MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

January 20, 2004

CALL TO PODIUM:

Patricia Patula

RESPONSIBLE STAFF:

Patricia Patula, Planner
Trudy Schwarz, Community Planning Director

AGENDA ITEM:
(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Joint Public Hearing
	Historic District
	Consent Item
x	Ordinance
	Resolution
x	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	NA
Advertised	11-12-03
	11-19-03
Hearing Date	12-1-03
Record Held Open	1-2-04
Policy Discussion	1-20-04

TITLE:

POLICY DISCUSSION
T-359 Text Amendment
Accessory Structures

SUPPORTING BACKGROUND:

A joint public hearing was held on this text amendment on December 1, 2003. There was no public input either for or against the proposed text amendment. During the open record period, the additional exhibits received included the transcript, the minutes, and the certified legal ad.

At their meeting of January 7, 2004, the Planning Commission unanimously voted to recommend Text Amendment T-359 for adoption to the Mayor and City Council.

The ordinance is ready for adoption tonight should the Council vote to approve it.

Attachments:
Planning Commission Recommendation
Draft ordinance
Minutes
Certified legal ad
Transcript

DESIRED OUTCOME:

Adopt ordinance.

CPC FORM

COMMUNICATION: PLANNING COMMISSION

MEMORANDUM TO: Mayor and City Council

VIA: David Humpton, City Manager

FROM: Patricia Patula, Planner

DATE: January 8, 2004

SUBJECT: T-359 -- Request to amend of Chapter 24 of the City Code (City Zoning Ordinance), Article I, entitled "In General," §24-1 entitled, "Definitions," Article III, entitled, "Regulations Applicable to Particular Zones," §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-160A, and §24-160E.2, so as to redefine accessory structures and uses, eliminate certain definitions and define certain terms, eliminate references related to signs as accessory structures, as well as revise terminology and regulations of accessory uses and structures in the R-6, R-B, C-B, R-A, R-90, R-90 Cluster, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2, and H-M Zones, and further to amend Article IV entitled, "Supplementary Zone Regulations," §24-163 so as to amend standards and requirements as to accessory structures and garages generally..

At its regular meeting on January 7, 2004, the Planning Commission made the following motion:

> Commissioner Bauer moved, seconded by Commissioner Levy, to recommend Text Amendment T-359 for ADOPTION to the Mayor and City Council.
> Vote: 5-0

Acting P&C Director Greg Ossont

City of Gaithersburg, Maryland

Text Amendment T-359
Accessory Structures

SUMMARY

This text amendment applies primarily to single family dwellings that are not in the MXD (Mixed Use Development) Zone. In townhouse developments, the accessory structures requirements remain the same. A summary of the proposed changes to the Zoning Ordinance are as follows:

- Accessory structures (excluding garages) shall be located only in the rear yard and the total of all accessory structures can not exceed 25 percent of the rear yard. The footprint can not exceed 50 percent of the primary structure. Structures less than 144 square feet shall be located not less than three (3) feet from any lot line. If 144 square feet or greater, they must be located at least ten (10) feet from the property line. They cannot exceed fifteen (15) feet in height
- The footprint of a detached garage must not exceed 50 percent of the footprint of the primary structure or a standard two-car garage not to exceed 576 square feet, whichever is greater. The garage cannot exceed fifteen (15) feet in height.
- Modifications to increase the footprint and height requirements of accessory structures and/or detached garages may be approved upon review by the Planning Commission.
- In lots created prior to October 14, 1958, garages may be located not less than two (2) feet from the property line if this is consistent with the design of the neighborhood.
- The clause referencing requirements for animal enclosures excludes household pets.
- These regulations are not applicable to the MXD Zoned communities since they have their own architectural guidelines.

Key:	
Underlining	New text added to current ordinance
[ ]	Deleted from current ordinance

PENGAD-Bayonne, N. J.
JOINT EXHIBIT
#2
T-359
12-1-03

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE (CITY ZONING ORDINANCE), ARTICLE I, ENTITLED, "IN GENERAL," §24-1 ENTITLED, "DEFINITIONS," ARTICLE III, ENTITLED, "REGULATIONS APPLICABLE TO PARTICULAR ZONES," §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-160A, AND §24-160E.2, SO AS TO REDEFINE ACCESSORY STRUCTURES AND USES, ELIMINATE CERTAIN DEFINITIONS AND DEFINE CERTAIN TERMS, ELIMINATE REFERENCES RELATED TO SIGNS AS ACCESSORY STRUCTURES, AS WELL AS REVISE TERMINOLOGY AND REGULATIONS OF ACCESSORY USES AND STRUCTURES IN THE R-6, R-B, C-B, R-A, R-90, R-90 CLUSTER, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2 AND H-M ZONES, AND FURTHER TO AMEND ARTICLE IV, ENTITLED, "SUPPLEMENTARY ZONE REGULATIONS," §24-163 SO AS TO AMEND STANDARDS AND REQUIREMENTS AS TO ACCESSORY STRUCTURES AND GARAGES GENERALLY.

