

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

November 3, 2008

CALL TO PODIUM:

Greg Ossont

RESPONSIBLE STAFF:

**Greg Ossont, Director,
Planning and Code
Administration**

**Lauren Pruss,
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	
Advertised	6/18/2008
	6/25/2008
Hearing Date	7/07/2008
Record Held Open	10/22/2008
Policy Discussion	11/03/2008

TITLE: Text Amendment T-385
T-385 – An ordinance to amend Chapter 24 of the City Code (City Zoning Ordinance), entitled, “Zoning,” Article V, entitled, “Site Development Plans,” § 24-168 entitled, “when required,” and to amend Chapter 24, Article V to add § 24-168A entitled, “Residential Site Plans, When Required.”

SUPPORTING BACKGROUND:
A joint public hearing was held on July 7, 2008. During the public hearing a number of issues were raised, including: <div style="margin-left: 40px;"> <p>The use of “habitable space” definition; A threshold of 100%; Subjecting historic properties to more than one process; Cumulative modifications</p> </div> <p>Staff prepared a revised text amendment for review as part of the joint work session held September 22, 2008. The revised ordinance uses total square footage, with a threshold of 50% and dwellings requiring a Historic Area Work Permit (HAWP) would be exempted. The Council’s record closed at 5pm October 22, 2008.</p> <p>The Planning Commission, at its October 15 meeting, recommended adoption of T-385. During the course of its discussion, the Commission recommended staff return for periodic updates as to the implementation of T-385. In addition, staff was requested to explore opportunities to enhance application procedures for residents.</p> <p>Staff has attached a draft ordinance and should the Council choose is ready for final action.</p> <p>Attachments: Index of Memoranda (exhibits in BOLD)</p>

DESIRED OUTCOME:
Conduct policy discussion. Ordinance is ready for final action.

INDEX OF MEMORANDA

T-385

1. Application
2. Draft T-385 Ordinance
3. Letter to Gaithersburg *Gazette* dated June 11, 2008, requesting a Legal Ad for the June 18 & June 25, 2008, issues
4. Notice of Joint Public Hearing mailed June 23, 2008
5. Notice of Joint Public Hearing mailing list
6. Certification of Publication from the Gaithersburg *Gazette*
7. Cover Sheet of Joint Work Session held on February 13, 2006
8. Copy of Power Point Presentation presented at Joint Work Session held on February 13, 2006
9. Planning Commission minutes: February 7, 2007
10. Planning Commission minutes: March 7, 2007
11. Planning Commission minutes: May 16, 2007
12. Planning Commission minutes: April 16, 2008
13. Copy of Power Point Presentation presented at Planning Commission Meeting held on April 16, 2008
14. Copy of current City Residential Improvement Permit Application
15. Section 24-168 of City Code: "When Required"
16. Section 24-169 of City Code: "Submission; fee; requirements of plan"
17. Section 24-171 of City Code: "Site plan review"
18. Section 24-174 of City Code: "Waiver of required information"
19. Copy of Power Point Presentation: Joint Public Hearing July 7, 2008
20. Transcript: Joint Public Hearing July 7, 2008
21. Cover Sheet, Joint Work Session September 22, 2008
22. Copy of Power Point Presentation: Joint Work Session September 22, 2008

- 23. Revised Draft T-385 Ordinance**
- 24. E-Mail from Ms. JoAnn Schimke to Mayor Katz: September 23, 2008**
- 25. Minutes of Joint Work Session September 22, 2008**
26. Memo from Planning Director Pruss to Planning Commission re: Closing of Record, September 26, 2008
27. Mayor & City Council Cover Sheet, October 6, 2008, presenting staff recommendation to announce closing of Council record.
- 28. Staff Comments to Planning Commission: 10/15/2008**
- 29. Planning Commission Recommendation to the Mayor & City Council: 10/15/2008**

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE (CITY ZONING ORDINANCE), ENTITLED, "ZONING," ARTICLE V, ENTITLED, "SITE DEVELOPMENT PLANS," § 24-168 ENTITLED, "WHEN REQUIRED," AND TO AMEND CHAPTER 24, ARTICLE V TO ADD § 24-168A ENTITLED, "RESIDENTIAL SITE PLANS, WHEN REQUIRED"

Text Amendment T-385

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 24 of the City Code (Zoning), Section 168 is hereby amended to read as follows:

ARTICLE V. SITE DEVELOPMENT PLANS

Sec. 24-168. When required.

