REPORT TO MAYOR AND COUNCIL

NO: 5

Draft for Planning Commission Review

On October 12, 2009

Council Meeting: October 27, 2009

SUBJECT: 2007-0764 - Zoning Code Amendments for Single-Family Home Development Standards

REPORT IN BRIEF

After a substantial study, the City Council directed changes to single-family home development standards and the Design Review process in Sunnyvale on August 19, 2008 (RTC 08-251). The study was in response to residents' concerns that the existing development standards were not adequate to ensure compatibility of new and remodeled homes with their surrounding neighborhoods.

Council made a series of policy changes, including counting vaulted ceilings toward floor area ratio, expanding Design Review applicability, lowering square footage threshold for Planning Commission review, increasing notification and creating proportional setbacks, among other changes (see Discussion section for a complete description of these amendments and Attachment F for the Minutes of August 19, 2008).

Based on that direction, staff has developed a zoning ordinance to implement these changes (Attachment A). In the course of drafting the ordinance to implement proportional setbacks, concerns were raised regarding the ease of implementation and possible unintended consequences from this requirement, such as increasing setback nonconformity and overall reduction in side yard setbacks. To address these issues, staff is recommending a slightly revised standard implementing proportional setbacks for total side yard only (Attachment B). Attachment D is the proposed Single Family Design Techniques to address issues of height and bulk for single-story additions.

BACKGROUND

On August 19, 2008, the City Council selected changes to single-family home development standards and Design Review process in Sunnyvale (RTC 08-251). These changes were adopted in response to residents' concerns that the existing development standards were not adequate to ensure compatibility of new and remodeled homes with the surrounding neighborhood. The key concerns expressed by residents were:

- The large size and architectural styles of new and remodeled homes are incompatible with existing neighborhoods.
- The limitation of Design Review to projects modifying 20% or more of the area of the existing home is not sufficient to address some major home remodels that can substantially affect the character of the neighborhood.
- Current public notification of adjacent residents for additions with a second-story component is not adequate to notify all affected neighbors.
- Neighbors, not just applicants, should have the right to appeal a Design Review.
- Too much regulation will discourage property reinvestment and improvement.

EXISTING POLICY

Land Use and Transportation Element

Goal C1: Preserve and enhance an attractive community, with a positive image and sense of place that consists of distinctive neighborhoods, pockets of interest, and human-scale development.

DISCUSSION

The action proposed is to adopt ordinances related to the approved policy changes described below:

1. **Vaulted Ceilings Count Toward FAR.** Interior ceiling heights exceeding 15' will be counted twice for the purpose of calculating floor area and floor area ratio (FAR). This more accurately measures the proposed bulk of a home.
2. **Expand Design Review Applicability.** Design Reviews may now be required for any project that results in a significant change (as defined by the director of community development) to the appearance of the exterior, even if less than 20% of the floor area is affected.
3. **Lower Square Footage Threshold for Planning Commission Review.** Planning Commission review is now required for all projects resulting in 3,600 sq. ft. gross floor area (including garage) or greater (reduced from the previous 4,050 sq. ft. threshold).
4. **Increase Notification Radius for Two-Story and Public Hearing Design Reviews.** Expand notification radius from adjacent homes to a radius of 200 ft. as well as posting a large on-site notice board including streetscape elevation that is visible from a passing car.

Policy changes 1 through 4 are reflected in the draft ordinance located in Attachment A.

5. **Additional Detail in the Single Family Home Design Techniques.** Additional language regarding appropriate size and height of one-story homes, along with wall plate height, finished floor height and size of

second stories, will be added to the Single Family Home Design Techniques.

Policy change 5 is an update of design guidelines. The wording for these design guidelines changes is located in Attachment D. The following are the policies supported by Council at the August 2008 meeting. Staff is recommending modifications to these as discussed below.