Text Amendment T-359

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance), Article I, §24-1, Article III, §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-106A, §24-160E.2 and Article IV, §24-163, are hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 24-1. Definitions.

* * *

Accessory structure. A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure, and is not attached by any part of a common wall or common roof to the main building.

Accessory use [or structure]. A use [or structure] on the same lot with, and of a nature customarily incidental and subordinate to, the principal use [or structure] of the main building or lot.

* * *

Automobile garage, private. An accessory building or portion of a main building designed, arranged or used for the housing of private motor vehicles, only one of which may be a commercial vehicle. No more than fifty (50) percent of the space in such a garage shall be used for housing vehicles other than those owned by occupants of the premises[; except, that all of the space in a garage of one or two-car

JOINT EXHIBIT #3 T-359 12-1-03

PENGAD-Bayonne, N. J.

capacity may be rented]. If the garage is calculated as part of required parking, it must provide unobstructed space for the vehicles.

Automobile parking garage. [public.] A building or portion thereof, other than an automobile salesroom, held out or used for housing of six (6) or more vehicles in connection with multi-family communities or industrial use or center. [where service or repair facilities, if any, are incidental to the principal use for storage.] Such garage shall not be considered an accessory use, nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts hereof or junk.

* * *

[*Building, accessory.* A building subordinate to and located on the same lot as the main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.]

Building coverage. See lot coverage.

* * *

Building line. A line beyond which the foundation wall of the main building or any enclosed porch, vestibule or other enclosed portion of a building shall not project.

* * *

Footprint. A designated area covered by the foundation wall of a structure or area of the base on which a structure stands or is supported.

* * *

Lot coverage. The net lot area covered by buildings including accessory buildings and covered decks, porches, stoops, and steps. This does not relate to the impervious surface coverage considered in storm water management requirements.

* * *

Swimming pool, public. A swimming pool or wading pool, or both, including buildings necessary or incidental thereto, operated for general public use.

* * *

[*Use, accessory.* A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.]

* * *

Yard. A required open space unoccupied and unobstructed by the main [any] structure or portion thereof [of a structure]; subject to height limitations as indicated herein.

ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES

DIVISION 1A. GENERALLY

Sec. 24-22. Permitted and special exception uses.

* * *

(b) [*Residential zones.*] *R-6 Zone*.

Use	*Zone R-6*
Accessory [buildings] structures and uses [1]	P

* * *

[1] Subject to the provisions of Article IV, §24-163 and §24-24 (5) of this chapter.

* * *

(c) *Buffer zones*

Use	*Zone RB*	*Zone CB*
Accessory [buildings] structures and uses	P [1]	P [1]

* * *

[1] Accessory structures in these zones are subject to the provisions of §24-24(5) and §24-163. [Notwithstanding the requirements in §24-163, accessory buildings in this zone shall be located in a rear yard (except garages and carports); shall not be located within three (3) feet of any side or rear lot line;] and shall not exceed twenty (20) percent of the maximum allowable building coverage.

* * *

DIVISION 1. RA ZONE, LOW DENSITY RESIDENTIAL

* * *

Sec. 24-24. Uses permitted by right.

The following uses are permitted by right:

* * *

[(5) Accessory uses and structures, including, but not limited to, home based businesses authorized pursuant to Article X, Chapter 24 of this Code, and private swimming pools.

(6) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.]

(5) Accessory uses:

(a) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.

(b) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

(c) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.

(d) Private swimming pool.

(e) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(6) Accessory structures must conform to requirements of §24-163 of this Code.

* * *

DIVISION 2. R-90 ZONE, MEDIUM DENSITY RESIDENTIAL

* * *

Sec. 24-28. Uses permitted by right.

The following uses are permitted by right in the R-90 Zone.

* * *

[(5) Accessory structures and uses, except nurseries, including:

(a) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

(b) The renting of rooms to not more than two (2) persons by the occupant of a dwelling, and the provision of table board for such persons.

(c) Greenhouses, provided, that no products are sold.