No building or structure shall be hereafter erected, moved, added to or structurally altered under circumstances which require the issuance of a building permit under this chapter, nor shall any use be established, altered or enlarged under circumstances which require the issuance of a use and occupancy permit under this chapter, upon any land, until a site development plan for the land upon which such building, structure or use is to be erected, moved, added to, altered, established or enlarged has been approved by the city planning commission. ~~This requirement shall not apply to the use of any single family dwelling for residential purposes.~~

* * *

Sec. 24-168A. Residential site plans, when required.

For the purposes of preserving the character of existing neighborhoods and to prevent the destabilization of neighborhoods that are not subject to design guidelines or development standards adopted by resolution of the Mayor and City Council, and to also promote and encourage homeowner reinvestment in properties that contribute to the sustainability of city neighborhoods, residential site plans shall be required;

1) No single family dwelling shall be hereafter erected, moved, added to or structurally altered under circumstances which require the issuance of a building permit under this chapter, nor shall any use be established, altered or enlarged under

Boldface	<i>Heading or defined term.</i>	<div style="border: 2px solid black; border-radius: 15px; padding: 10px; width: fit-content; margin: 0 auto;"> <p>JOINT EXHIBIT</p> <p>23</p> <hr style="width: 50%; margin: 0 auto;"/> <p>T-385</p> </div>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>	
Single strikethrough	<i>Deleted from existing law by original bill.</i>	
<u>Double underlining</u>	<i>Added by Amendment.</i>	
Double boldface strikethrough	<i>Deleted from existing law or the bill by amendment.</i>	
***	<i>Existing law unaffected by bill.</i>	

circumstances which require the issuance of a use and occupancy permit under this chapter, upon any land, until a site development plan for the land upon which such building, structure or use is to be erected, moved, added to, altered, established or enlarged has been approved by the city planning commission. Notification and sign posting requirements for residential site plans shall comply with the provisions of Section 24-241 of this chapter.

2) This requirement shall not apply to single family dwelling additions or alterations that do not add one or more stories or increase the total square footage of the structure, **as of the effective date of this ordinance**, by more than **fifty (50) percent**. This requirement shall also not apply to single family dwelling additions requiring Historic Area Work Permit under the provisions of this code.

ADOPTED this _____ day of _____, 2008, by the City Council of Gaithersburg, Maryland.

SIDNEY A. KATZ, Mayor
and President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2008. APPROVED by the Mayor of the City of Gaithersburg this _____ day of _____, 2008

SIDNEY A. KATZ, Mayor
and President of the Council

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the _____ day of _____, 2008, and the same was approved by the Mayor of the City of Gaithersburg on the _____ day of _____, 2008. This Ordinance will become effective on the _____ day of _____, 2008.

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
Single strikethrough	<i>Deleted from existing law by original bill.</i>
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DRAFT

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<u>Double boldface strikethrough</u>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

From: Sidney Katz
Sent: Tuesday, September 23, 2008 11:08 AM
To: 'joann@schimke.org'
Cc: Greg Ossont; Jim Arnoult; Fred Felton; Doris Stokes; Sarah Paxton
Subject: Re: September 22nd Work Session - Mansionization Legislation

JoAnn,
 Thank you for your email! I am forwarding a copy of it to the Acting City Manager so that it can be placed in the record.
 Sidney

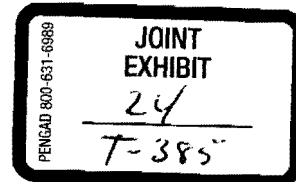
----- Original Message -----
From: JoAnn Schimke <joann@schimke.org>
To: Sidney Katz
Sent: Tue Sep 23 10:47:13 2008
Subject: September 22nd Work Session - Mansionization Legislation

September 23, 2008

Dear Mayor Katz,

Just wanted to send you some follow-up comments from the Work Session last night on the Mansionization Legislation.