6. **Proportional Side Yard Setbacks.** Modify side yard setback requirements to a percentage of lot width: 7% for any one side and a total of 20% for the two sides combined. (*Staff recommendation: Keep existing minimum side yard setback and implement 20% for the total side yard setback with a minimum of 10 ft. for R-0 and R-2 and 15 ft. for R-1.)*
7. **Second Story Setbacks**: Require the additional 3 ft. second story setback to be relative to the first story, not the property line. This would require that all second stories be set-in a minimum of 3-5 ft. (*Staff recommendation: Add this to the Single Family Design Techniques but do not put it in the Sunnyvale Municipal Code.)*

Proportional Setbacks
The Council voted to implement proportional setbacks as a way to simplify the zoning code and accomplish the goal of narrower setbacks for narrow lots and greater setbacks for wider lots. These proportional setbacks would increase for wider lots and decrease for narrow lots.

Minimum Side Yard Setback: Staff compared the proposed proportional setback standard to the current zoning requirements and evaluated the actual widths of lots zoned for single-family homes. For the required minimum side yard setback, the 7% standard results in larger setbacks for many R-0 properties and smaller setbacks for many R-1 properties, the opposite of the intended purposes. To remedy this situation, staff recommends that the existing minimums of 4 ft. (R-0 and R-2 zoning districts) and 6 ft (R-1 zoning districts) be retained.

Combined Total Side Yard Setback: Staff recommends that the 20% of lot width requirement be instituted. Staff also suggests that the combined total not be less than 10 ft. in the R-0 and R-2 Zoning Districts and not less than 20 ft. in the R-1 Zoning District. For ease of implementation, staff recommends that the total side yard setback be rounded to the nearest whole number. Attachment E contains further analysis regarding the proportional setbacks.

Non-conforming Properties: Staff further recommends that existing properties that meet the current standard of 12 or 15 feet be allowed to build along current first story setbacks lines. This approach would allow for logical expansions of rooms and would not create a non-conforming situation for these

properties. New home construction (including tear downs) would need to follow the new total side yard setback requirements.

Additional Second Story Side Yard Setbacks
Council also voted to implement additional second story setbacks, as measured from the first story (vs. the current requirement to measure from the property line). Under the current code, a property that has a first story setback three feet greater than the minimum (i.e. 7 feet in R-0 and 9 feet in R-1) could build a second story straight up. There are several predominately two-story neighborhoods in the City that have second stories built directly over the first story. Staff is concerned that the new setback provision would be inflexible in addressing the variety of design and neighborhood character situations in the City.

As an alternative, staff recommends that the Design Techniques be amended to include a technique for an additional second story side setback (measured from the first story) in predominately single-story neighborhoods. This language is included in Attachment D, Draft new wording for Single Family Home Design Techniques.

FISCAL IMPACT
The tables below identify the expected fiscal impacts of the actions taken by the Council in 2008, including one-time and recurring annual impacts. The actual fiscal impacts of each tool will vary based on the number of applications received in a given year; the tables provide an estimate based on the number of applications received in prior years.

Recurring Annual Costs
2008 Council Approved tools for Single-Family home development standards and processes

Summary	Personnel Hours	Personnel Expenses	Materials Expenses	Consultant Expenses	Total
2nd Floor Equivalent	225	$15,300	$450		$15,750
Public Hearing Threshold	75	$5,100	$750		$5,850
Setback					$0
Elevation Data					$0
Streetscape					$0
Plan Location					$0
Design Review	100	$6,800			$6,800
Notification			$900		$900
Notice Boards	60	$4,080			$4,080
Appeal	150	$10,200	$300		$10,500
SMC 19.80					$0
Proportional setbacks*	300	$20,400	$0		$20,400
Totals (annual)*	**910**	**$61,880**	**$2,400**	**$0**	**$64,280**

* Staff recommends a modified version of this council action which will reduce the additional hours/costs by 50 hrs/$3,400 (resulting in a total of 860 hours and total costs of $47,280).