(d) Accessory structures containing less than one hundred twenty (120) square feet of floor area and limited to one story in height shall be exempt from the rear and side yard setback requirements; provided, that any such structure is located within the rear yard and no closer than three (3) feet from any lot line.]

(5) Accessory uses:

(a) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.

(b) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

(c) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.

(d) Greenhouses, provided that no products are sold.

(e) Private swimming pools.

(f) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(6) Accessory structures must conform to requirements of §24-163 of this Code.

[(6)](7) Housing for the elderly, included in a conceptual plan as part of an approved annexation agreement with the city, subject to the following conditions:

* * *

[(7)](8) Bed and breakfast subject to the requirements contained in §24-167B.

Sec. 24-30. Cluster development.

The following shall apply to cluster developments in the R-90 Zone:

* * *

(4) *Permitted uses.* The following uses shall be permitted in a cluster development:

* * *

[(c) Accessory buildings and uses.]
(c) Accessory uses:

(1) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.

(2) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

(3) Child or elderly day care facilities in single-family detached dwellings or other buildings accommodating not more than eight (8) individuals.

(4) Community buildings and bath houses.

(5) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

[(d) Community buildings and bath houses.]

(d) Accessory structures must conform to requirements in §24-163 of this Code.

* * *

[(g) Child or elderly day care facilities as provided in the R-A Zone.]

[(h)](g) Bed and breakfast subject to the requirements contained in §24-167B.

* * *

DIVISION 4. RP-T ZONE, MEDIUM DENSITY RESIDENTIAL

* * *

Sec. 24-43. Permitted uses.

The following uses shall be permitted:

* * *

[(3) Noncommercial recreation faciliti9es primarily for use of residents of the project in which they are located.

(4) Community swimming pools.]

(3) Accessory uses:

(1) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

(2) Child or elderly day care facilities in single family detached dwellings or duplexes accommodating not more than eight (8) individuals.

(3) Community swimming pools.

(4) Noncommercial recreation facilities primarily for use of residents of the project in which they are located.

(5) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

* * *

(4) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code.

* * *

[(6) Signs.

a. One sign, not exceeding forty (40) square feet in area, may be erected on or adjacent to any dwelling unit, advertising that unit for sale or lease, and shall be removed not more than ten (10) days after that unit has been sold or leased.

b. One sign, not exceeding forty (40) square feet in area, may be erected at each entrance to a project, advertising the dwelling units contained therein for sale or lease and shall be removed not more than ten (10) days after all units have been sold or leased.]

* * *

[(7)](5) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provisions of §24-167A of this Code.

[(8) Accessory uses, including home based businesses authorized pursuant to Article X, Chapter 24 of this Code, and accessory structures.

(9) Child or elderly day care facilities in single-family detached dwellings or duplexes accommodating not more than eight (8) individuals.]

* * *

[(10)](6) Bed and breakfast subject to the requirements contained in §24-167B.

[(11)](7) Public buildings and uses.

* * *

DIVISION 5. R-20 ZONE, MEDIUM DENSITY RESIDENTIAL

* * *

Sec. 24-56. Uses permitted by right.

The following uses are permitted by right in the R-20 Zone:

(1) All uses permitted in the RP-T Zone.

* * *

[(5) Accessory uses and structures including but not limited to:

(a) Accessory uses and structures permitted in the R-90 Zone.

(b) Business office for the administration of multiple-family dwellings containing more than twenty-four (24) dwelling units.

(c) Swimming pools for the exclusive use of the residents of the dwelling or dwellings located on the same parcel or lot.

(d) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.]

(5) Accessory uses:

(a) The renting of rooms to not more than two (2) persons by the occupant of a dwelling.

(b) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

(c) Child or elderly day care facilities in single-family detached dwelling units or duplexes accommodating not more than eight (8) individuals.

(d) Business office, accessory to the main use, for the administration of multiple-family dwellings containing more than twenty-four (24) dwelling units.

(e) Swimming pools for the exclusive use of the residents of the dwelling or dwellings located on the same parcel or lot.

(f) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

[(6) Child or elderly day care facilities in single family detached dwelling units or duplexes accommodating not more than eight (8) individuals.]

(6) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code.

* * *

DIVISION 6. R-18 ZONE, MEDIUM DENSITY PLANNED RESIDENTIAL

* * *

Sec. 24-66. Permitted uses.

The following uses shall be permitted in the R-18 Zone:

* * *

[(4) Swimming pools, private or community, bath houses and community buildings.]

* * *

[(5)](4) Churches and temples, but no related religious facilities such as seminaries and convents.

