high and wanted to determine which universal design features have the highest cost/benefit ratio.



Margaret Teaford

☛ This home with a universally designed entrance has flat grading to the front door and no steps.

percent. According to researchers Claar and Bowen (see Resources box), this reduced the fears of the local homebuilders.

Arvada, Colorado, which adopted a visitability ordinance in 2005, recognized a changing demographic in the community. The Comprehensive Plan for the City of Arvada specifically mentions universal design. As part of the objectives the plan states, "The city will explore how to include universal design principles in new development projects." Assistant city manager Vicki Reier says, "People like to live in Arvada, and we want to build so people can age in place and not have to move for accommodations."

home and \$10,000 if the model home is not visitable. The funds will be used to provide financial assistance to people seeking assistance in making existing housing stock visitable. Arvada's goal is to have 30 percent of all new homes in Arvada built to incorporate visitability principles.

For the most part, builders have accepted these new regulations, but Pima County was sued twice by the National Association of Home Builders and the Pima County Home Builders Association, once on the local and once on the federal level. The city's ordinance was upheld in both cases. (For more information on universal design in

UNIVERSAL DESIGN FEATURES FOR SR-I DISTRICT IN HOWARD COUNTY, MARYLAND

Required	Desired	Optional
Accessible path between parking and the dwelling units for apartments	Visual smoke detectors	Security system and visual identification of visitors
All common areas must meet ADA standards for apartments	Smooth vertical transitions between rooms	Handrails on both sides of all stairs
No-step entrance to community buildings and all dwellings	Maneuvering space at entrance, between main living areas, and in front of appliances	Grab bars in bathrooms
Front door must be 36 inches wide with exterior lighting of the entrance	Low-maintenance exterior materials	Curbless shower
All interior doorways at least 32 inches in width	Covered main entry	Multilevel or adjustable kitchen counters
Hallways at least 36 inches in width	Lever handles and anti-scald devices on all plumbing fixtures	Pull-out shelves in kitchen base cabinets
Complete first floor living area with master bedroom and bath (or elevator if multistory apartment)	Slip-resistant flooring	Hand-held showerhead
Lever handles on interior and exterior doors	Five-foot turning radius or T turn in kitchen and bath	Task lighting in kitchen, bath, and other work areas
Structural blocking for grab bars in bathroom walls near toilet and shower	Switches, doorbells, thermostats, and breaker boxes no more than 48 inches above the floor	Lighting in closets and pantries
	Electrical receptacles at least 15 inches above the floor	Adjustable closet rods and shelving

The county created the R-SI District (Residential: Senior-Institutional). This district allows age-restricted adult housing and other uses such as health care facilities, nursing homes, religious uses, day treatment facilities, and government uses. The district requires that at least 10 percent of the dwelling units be for moderate-income persons. In addition, the county created a PSC (Planned Senior Community) District that allows age-restricted housing, assisted living facilities, and nursing homes. The district allows a density of eight units per acre on sites that can accommodate at least 50 units.

As part of the R-SI zoning district requirements, developments must incorporate universal design features from the guidelines of the Department of Planning and Zoning, which identify required, recommended, and optional features. “Plan submittals must include descriptions of the design features of the proposed dwellings to demonstrate their appropriateness for the age-restricted population,” the guidelines say.

Howard County chose to require features that are critical and relatively inexpensive as part of initial construction, but which would be costly to retrofit. Features that are rela-

tively expensive to retrofit in the future are classified as desirable or optional.

Developers of senior housing found the universal design guidelines helpful in creating new housing projects. The county plans to strengthen the universal design guidelines as the market demands more features. The county recognizes that new construction will be relatively limited compared to the 97,000 existing housing units and that there is still a need to retrofit and renovate older homes.

As a step toward more housing with universal design features, the county is educating residents, real estate agents, and remodelers about using universal design features to renovate existing homes. They are also educating residents and homebuilders about the value of visitability in all new residential construction.

The county is also working to educate residents about universal design features and the likelihood that they will be disabled in the future. The county recognized that many adults over 55 don’t perceive themselves as seniors that need universal design features or that their needs will change over time. Education will be critical in helping ensure that adults demand features that will allow them to age in place.