One-Time Costs						
Tool	**Summary**	**Personnel Hours**	**Personnel Expenses**	**Materials Expenses**	**Consultant Expenses**	**Total**
Update SFHDT for Height/Design		20	$1,360		$1,500	$2,860
Width						$0
Wall Plates						$0
Shed Roof						$0
Windows						$0
Totals (one-time)		**20**	**$1,360**		**$1,500**	**$2,860**

These fiscal impacts were presented to the City Council with the original study (RTC #08-251) and staff was directed to prepare a budget modification to implement the selected policy changes.

Economic circumstances have changed dramatically since August 2008, and there is concern about allocating additional monies from the General Fund for these services. Staff hours for Land Use Planning have already been reduced in FY 2009-2010 to reflect the approximately 15 percent reduction in permit applications from the previous year.

Staff proposes to absorb the additional costs for these ordinance changes in the short term; however, when the number of development applications start to approach the budgeted numbers, staff will return to the Council with a budget modification or alternative ways to fund the costs of these additional regulations. Staff is currently working on a fee study to determine costs of a variety of development services (e.g. Building, Planning and Engineering). Adjustments to fee levels will be considered when staff presents the results to Council later this year.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site. Neighborhood associations and several members of the public were also notified of the Council hearing on the proposed ordinances at their request.

ENVIRONMENTAL IMPACT

A Negative Declaration was previously prepared and adopted for these changes in compliance with the California Environmental Quality Act provisions and City guidelines. The Negative Declaration has been filed with the Santa Clara County Clerk-Recorder's Office for review and comment.

ALTERNATIVES

1. Adopt Ordinance A as in Attachment A, which implements those portions of the Council's 2008 action relating to policy changes 1-4;
2. Adopt Ordinance B as in Attachment B, which implements an alternative form of proportional setbacks;
3. Adopt the proposed modifications to the Single Family Home Design Techniques as described in Attachment E.
4. Adopt one or more of the proposed ordinances with modifications;
5. Do not adopt any of the proposed ordinances and direct staff as to where additional modifications are needed;

RECOMMENDATION

Staff recommends Alternatives 1, 2 and 3.

Staff recommends adopting Ordinance B presented in Attachment B. This ordinance proposes a proportional setback concept without some of the significant drawbacks described in the analysis.

Staff also recommends adopting the remaining portion of the ordinance, implementing noticing changes, modifications to FAR thresholds, and appeal rights for neighbors, as well as the proposed Single Family Design Techniques to better address single-story additions and issues relating to bulk.

Reviewed by:

Hanson Hom, Director, Community Development Department
Reviewed by: Trudi Ryan, Planning Officer
Prepared by: Diana O'Dell, Senior Planner

Approved by:

Gary M. Luebbers
City Manager

Attachments

A. Draft Ordinance A, which implements policy changes 1-4.
B. Draft Ordinance B, which implements staff's revised recommendation related to proportional setbacks
C. *(Not used)*
D. Draft new wording for Single Family Home Design Techniques
E. Information on lot widths
F. Minutes of City Council meeting on August 19, 2008

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CERTAIN SECTIONS OF CHAPTERS 19.12 (DEFINITIONS); 19.32 (BUILDING HEIGHTS, LOT COVERAGES AND FLOOR AREA RATIOS); 19.80 (DESIGN REVIEW); AND 19.98 (GENERAL PROCEDURES) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO SINGLE-FAMILY HOMES

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 19.12.080 AMENDED. Section 19.12.080 ("G") of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.080. "G"

(1) - (6) [Text unchanged]

(7) "Gross floor area" means the following:

(a) Single-family Residential Uses. The sum of the areas computed from the outside dimensions of a building, including supporting columns and unsupported wall projections (except for: eaves, uncovered balconies, uncovered porches, covered porches on the ground floor, uncovered stairways, fire escapes, landing places, fireplaces, and similar architectural features) for each floor. Garages are included in floor area calculations. Basement area may be exempt from the calculation as long as it is located no higher than two feet above grade. Except for those areas specifically exempted above, any area with an interior ceiling height exceeding 15 feet shall be counted twice for the purpose of calculating gross floor area.