[(6) Child day care centers accommodating not more than six (6) individuals.

(7) Temporary sales office and permanent management office for project.

(8) Home based businesses authorized pursuant to Article X, Chapter 24 of this Code.

(9) Accessory uses and structures shall be located in the rear yard only and, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of the zoning ordinance.]

(5) Accessory uses:

(a) Home based businesses authorized pursuant to article X, Chapter 24 of this Code.

(b) Child day care centers accommodating not more than six (6) individuals.

(c) Temporary sales office and permanent management office for project.

(d) Swimming pools, private or community, bath houses and community buildings.

(e) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(6) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code

* * *

[(10)](7) Satellite television antenna and towers, poles and antennas or other structures intended for use in connection with transmission or receipt of radio or television signals or both, subject to the provisions of §24-167A of this Code.

[(11)](8) Bed and breakfast subject to the requirements contained in §24167B.

DIVISION 7. R-H ZONE, HIGH DENSITY RESIDENTIAL

Sec. 24-75. Permitted uses.

The following uses shall be permitted in the R-H Zone:

* * *

[(3) Recreational facilities for the use of residents of dwellings located in the same project.]

[(4)](3) Personal service businesses such as barbershops, beauty shops, valet shops, newsstands and snack bars, and office for physicians, dentists, attorneys, accountants, real estate brokers or insurance brokers. Such uses may only be located on the first two (2) stories of buildings containing more than three (3) stories and they may have no exterior entrances open to the public or sings visible from outside of the building.

[(5)](4) Restaurants (Class C) that are incidental to and located within the same structure.

[(6)](5) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provision of §24-167A of this code.

[(7) Home based business authorized pursuant to Article X, Chapter 24 of this Code.

(8) Accessory uses and structures shall be located in the rear yard only and, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of the zoning ordinance.]

(6) Accessory uses:

a) Home based businesses authorized pursuant to article X, Chapter 24 of this Code.

b) Recreational facilities for the use of residents of dwellings located in the same project.

c) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(7) Accessory structures, if accessory to a townhouse form of development, shall occupy no greater than forty-eight (48) square feet of rear yard

area. Accessory structures erected in other forms of development must adhere to the requirements of §24-163 of this Code.

[(9)](8) Bed and breakfast subject to the requirements contained in §24-167B.

[(10)](9) Public buildings and uses.

[(11)](10) Telecommunications facilities located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements of §24-167A(C)(1).

* * *

DIVISION 10. C-P ZONE, COMMERCIAL OFFICE PARK

Sec.24-102. Uses.

No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained in the C-P Zone, except for one or more of the following uses:

A. *Uses permitted by right.*

* * *

(2) Accessory uses and structures [and uses] in compliance with §24-163 of this Code.

* * *

DIVISION 11. C-1 ZONE, LOCAL COMMERCIAL

* * *

Sec. 24-111. Uses permitted by right.

The following uses are permitted by right in the C-1 Zone:

* * *

(7) Accessory uses and structures in compliance with §24-163 of this Code.

* * *

DIVISION 12. C-2 ZONE, GENERAL COMMERCIAL

* * *

Sec. 24-117. Uses permitted by right.

The following uses are permitted by right in the C-2 Zone:

* * *

(14) Accessory uses and structures [and uses, including but not limited to on-site signs permitted in C-1 Zone; except, that signs shall not exceed in the aggregate fifteen (15) square feet of area for each ten (10) linear feet of street frontage] in compliance with §24-163 of this Code.

* * *

DIVISION 13. C-3 ZONE, HIGHWAY COMMERCIAL

Sec. 24-123. Permitted uses.

The following uses are permitted in the C-3 Zone:

* * *

(5) Accessory structures must conform to requirements of §24-163 of this Code.

* * *

DIVISION 14. I-1 ZONE, LIGHT INDUSTRIAL

* * *

Sec. 24-136. Uses permitted by right.

The following uses are permitted by right in the I-1 Zone:

* * *

H. Other Uses

(1) Accessory uses [and structures, including, but not limited to]:

(a) Retail sales of products manufactured on the premises.
(b) Living quarters for owners, caretakers or watchmen and their families.
(c) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(2) Accessory structures must conform to requirement of §24-163 of this Code.

[(2)](3) Agricultural uses.

[(3)](4) Bed and breakfast, subject to the requirements contained in §24-167B.

[(4)](5) Off-street parking.

[(5)](6) Pipelines.

[(6)](7) Public buildings and uses.

[(7)](8) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provisions of §24-167A of this Code.