1. I personally believe that the Mansionization Legislation should be kept simple. What was presented by staff last night met that criteria very well. The more complex the legislation, the less likely a homeowner will want to start the process of building an addition on their home.
 Renovations and modernization is important to older communities in the R-90 Zone and should always be encouraged. The legislation should not restrict the homeowner's right to enlarge their home, but help the community to manage it.
2. A homeowner who desires to increase their home size by 50% is making a huge financial investment in their property. Asking the homeowner to go before the Planning Commission for a review is only beneficial to the quality of the building project. It also allows the surrounding neighbors the opportunity to attend the Planning Commission meeting and understand what is going to be built. Open communication between neighbors is important to keeping a community harmonious.
3. The house on Jonker Court was mentioned several times during the evening. This house did not increase it's size by 50%, but the homeowner did enclose the carport and change the pitch of the roof. The comments to these renovations from West Riding residents has been a mix of positive and negative. However, the comments I have received in reference to the new driveway have been mostly negative. The homeowner had parking for 3 cars on his property before he began his renovations.
 Be paving the entire front yard, the homeowner now has parking for 4 cars. However, he has lost almost all his green space in the front of the yard, which is atypical to the community of West Riding. In addition, I do not feel that this new driveway is environmentally friendly and will probably add to the erosion problem that already exists with this home. I believe the City's code in reference to the allowable size of a driveway in the R-90 Zone needs to be reviewed and possibly updated.



I am pleased that the Mansionization Legislation is moving forward and hopefully something will be in place by the end of the year. Thank you for doing such a good job in presiding over all the meetings.

Sincerely,
JoAnn Schimke



Gaithersburg

A CHARACTER COUNTS!

CITY OF GAITHERSBURG

MINUTES OF A CITY COUNCIL WORK SESSION

September 22, 2008

A joint work session of the Mayor and City Council and Planning Commission was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Ashman, Drzyzgula, Marraffa, Sesma, and Spiegel. Commissioners present: Bauer, Levy, Winborne, Hopkins, and Lanier. Staff present: Acting City Manager Arnout, Planning & Code Director Ossont.

I. TOPIC(S) OF DISCUSSION

Text Amendment T-385-“Residential Site Plans, When Required.”

Planning and Code Director Ossont gave a power point presentation in which he discussed that the joint public hearing on T-385 was held on July 7, 2008. During the public hearing a number of issues were raised including:

- The use of “habitable space” definition;
- A threshold of 100%;
- Subjecting historic properties to more than one process;
- Cumulative modifications

Dir. Ossont then presented modifications to the draft text amendment. The revised version abandons the use of “habitable space” and instead uses total square footage, to be established at the time the ordinance takes effect. Additionally, the “addition” threshold has been lowered to 50% from 100% and dwellings requiring a Historic Area Work Permit (HAWP) would be exempted as they have a current review process.

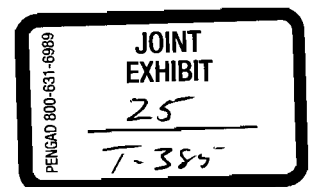
After lengthy discussion, the Mayor and Council provided staff guidance to move forward with the closing of the Council and Planning Commission records and policy discussion with the draft text as amended and presented.

II. ADJOURNMENT

The City Council concluded this worksession at 8:30p.m.

Respectfully submitted,

(Rob Robinson)
(Planner)



STAFF COMMENTS FOR PLANNING COMMISSION

MEETING DATE: October 15, 2008

TEXT AMENDMENT: T-385

TITLE: AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE (CITY ZONING ORDINANCE), ENTITLED, "ZONING," ARTICLE V, ENTITLED, "SITE DEVELOPMENT PLANS," § 24-168 ENTITLED, "WHEN REQUIRED," AND TO AMEND CHAPTER 24, ARTICLE V TO ADD § 24-168A ENTITLED, "RESIDENTIAL SITE PLANS, WHEN REQUIRED."

REQUEST: **RECOMMENDATION TO M&CC**

ADDRESS: N/A

ZONE: R-90 (Medium Density Residential) et al.

APPLICANT/REPRESENTATIVE/ATTORNEY/DEVELOPER: (as applicable)

STAFF PERSON: Greg Ossont, Director
Planning and Code Administration

Enclosures:

Staff Comments
Index of Memorandum and Exhibits (In **Bold**)

JOINT EXHIBIT

28

T-385

STAFF COMMENTS

This item is on your agenda for a transmittal of a recommendation to the Mayor and Council.