(b) Commercial, Industrial, Multifamily and Other Uses. The sum of the areas computed from the outside dimensions of a building, including corridors, supporting columns and unsupported wall projections (except for: eaves, uncovered balconies, uncovered porches, covered porches on the ground floor, uncovered stairways, fire escapes, landing places, fireplaces, and similar architectural features) for each floor including mezzanine floors and enclosed and unenclosed roofed patios where the roof is more than fifty percent solid.

SECTION 2. SECTION 19.32.020 AMENDED. Section 19.32.020 ("Building height and lot coverages") of Chapter 19.32 (Building Heights, Lot Coverages and Floor Area Ratios) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.32.020. Building height and lot coverages.

Building height and lot coverages shall be according to the provisions set forth in Table 19.32.020, except that all lots located within the DSP district shall conform to provisions set forth in Chapter 19.28.

TABLE 19.32.020
Building Height, Lot Coverage and Floor Area Ratio

Zoning District	Building Stories	Building Height (ft.)[8,9]	Lot Coverage (%)[9]	Floor Area Ratio (FAR) (%)[9]
R-0	2	30	45	45% FAR or 3,600 sq. ft. of gross floor area, whichever is less[6]
R-1	2	30	45	45% FAR or 3,600 sq. ft. of gross floor area, whichever is less[6]
R-1.5	2	30[1]	40	50
R-1.7/PD	2	30	40	50
R-2 (single-family dwellings)	2	30	40	45% FAR or 3,600 sq. ft. of gross floor area, whichever is less[6]
R-2 (all uses other than single-family dwellings)	2	30	45	55[6]
R-3 Townhomes	3	35	40	
R-3 (all other uses)	2	30	40	
R-4	4	55	40	
R-5	4	55	40	
R-MH	2	30	None	
O	2	30	40	
P-F	2			
DSP	See Table 19.28.170	See Table 19.28.170	See Table 19.28.170	See Table 19.28.170
C-1	2	40	35	
C-2	8	75[5]	35	55 (Future Site D) as described in Section 19.32.070(c)(3)
C-3	8	75[4]	35	
C-4	2	40	35	
M-S	8	75	45	35[5, 7]
M-3	8	75	45	35[5, 7]

1 Walls facing the side yards cannot exceed twelve feet in height within twelve feet of the side property lines. Second story wall height is limited to twenty-one feet, exclusive of pitched roof structure.
2 One-half foot shall be added to the front, side and rear yard setbacks for each foot that the building exceeds the maximum height allowed in the most restrictive abutting district.
3 Coverage shall not exceed the maximum structural coverage in the most restrictive zoning district abutting this district.
4 Hotels and motels may exceed seventy-five feet if allowed by use permit.
5 Fifty percent FAR for commercial storage or warehousing, Section 19.32.070(d).
One hundred percent FAR for Future Site B, as described in Section 19.32.070(c)(1).
Seventy percent FAR for Future Site C, as described in Section 19.32.070(c)(2).
Fifty percent FAR for Future Site E, as described in Section 19.32.070(c)(4).
6 Applications for residences which exceed the FAR set forth in this table shall be considered pursuant to Section 19.80.040(c).
7 5% FAR bonus for green buildings may apply. See Section 19.32.075.
8 A five-foot height bonus is allowed when underground parking is included in the design. See Section 19.46.040.
9 Refer to Chapter 19.56 for deviations to height, lot coverage, and floor area ratio to accommodate and/or provide incentives for installation of solar energy systems.

SECTION 3. SECTION 19.80.020 AMENDED. Section 19.80.020 ("Design guidelines") of Chapter 19.80 (Design Review) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.80.020. Design guidelines.