* * *

DIVISION 17. E-1 ZONE, URBAN EMPLOYMENT

Sec. 24-151. Permitted uses.

The following uses are permitted in the E-1 Zone:

* * *

(18) Accessory uses on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(19) Accessory structures must conform to requirements of §24-163 of this Code.

* * *

DIVISION 18. E-2 ZONE, MODERATE INTENSITY INDUSTRIAL PARK

* * *

Sec. 24-160A. Permitted uses.

(1) all uses permitted by right in the E-1 Zone, except general offices.

(2) Ambulance or rescue squads, publicly supported.

(3) Bed and breakfast subject to the requirements contained in §24-167B.

(4) Communications centers.

(5) Fire stations.

(6) Hospitals, veterinary.

(7) Laboratories.

(8) Recreational facilities, primarily for the use of employees, provded such use does not adjoin any street which provides principal access to the principal use or user served.

[Signs, in accordance with city sign regulations.]

(9) Trade, artistic and technical schools.

[Accessory buildings and uses.]

(10) Accessory uses on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(11) Accessory structures in compliance with §24-163 of this Code.

(12) Telecommunications facilities located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements to §24-167A(C)(1).

* * *

DIVISION 20. H-M ZONE, HOTEL-MOTEL

* * *

Sec. 24-160E.2. Uses and special exceptions allowed.

(a) The following uses are permitted uses in [this zone] the H-M Zone:

[Accessory buildings and uses.]

(1) Accessory uses on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.

(2) Accessory structures must conform to requirements of §24-163 of this Code.

(3) Banks and financial institutions.

(4) Bed and breakfast subject to the requirements contained in §24-167B.

(5) Eating and drinking establishments, excluding a drive-in.

(6) Motels.

(7) Hotels, full service.

(8) Hotel, limited service.

(9) Hotel, extended stay.

(10) Parking of motor vehicles, off-street, in connection with any use permitted.

(11) Publicly owned or publicly operated uses.

(12) Retail sales and personal services, subject to restrictions in §24-160E.3(G).

* * *

ARTICLE IV. SUPPLEMENTARY ZONE REGULATIONS

* * *

Sec. 24-163. Accessory [buildings and] structures and garages.

(a) *Accessory structures.* Any accessory [building or] structure, as defined in §24-1, with the exception of a garage, shall be located only in the rear yard. [and the] The total ground area of all accessory [buildings and] structures shall occupy no more than twenty-five (25) percent of the rear yard. Except for fences, on all residentially-zoned land accessory structures less than 144 square feet of floor area shall not be less than three (3) feet from any lot line unless allowed by a specific zone. Accessory [buildings and] structures 144 square feet of floor area or greater shall not be less than ten (10) feet from any side or rear lot line [;]. [provided however, that] In cases where an accessory [building,] structure, enclosure, coop or run or any part thereof is used for the housing, shelter or sale of animals or fowl, other than a

household pet, said structure shall be at least twenty-five (25) feet from any [interior] side or rear lot line and at least seventy-five (75) feet from any existing dwelling on an adjoining lot, except for fences on all residentially-zoned land. The footprint of an accessory structure must not be larger than fifty (50) percent of the footprint of the primary structure, except garages as noted in §24-163(b), nor can the height exceed fifteen (15) feet, unless approved by the Planning Commission. [Garages may be located in any front, side or rear yard area, but may only be located in a setback restriction area when they are part of a comprehensive design theme for a subdivision and are shown on an approved site development plan.]

(b) *Garages, as accessory structures in residential zones:*

(1) Garages, as accessory structures, are those that are detached structures or attached to the main house only by a breezeway.

(2) Garages shall not be less than ten (10) feet from any side or rear lot line.

(3) Garages may also be located in any front or side yard area, and/or in a setback restriction area when they are part of a comprehensive design theme for a subdivision and are shown on an approved site development plan.

(4) The footprint of the garage must not exceed fifty (50) percent of the footprint of the primary structure or a standard size two-car garage not to exceed 576 square feet, whichever is greater, nor must the height exceed fifteen (15) feet unless approved by the Planning Commission. In lots created prior to October 14, 1958, garages may be located not less than two (2) feet from the property line if this is consistent with the design of the neighborhood.

(c) These restrictions do not apply to Schematic Development plans, final site plans or other plans for an approved residential community in the MXD (Mixed Use Development) Zone.

ADOPTED by the City Council of Gaithersburg, Maryland, this _____ day of _____, 2003.

_____

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2003. APPROVED/VETOED by the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2003.