Howard County was able to successfully implement the county’s General Plan by creating a Seniors Housing Master Plan and amending the zoning ordinance. The result is that new housing specifically designed for seniors will incorporate universal design and visitability principles. Seniors in Howard County will be able to age in place more easily.

ZONING FOR UNIVERSAL DESIGN IN OTHER LOCATIONS

Andres Duany’s SmartCode incorporates visitability standards. The SmartCode requires a zero-step entrance from an accessible path at the front, side, or rear of each building; all interior doors to be at least 32 inches in width and there must be a bathroom on the main floor of each building. Sarasota, Florida, has adopted the SmartCode.

Before passing a zoning ordinance that requires modifications to the building code, a community should review state legislation related to the building code. If your state has a uniform dwelling code, this may prevent

municipalities from creating and enforcing stricter standards for buildings except in certain situations. Some states prohibit any changes to building codes at the local level, while others prohibit reducing code requirements below standards set by the state. For example, New York, California, and Wisconsin all have uniformity clauses in their building code requirements that prohibit cities from making any changes. In California, disability advocates are working to create state-level enabling legislation that would allow local governments to enact visitability laws.

It is important to determine if a visitability ordinance is a planning ordinance or a building ordinance. One could reasonably argue that visitability ordinances are planning ordinances, not building codes. Planning ordinances routinely deal with the interior of homes, including height, materials, number of bedrooms, and house size. If the code requirements are placed in the zoning ordinance, as in the case of Howard County, then it is clearly a planning ordinance. If it is viewed as a planning ordinance, then the state-level building codes are irrelevant as long as the visitability requirements exceed the state building code requirements.

Planners have a variety of other options to incorporate visitability into the zoning code. For example, the zoning code could include density or other development bonuses to developers who incorporate visitability principles. Another option is to require an impact fee for accessibility, similar to the method used by Howard County.

CONCLUSION

While a number of communities have passed legislation, planners are still largely unaware of the concepts of visitability. Planners need to increase their knowledge of disability issues. If visitability and other forms of access legislation are to be effective, planners and other design professionals must be aware of the problems that people with disabilities face in accessing the built environment.

Concrete Change, an international association that promotes visitability for the disabled, is actively mobilizing support for basic accessibility to dwelling units. Their website provides

useful information on the principles of universal design and sample ordinances from across the United States. Another source for helpful information about universal design is the *Universal Design Handbook* (see Resources).

There are a variety of ways in which planners can become engaged in promoting universal design and visitability principles. Baltimore County, Maryland, developed a brochure, "Your New or Remodeled Home Becomes Visitability When You Choose These Top 10 Options." The city of Irvine, California, developed a web page that provides information about universal

design and links to area builders who integrate universal design into housing construction.

Before drafting an amendment to the building or zoning code, planners should include housing for seniors as part of the housing element of their community's comprehensive plan. This should then translate into requirements in the zoning ordinance. Howard County illustrates how goals related to senior housing can be translated successfully into zoning requirements. After the plan and ordinance are in place, it is important to evaluate the success of the ordinance.

RESOURCES

Websites

Center for Universal Design: www.design.ncsu.edu/cud

Concrete Change: www.concretechange.org

State-level building codes: www.firstsourceonl.com

Other Resources

City of Arvada, Colorado. 2005. Chapter XI, Visitability Municipal Code. www.municode.com/resources/gateway.asp?sid=6&pid=10370.

City of Arvada, Colorado. 2005. Arvada Comprehensive Plan. www.arvada.org/community/plan.php.

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SmartCode. 2005. *SmartCode Version 7.0*. www.dpz.com/pdf/SmartCodeV7.0-6-06-05.pdf.

U.S. Census. 2000. Characteristics of the Civilian Noninstitutionalized Population by Age, Disability Status, and Type of Disability. www.census.gov/prod/2005pubs/censr-23.pdf.

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NEWS BRIEFS

MEASURE 37 UPHeld IN OREGON; BILLBOARDS LAW OVERTURNED

By Lora A. Lucero, AICP

Measure 37, the initiative that requires government to pay property owners if a land-use regulation reduces their property value, is alive and well in Oregon. On February 21, the Oregon Supreme Court reversed the Marion County Circuit Court judge who had ruled last October that Measure 37 was unconstitutional. For five months, planners and other opponents of Measure 37 hoped that this reckless assault on the state's rational planning system would ultimately fail.