The joint public hearing on T-385 was held on July 7, 2008. A subsequent joint work session was held on September 22, 2008 where staff presented modifications to the draft text amendment in response to issues raised at the joint public hearing. The Planning Commission held open its record until 5 PM on October 8, 2008. There are twenty-seven (27) exhibits in the public record.

This is a proposed ordinance to amend Chapter 24 of the City Code (City Zoning Ordinance), entitled, "Zoning," Article V, entitled, "Site Development Plans," § 24-168 entitled, "when required," and to amend Chapter 24, Article V to add § 24-168A entitled, "Residential Site Plans, When Required." The proposed ordinance would establish a trigger that would require a site development plan and customary Planning Commission review. Neighborhood notification and Planning Commission review procedures including a public hearing would then apply.

This proposed text amendment would require notification and review, appropriate for "significant" additions or alterations for properties not currently under the purview of a site development plan. Planning Commission review, based upon § 24-171, would include considerations of redevelopment that: it is orderly and amicable to the residents; is environmentally sensitive; and addresses off-street parking and traffic issues. The proposed ordinance does not establish design guidelines or create a planned community.

The T-385 amendment would continue to allow and foster redevelopment in a quality manner and a maintainable way, and preserve neighborhoods, where there are no restrictions for residential modifications, by protecting them from significant modifications that could alter the character of Gaithersburg's older traditional neighborhoods. The effectiveness of this ordinance could be tracked through periodic reports to the Planning Commission on its application.

Sec. 24-168. When required:

Staff has recommended the following underlined language be removed:

"No building or structure shall be hereafter erected...upon any land, until a site development plan for the land upon which such building, structure or use is to be erected, moved, added to, altered, established or enlarged has been approved by the city planning commission. *This requirement shall not apply to the use of any single-family dwelling for residential purposes.*"

Staff has identified this language as a facilitator for potential mansionization and/or tear down-rebuild projects within the City limits with no public input or oversight. Under the current ordinance, one would only need apply for a residential building

permit and show compliance with any applicable zoning development standards. The removal of this language is in conjunction with the creation of a new section.

Sec. 24-168A. Residential site plans, when required:

The following proposed section establishes the fifty percent (50%) threshold of total square footage and that dwellings requiring a Historic Area Work Permit (HAWP) would be exempt:

“For the purposes of preserving the character of existing neighborhoods and to prevent the destabilization of neighborhoods that are not subject to design guidelines or development standards adopted by resolution of the Mayor and City Council, and to also promote and encourage homeowner reinvestment in properties that contribute to the sustainability of city neighborhoods, residential site plans shall be required;

1) No single family dwelling shall be hereafter erected, moved, added to or structurally altered under circumstances which require the issuance of a building permit under this chapter, nor shall any use be established, altered or enlarged under circumstances which require the issuance of a use and occupancy permit under this chapter, upon any land, until a site development plan for the land upon which such building, structure or use is to be erected, moved, added to, altered, established or enlarged has been approved by the city planning commission. Notification and sign posting requirements for residential site plans shall comply with the provisions of Section 24-241 of this chapter.

2) This requirement shall not apply to single family dwelling additions or alterations that do not add one or more stories or increase the total square footage of the structure, as of the effective date of this ordinance, by more than fifty (50) percent. This requirement shall also not apply to single family dwelling additions requiring Historic Area Work Permit under the provisions of this code.”

COMMUNICATION: PLANNING COMMISSION

MEMORANDUM TO: Mayor and City Council

FROM: Planning Commission

DATE: October 16, 2008

SUBJECT: T-385 -- Request to amend Chapter 24 of the City Code (City Zoning Ordinance), entitled, "Zoning," Article V, entitled, "Site Development Plans," § 24-168 entitled, "When Required," and to amend Chapter 24, Article V, to add § 24-168A entitled, "Residential Site Plans, When Required."

At its regular meeting on October 15, 2008, the Planning Commission made the following motion:

Vice-Chair Levy moved, seconded by Commissioner Kaufman, to recommend to the Mayor and City Council ADOPTION of Text Amendment T-385.

Vote: 5-0

During the course of its discussion, the Commission recommended staff return for periodic updates as to the implementation and continue to explore opportunities to enhance application procedures for our residents.

JOINT EXHIBIT

29

T-385