_____
SIDNEY KATZ, Mayor

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the _____ day of _____, 2003 and the same was APPROVED/VETOED by the Mayor of the City of Gaithersburg on the _____ day of _____, 2003. This Ordinance will become effective on the _____ day of _____, 2003.

_____
DAVID B. HUMPTON, City Manager

SHARED\PLANCODE\TEXT AMENDMENTS\T-359\DRAFT FINAL

TRANSCRIPT OF

JOINT PUBLIC HEARING

ON

T-359

Application Requests Amendment of Chapter 24 of the City Code (City Zoning Ordinance), Article I, Entitled, "In General," §24-1 Entitled, "Definitions," Article III, Entitled, "Regulations Applicable to Particular Zones," §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-160A, and §24-160E.2, so as to Redefine Accessory Structures and Uses, Eliminate Certain Definitions and Define Certain Terms, Eliminate References Related to Signs as Accessory Structures, as Well as Revise Terminology and Regulations of Accessory Uses and Structures in the R-6, R-B, C-B, R-A, R-90, R-90 Cluster, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2, and H-M Zones, and Further to Amend Article IV, Entitled, "Supplementary Zone Regulations," §24-163 so as to Amend Standards and Requirements as to Accessory Structures and Garages Generally

BEFORE THE

CITY OF GAITHERSBURG

MAYOR AND CITY COUNCIL

AND

PLANNING COMMISSION

ON

December 1, 2003

Transcribed by
Doris R. Stokes
December, 2003

JOINT EXHIBIT
#9
T-359

PARTICIPANTS

CITY COUNCIL

Mayor Katz
Council Vice President Somerset
Council Member Alster
Council Member Edens
Council Member Marraffa
Council Member Schilchting

PLANNING COMMISSION

Chair Keller
Vice Chair Bauer
Commissioner Hicks
Commissioner Winborne

Absent: Commissioner Levy

CITY MANAGER

David B. Humpton

STAFF

Planner Patula

Katz If you could please Pat.

Patula This is a public hearing on T-359. This hearing has been duly advertised in the *Gaithersburg Gazette* on November 12 and 19, 2003. At the present time there are eight (8) exhibits in the record file. These exhibits are referenced in an exhibit list in the file. The individual exhibits may be reviewed during the course of the meeting or in the Planning Office during regular business hours at City Hall. Any objections to the receipt of any exhibits should be noted prior to the closing of the record; otherwise they will be deemed received in evidence. This is on the accessory structure. And I would just give a little bit of the background of T-359 and then I will give a brief summary of what the text amendment is now including. We are all familiar with the precursor to this, T-354. We had a joint hearing on that in August of 2002. And then a work session a year later in August of 2003. And at that work session, the draft that was presented that evening had input from the public, the Council, the Planning Commission and staff. And it turned out that that draft was more stringent then the original one presented at the public hearing. So as a result we had to have another public hearing and we are changing the number, but there is....what is going to happen to T-354, it would just simply become null and void because there is no action being taken on it. Now T-359 which we are looking at tonight, it's the same as the consensus that was reached at the work session. And at the City Council's request, we rearranged the text amendment to separate accessory structures from uses and as a result you got this rather long amount of paperwork sharing all the changes. But most of those changes are technical and the essence stays the same. Just a brief summary of some of the points in the accessory structures text amendment. This text amendment applies primarily to single family dwellings that are not in the MXD Zone. In a townhouse development that was just left the same, the requirements for them are for those types of developments is that any accessory structures should not exceed 48 square feet and they have to be in the rear yard. That still stays the same.

Now regarding accessory structures in general, excluding the garages, they can only be located in the rear yard. The total of any and all accessory structures in the rear yard should not cover more than 25 percent of the rear yard. The footprint of the structure cannot exceed 50 percent of the primary structure. If the structure is less than 144 square feet, it can be set as close as 3 feet to the property line. If it's 144 or more, it needs to be at least 10 feet away from the property line and they cannot exceed 15 feet in height. Now regarding a detached garage, the footprint cannot exceed 50 percent of the primary structure or a standard two-car garage not to exceed 576 square feet, whichever is greater. And it cannot exceed 15 feet in height. But we also included as we talked about at the work session, that modifications to the size and height requirements could be made by a review of the Planning Commission. Regarding older lots, if lots were created prior to October 14, 1958, garages could be located as close as 2 feet to the property line if that is consistent with the design of the neighborhood. The clause referencing requirements for animal enclosure excludes household pets. And all of these regulations are not applicable to the MXD Zone communities. And that is the summary of what's in all of those pages that you received.

Katz Thank you Pat. Does anyone on Council or Commission have any questions of Pat?