Land-use regulations, such as zoning and subdivision controls, are the focus of Measure 37 claims. Although they are important tools for implementing the community's plans, voters in 2004 lost sight of the community's interest and were swept up in the fervor

of the private "property rights" campaign to pass the Measure. Now property owners who acquired their property before the adoption of a land-use regulation may assert a claim against the government if they believe the regulation has reduced the value of their property.

of the private "property rights" campaign to pass the Measure. Now property owners who acquired their property before the adoption of a land-use regulation may assert a claim against the government if they believe the regulation has reduced the value of their property.

What does this mean for Oregon? As Ed Sullivan explains in the April issue of *Planning & Environmental Law*: Oregon's land-use planning program still is a national leader. Measure 37 is the antithesis of that program. Nevertheless, the two now coexist. Oregon's experience in dealing with Measure 37 will also be an example for the rest of the nation. With the crisis presented by Measure 37 will evolve a more resourceful response, one that will likely be more accommodating to the various regions and populations of the State. It is unlikely that the Measure will be completely repealed, just as it is unlikely that the state's planning program will be repealed. Out of the clash of thesis and antithesis will come a synthesis that will reconcile these seeming opposites. The future of planning lies in this synthesis.

on-site signs (which don't require a permit or fee) and off-site signs for which a permit and fee are required. *Outdoor Media Dimensions, Inc. v. Department of Transportation*, 2006 WL ____ (Ore. 2006). The example the court noted was "a gas station visible from a highway may, without a permit, carry the message 'Gas for Sale,' but it may not carry the message 'Eat at Joe's: 10 Miles Ahead.'" The court struck the permit and fee requirement for outdoor advertising signs, rather than declare the entire OMIA invalid. Oregon legislators must now go back to the drawing board and refashion the state's billboard regulations or risk losing federal funds through the Highway Beautification Act.

Lora A. Lucero, AICP, is editor of *Planning & Environmental Law*, and staff liaison to APA's amicus curiae committee.

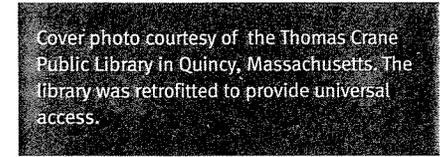
Property owners who acquired their property before the adoption of a land-use regulation may assert a claim against the government if they believe the regulation has reduced the value of their property.

of the private "property rights" campaign to pass the Measure. Now property owners who acquired their property before the adoption of a land-use regulation may assert a claim against the government if they believe the regulation has reduced the value of their property. The government will be required to pay or waive the application of the regulation. The trial court thought this provision amounted to a requirement that government "pay to govern" or refrain from enforcing the land-use regulation. The state supreme court disagreed.

APA and its Oregon chapter filed an amicus brief to share with the court a short summary of the history of land-use planning in Oregon and describe how it has changed after one year of processing claims and granting waivers. The Department of Land Conservation and Development found that an overwhelming number of Measure 37 claims have come from

A number of states are following Oregon's unfortunate example. A Measure 37 clone, the Property Fairness Initiative, will be on the ballot this November in Washington. Planners in Georgia are working to keep a similar measure from passing the legislature in that state. And most recently, a petition was filed to put a Measure 37 clone on the ballot in a borough in Alaska. *Zoning Practice* subscribers should keep their cursor pointed to APA's website where we will track legislative, legal, and electoral developments with such measures.

On March 23, the Oregon Supreme Court declared the state's billboard regulations violate Article I, Section 8, of the state constitution because the Oregon Motorist Information Act [ORS 377.700 to 377.840 and 377.992 (1999)] distinguishes between



Cover photo courtesy of the Thomas Crane Public Library in Quincy, Massachusetts. The library was retrofitted to provide universal access.

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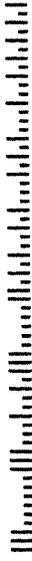
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WHO HAS ACCESS IN YOUR TOWN?

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