The city council has established criteria and various guidelines for design review. ~~which shall be known as the "Citywide Design Guidelines," and "Industrial Design Guidelines."~~ These design guidelines shall be maintained in the department of community development and shall be available to the public. Minor additions to or deletions from the guidelines may be made by the director of community development; major changes require approval of the planning commission.

SECTION 4. SECTION 19.80.030 AMENDED. Section 19.80.030 ("Procedures") of Chapter 19.80 (Design Review) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.80.030. Procedures.

(a) Except as noted below, any site or building development or modification requiring a discretionary land use permit or a building permit shall be subject to the requirements of this chapter. Unless an applicant has obtained approval of a discretionary permit, design review shall be conducted as part of a building permit plan check process or miscellaneous plan permit process.

(1) Single story additions or any single-story modifications to single-family detached dwellings or duplex residential dwellings ~~are~~which add or modify less than twenty percent of the floor area of the existing structure are generally exempt from design review requirements, except that the director of community development shall have the authority to require design review for any significant modification which changes the exterior appearance of the home. Significant modifications may include but are not limited to: exterior materials; the number, placement, or design of windows or doors; and the height, pitch, or material of the roof.

(2) Properties located within a heritage district, a specific plan area or an area for which detailed design guidelines have been established by the planning commission or city council shall be subject to the requirements of the design criteria established for those districts or areas.

~~(b) Prior to any action being taken on a design review application for a single-family home in an R-0, R-1, R-1.5, R-1.71PD, or R-2 zoning district that includes a two-story component, notice of the pending application shall be given by mail to adjacent property owners stating that the application is available for review and comment for fourteen days following the date on the notice.~~

~~(c) Prior to any action being taken on a design review application for any non-residential building which is adjacent to any residential zoning district, notice of the pending application shall be given by mail to adjacent property owners, stating that the application is available for review and comment for fourteen days following the date on the notice.~~

SECTION 5. SECTION 19.80.040 AMENDED. Section 19.80.040 ("Decisions") of Chapter 19.80 (Design Review) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.80.040. Decisions.

(a) – (b) [Text unchanged.]

(c) Applications for design review for residences in the R-0, R-1 and R-2 zoning districts which exceed either the FAR or gross floor area threshold established in Section 19.32.020 ~~or square feet of gross floor area, whichever is less~~, shall be considered by the planning commission at a public hearing. Notice of such hearing shall be given in accordance with Section 19.98.040(c). The planning commission may:

(1) Approve the design review as requested or as changed, modified or conditioned by the commission if the commission finds that the project as approved meets the required finding.

(2) Deny the design review if the commission finds that the project would not meet the required finding.

(d) [Text unchanged.]

SECTION 6. SECTION 19.98.020 AMENDED. Section 19.98.020 (Applications) of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.020. Applications.

(a) Consideration of a permit or process is initiated by the filing of an application signed by the owner of the land to which the permit or process would be applicable. The application shall be filed with the director of community development on forms furnished for this purpose. The application shall be accompanied by the required fee, plans, elevations and other supporting data set forth in this section, or determined necessary by the director of community development.

(b) Design review and miscellaneous plan permit filings shall include:

(1) Written explanation of project;

(2) Site plan; except that a site plan is not required for landscape/irrigation for single-family, duplexes, triplexes or fourplexes. Nothing shall prohibit the director of community development from requiring site plans with certified site elevation data and shall show street and sidewalk locations (if applicable) in addition to property lines. Single-family design review site plans shall include certified elevation data to establish property grades;

(3) Architectural elevations of all sides of all buildings indicateing exterior materials and colors. Where appropriate, a color and material board may be required. Single-family design review architectural elevations shall include a streetscape view showing the proposed home and one adjacent home on each side. Single-family design review architectural elevations shall also include certified elevation data to establish property grades;

(4) Floor plans of all buildings;

(c) – (k) [Text unchanged.]