Winborne I just have one question. Does this supercede HOA covenant that would preclude accessory structures? I mean, I know that some HOA covenants exclude you from having accessory structures.

Katz Fred will explain that.

Felton I'll address that, it does not override the Code. We require homeowners to inform their HOA that they were applying for a permit, but we can only

enforce the city-wide code. So in other words, it does not interfere with an HOA right to enforce their private covenants.

Katz Good question. Any other questions? Ok. Thank you Pat. Is there anyone in room that would like to speak on this public hearing? No? What is the pleasure of the Planning Commission?

Keller Once again, staff has asked us to hold our record open for eighteen (18) days and close it on December 19, 2003. Do I have a motion to that effect?

Hicks So moved.

Keller Do I have a second?

Winborne Second.

Keller All in favor?

Commission Ayes.

Keller Aye. Motion passes 4-0.

Katz Thank you. And the Council, what is your pleasure?

Somerset I move to hold the record open on T-359 for thirty-two (32) days, to close on January 2, 2004.

Alster Second.

Katz It's been moved and seconded. All those in favor please say aye?

Council Ayes.

Katz Opposed? That carries unanimously (5-0).

END OF JOINT PUBLIC HEARING
T-359

5. Board of Appeals Member Kurt Karst now resides outside of the City Corporate Limits of Gaithersburg and accordingly, he has submitted his letter of resignation effective December 15, 2003. Mayor Katz thanked Mr. Karst for his service and asked staff to invite him to an upcoming meeting to be recognized. He announced that a cover letter and resume be submitted by January 7, 2004, if anyone is interested in filling the vacancy.

IX. JOINT PUBLIC HEARINGS

1. **T-358 - Application Requests Amendment of Chapter 24 of the City Code (City Zoning Ordinance), Article III, Entitled, "Regulations Applicable to Particular Zones," Division 21, Entitled, "CBD Zone, Central Business District," §24-160.F.2 to Add Private Educational Institution Uses in the CBD Zone as a Special Exception Use**

Planner Patula stated that the above public hearing was advertised in the *Gaithersburg Gazette* on November 12 and 19, 2003, with seven (7) exhibits in the record file. Ms. Patula stated that private schools such as driving, music, gymnastics, and so forth, have recently increased in Olde Towne. A number of the private schools have already been given use and occupancy permits by the City. With Olde Towne zoned CBD for Central Business District, the existing schools are not permitted by right according to the ordinance in the R-A Zone and the C-B Zone. She further stated that these private educational institutions have been a great benefit to the public. The proposed text amendment would allow them to be in Olde Towne by special exception. If this text amendment is adopted, the existing schools would become legally nonconforming and then they will become subject to the part of the ordinance that deals with nonconforming uses and structures. In conclusion, she stated that as a special exception, the Board of Appeals would review the use and the Planning Commission would be making recommendations as part of their process. The process would help with parking concerns which are usually the main concern for this type of use.

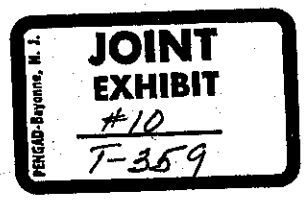
There were no speakers from the public.

Motion was made by Commissioner Hicks, seconded by Commissioner Winborne, that the Planning Commission record on T-358, be held open for eighteen (18) days.

Vote: 4-0

Motion was made by Council Member Alster, seconded by Council Member Somerset, that the City Council record on T-358, be held open for thirty-two (32) days.

Vote: 5-0



2. **T-359 – Application Requests Amendment of Chapter 24 of the City Code (City Zoning Ordinance), Article I, Entitled, "In General," §24-1 Entitled, "Definitions," Article III, Entitled, "Regulations Applicable to Particular Zones," §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-160A, and §24-160E.2, so as to Redefine Accessory Structures and Uses, Eliminate Certain Definitions and Define Certain Terms, Eliminate References Related to Signs as Accessory Structures, as Well as Revise Terminology and Regulations of Accessory Uses and Structures in the R-6, R-B, C-B, R-A, R-90, R-90 Cluster, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2, and H-M Zones, and Further to Amend Article IV, Entitled, "Supplementary Zone Regulations," §24-163 so as to Amend Standards and Requirements as to Accessory Structures and Garages Generally**