SECTION 7. SECTION 19.98.040 AMENDED. Section 19.98.040 (Notice requirements) of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.040. Notice requirements.

(a) ~~For design review, miscellaneous plan permits and tree removal permits, the director of community development may take action without public notice or hearing~~Design Review

(1) The director of community development may take an action without public notice or hearing except as provided below.

(A) Residential design review. Prior to any action being taken on a design review application for a single family home in an R-0, R-1, R-1.5, R-1.7PD, or R-2 zoning district that includes a two-story component, notice of the pending application shall be given by mail to owners of properties located within 200 feet of the subject property, stating that the application is available for review and comment for fourteen days following the date on the notice. A notice shall also be posted on the subject site, and such notice shall include a streetscape elevation showing the proposed home and one adjacent home on each side. Notice titles shall be visible from a passing car.

(B) Non-residential design review adjacent to residential. Prior to any action being taken on a design review application for any non-residential building which is adjacent to any residential zoning district, notice of the pending application shall be given by mail to owners of properties located within 200 feet of the subject property, stating that the application is available for review and comment for fourteen days following the date on the notice.

(2) For special development permits, use permits and variances determined to be exempt from the California Environmental Quality Act (minor permits), notice of the time and place of each public hearing required as a condition precedent to the consideration of the approving or revocation of a permit shall be given at least ten calendar days prior to the day of the hearing in the following manner:

(A) By posting a copy of the notice of hearing:

(i) At a conspicuous location on each frontage of the property which is the subject of the application. For design review applications requiring public hearing under 19.80.040(c), the posted notice shall include a streetscape elevation showing the proposed home and one adjacent home on each side;

(ii) On the public notice bulletin board at the Sunnyvale City Hall.

(B) By mailing a copy of the notice to:

(i) The owner and applicant; and

(ii) The owners of all adjacent properties; except that for design review applications requiring public hearing under 19.80.040(c), notice shall be provided to owners of all properties within 200 feet of the subject property.

(C) By publishing at least once in a newspaper of general circulation in the city, a copy of the notice.

(b) Miscellaneous Plan Permits and Tree Removal Permits

(1) The director of community development may take an action without public notice or hearing except as provided below.

(A) Fences in the front yard or reducible front yard greater than 6 feet in height up to 7 feet in height. Within 5 days of approving an MPP, the director shall post the subject property providing notice of the date of the approval action. In addition, written notice of approval shall be sent to property owners and occupants of adjacent properties.

(B) Donation centers for used goods. Within 5 days of approving an MPP, the director shall post the subject property providing notice of the date of the approval action. In addition, written notice of approval shall be sent to property owners and occupants of adjacent properties.

(2) For special development permits, use permits and variances determined to be exempt from the California Environmental Quality Act (minor permits), notice of the time and place of each public hearing required as a condition precedent to the consideration of the approving or revocation of a permit shall be given at least ten calendar days prior to the day of the hearing in the following manner:

(A) By posting a copy of the notice of hearing:

(i) At a conspicuous location on each frontage of the property which is the subject of the application.

(ii) On the public notice bulletin board at the Sunnyvale City Hall.

(B) By mailing a copy of the notice to:

(i) The owner and applicant; and

(ii) The owners of all adjacent properties.

(C) By publishing at least once in a newspaper of general circulation in the city, a copy of the notice.

~~(b)~~(c) For a mobile vendor permit, notice of an approval of a permit shall:

(1) Be posted at the permit location within five days of approving a permit.

(2) Sent to all occupants and owners of immediately adjacent properties.

~~(c) For special development permits, use permits and variances determined to be exempt from the California Environmental Quality Act (minor permits), notice of the time and place of each public hearing required as a condition precedent to the consideration of the approving or revocation of a permit shall be given at least ten calendar days prior to the day of the hearing in the following manner:~~

~~(1) By posting a copy of the notice of hearing:~~

~~(A) At a conspicuous location on each frontage of the property which is the subject of the application.~~

~~(B) On the public notice bulletin board at the Sunnyvale City Hall.~~

~~(2) By mailing a copy of the notice to:~~

~~(A) The owner and applicant; and~~

~~(B) The owners of all adjacent properties~~

~~(3) By publishing at least once in a newspaper of general circulation in the city, a copy of the notice.~~

(d) – (l) [Text unchanged.]

SECTION 8. SECTION 19.98.070 AMENDED. Section 19.98.070 (Appeals) of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.070. Appeals.

(a) Appeal of Design Review ~~and Tree Removal~~ Permits.

(1) Design review by director: An applicant, ~~or~~ the owner of the subject property, or the owner of ~~an adjacent~~ property within the required noticing radius as described in 19.98.040, aggrieved by a design review decision of the director of community development with regard to nonconformance with ~~the "City Wide Design Guidelines"~~ applicable design guidelines may file an appeal to the planning commission ~~after the date of such decision~~by 5:00 pm on the fifteenth calendar day following such action. All proceedings initiated by the decision of the director of community development shall be suspended pending a determination by the planning commission on the merit of the appeal. The decision of the planning commission is final.

(2) Design review with public hearing: An applicant, ~~or~~ the owner of the subject property, or the owner of ~~an adjacent~~ property within the required noticing radius as described in 19.98.040, aggrieved by a design review decision of the planning commission made pursuant to Section 19.80.040(c) with regard to nonconformance with ~~the "City Wide Design Guidelines"~~ applicable design guidelines may file an appeal to the city council ~~after the date of such decision~~by 5:00 pm on the fifteenth calendar day following such action. All proceedings initiated by the decision of planning commission shall be suspended pending a determination by the city council on the merit of the appeal. The decision of city council is final.

~~(3)~~(b) Appeal of Tree Removal Permits. The owner of the subject property, aggrieved by a tree removal permit decision of the director of community development may file an appeal to the planning commission after the date of such decision. All proceedings initiated by the decision of the director of community development shall be suspended pending a determination by the planning commission on the merit of the appeal. The decision of the planning commission is final.

(b) – (c) [Text unchanged. Renumber (c) – (d).]

SECTION 9. CEQA EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 10. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION 11. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 12. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication of a notice once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2009, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2009, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

_____
City Clerk

_____
Mayor

Date of Attestation: _____

SEAL

APPROVED AS TO FORM AND LEGALITY:

_____
David E. Kahn, City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CERTAIN SECTIONS OF CHAPTER 19.34 (FRONT, SIDE AND REAR YARDS) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO SINGLE-FAMILY HOMES

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 19.34.030 AMENDED. Section 19.34.030 ("Required yards") of Chapter 19.34 (Front, Side and Rear Yards) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.34.030. Required yards.

Yards shall be required as set forth in Table 19.34.030, except that all lots located within the DSP district shall conform to provisions set forth in Chapter 19.28.

TABLE 19.34.030
Required Yards

Zoning District	Front Yard Minimum[6,1,2]	Front Yard Average[1,2,6]	Side Yards Total[1, 5,3, 6,4]	Side Yards One Side[5,1, 6,4]	Rear Yard[1,6,7]
R-0	15	20	20% of lot width but not less than 10 ft.[8]	4 ft.	20
R-1.5	20	20	12	4	20
R-1.7	15	20	12	4	20
R-2	15	20	20% of lot width but not less than 10 ft.[8]	4	20
R-1	15	20	20% of lot width but not less than 15 ft.[8]	6	20
R-3	15[2]	20	15	6	20
R-4	20[2]	None	20	9	20
R-5	20[2]	None	20	9	20
R-MH	None	None	None	None	None
O	20	None	15	6	20
P-F	Pursuant to Footnote 6	Pursuant to Footnote 6	Pursuant to Footnote 6	Pursuant to Footnote 6	Pursuant to Footnote 6
C-1[7]	70	None	None	None	None
C-2[7]	70	None	None	None	None