Planner Patula stated the above public hearing on accessory structures was advertised in the *Gaithersburg Gazette* on November 12 and 19, 2003, with eight (8) exhibits in the record file. These exhibits are referenced in an exhibit list in the file. She gave a brief summary on the above

stating that the precursor to T-359 was T-354. A joint public hearing on T-354 was held on August of 2002 and a work session a year later in August in 2003. At the work session, the draft ordinance was presented and input was received from the public, City Council, Planning Commission and staff. The draft ordinance was more stringent then the original one presented at the public hearing and as a result, another public hearing had to be conduct which changed the number and made T-354 null and void because no action was taken. The proposed accessory structures text amendment applies primarily to single family dwellings that are not in the MXD Zone. In a townhouse development, the accessory structures requirements for those types of developments should not exceed 48 square feet and the structure have to be in the rear yard, excluding garages. The total of any and all accessory structures in the rear yard should not cover more than 25 of the rear yard. The footprint of the structure cannot exceed 50 percent of the primary structure. She stated that if the structure is less than 144 square feet, it can be set as close as 3 feet to the property line. If it's 144 or more, it needs to be at least 10 feet away from the property line and they cannot exceed 15 feet in height. For a detached garage, the footprint cannot exceed 50 percent of the primary structure or a standard two-car garage not to exceed 576 square feet, whichever is greater, and it cannot exceed 15 feet in height. The new ordinance also proposes that modifications to the size and height requirements could be made by a review of the Planning Commission. For older lots created prior to October 14, 1958, garages could be located as close as 2 feet to the property line if consistent with the design of the neighborhood. The clause referencing requirements for animal enclosures excludes household pets. In conclusion, she stated that the above regulations are not applicable to the MXD Zone communities.

Commissioner Winborne asked whether the proposed text amendment would supercede HOA covenants that exclude homeowners from having accessory structures. Assistant City Manager Felton responded that the text amendment would not interfere with an HOA rights to enforce their private covenants.

There were no speakers from the public.

Motion was made by Commissioner Hicks, seconded by Commissioner Winborne, that the Planning Commission record on T-359, be held open for eighteen (18) days.

Vote: 5-0

Motion was made by Council Member Somerset, seconded by Council Member Alster, that the City Council record on T-359, be held open for thirty-two (32) days.

Vote: 5-0

RECESSED THE MAYOR AND COUNCIL MEETING AT 7:58 P.M.
FOR A HISTORIC DISTRICT COMMISSION MEETING AND RECONVENED AT 8:30 P.M.

RECEIVED
DEC 14 2003
PLANNING & CODE ADMINISTRATION

The Gazette Ne

9030 Comprint Court, Gaithersburg, Maryland 20877,

CERTIFICATION O

THIS IS TO CERTIFY THAT THE ANNEXED LEGA
IN THE GAZETTE NEWSPAPERS FOR THE NUMB

City of Gaithersburg - Notice of Public Hea

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Notary Public, State of Maryland
Prince George's County
My Commission Expires March 31, 2007

Ad Order Number: 1309638
Dates: St: 11/12/03 End: 11/19/03 Ins: 2

NOTICE OF PUBLIC HEARING

The Mayor and Council and Planning Commission of the City of Gaithersburg will conduct a joint public hearing on T-359, filed by Patricia Patula for the City of Gaithersburg, on

MONDAY
DECEMBER 1, 2003
AT 7:30 P.M.

or as soon thereafter as this matter can be heard in the Council Chambers at 31 South Summit Avenue, Gaithersburg, Maryland.

The application requests amendment of Chapter 24 of the City Code (City Zoning Ordinance), Article I, entitled "In General," §24-1 entitled, "Definitions," Article III, entitled, "Regulations Applicable to Particular Zones," §24-22, §24-24, §24-28, §24-30, §24-43, §24-56, §24-66, §24-75, §24-102, §24-111, §24-117, §24-123, §24-136, §24-151, §24-160A, and §24-160E.2, so as to redefine accessory structures and uses, eliminate certain definitions and define certain terms, eliminate references related to signs as accessory structures, as well as revise terminology and regulations of accessory uses and structures in the R-6, R-B, C-B, R-A, R-90, R-90 Cluster, RP-T, R-20, R-18, R-H, C-P, C-1, C-2, C-3, I-1, E-1, E-2, and H-M Zones, and further to amend Article IV entitled, "Supplementary Zone Regulations," §24-163 so as to amend standards and requirements as to accessory structures and garages generally.

Further information may be obtained from the Planning and Code Administration Department at City Hall, 31 South Summit Avenue, between the hours of 8 a.m. and 5 p.m., Monday through Friday.

Patricia Patula, Planner
Planning and Code Administration

1309638 (11/12,11/19/03)

JOINT EXHIBIT
#11
T-359