Zoning District	Front Yard Minimum[61,2]	Front Yard Average[1,2,6]	Side Yards Total[1, 53, 64]	Side Yards One Side[51, 64]	Rear Yard[1,6,7]
C-3[7]	70	None	None	None	None
C-4[7]	20	None	None	None	None
M-S[7]	25	None	20	None	None
M-3[7]	25	None	20	None	None

1 Refer to 19.56 for deviations to required setbacks to accommodate installation of solar energy systems.
2 For development or additions on single lots in zoning districts where there is an average requirement, the minimum setback must meet the average figure.
~~4~~3 Combined total of the two side yards added together.
4 Increased setbacks for multiple stories may also be required by Section 19.34.080.
5 Residential zoning districts allow a one-story encroachment into the rear setback as provided in 19.48.050.
6 The minimum front yard, side yards and rear yard required in this district shall be equal to those required in the most restrictive abutting zoning district. One-half foot shall be added to each yard for each foot that the building exceeds the maximum height allowed in the most restrictive abutting district.
7 Increased setbacks for commercial or industrial zoned properties may also be required by Sections 19.34.070 or 19.34.110.
8 When calculating setbacks as a percentage of lot width, the resulting setback shall be rounded to the next foot (e.g. 12.4 feet = 12 feet required and 15.7 ft.= 16 ft. required.). Lot width is measured at the front setback per 19.12.130(15).

SECTION 2. CEQA EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication of a notice once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2009, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2009, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

_____
City Clerk

_____
Mayor

Date of Attestation: _____

SEAL

APPROVED AS TO FORM AND LEGALITY:

_____
David E. Kahn, City Attorney

Attachment C

(Not used)

New Single Family Homes: Design Techniques

- **3.4 SECOND FLOORS** The width of a second story or second story addition shall not exceed 80% of the width of the first story unless the home is using a specific traditional architectural style that requires full-width second stories, such as a New England saltbox style.

- **3.5 ROOFS** Single story homes shall not exceed 20 ft. in height in order to minimize bulk and be more compatible with single-story homes in the neighborhood.

- **3.3** _____ Finished floor heights shall not exceed 3 ft. over the top of the adjacent public curb, except as otherwise required to meet Building Code requirements.

- **3.5 ROOFS** Shed roof elements are discouraged. If a shed roof is proposed, additional setbacks from the side, rear and front yard may be required to reduce the bulk of the addition.

- **3.5 ROOFS** Roof-mounted solar installations are encouraged on single-family homes, and Design Review should not discourage these installations.

- ~~Recommend a maximum wall plate height of 9 ft.~~ This design guideline is not recommended. After conferring further with the Building Division, this standard is confusing and difficult to implement. Staff recommends the following as an alternative:

- One-story building height shall not exceed 3 ft. above the adjacent one-story building height unless it is in a neighborhood that is specifically transitioning such as Raynor Park.

Existing Single Family Homes: Design Techniques

- **3.4 Second Floors** If a traditional second floor form is necessary, set the front, rear and sides of the second floor back from first floor walls. In general, it is best to set second floor areas back as far as possible from the front façade of the home (e.g. five feet or more). In predominantly one-story neighborhoods, three foot additional side and rear façade setbacks for the second story shall be required ~~of three to five feet are generally sufficient.~~

Lot Widths

R-0 Zoning District:

- Minimum lot size for R-0: 6,000 s.f.
- Minimum lot width for R-0: 57 ft.

Among the R-0 lots, a lot width of 60 feet is common. Approximately 18% of R-0 lots (~2,700 of 15,000) are less than the 57 foot minimum. These lots were created before the early 1960s and are typically 5,000 – 5,500 sq. ft. Lots that meet the 6,000 s.f. minimum commonly meet the minimum lot width standard.

R-2 Zoning District:

- Minimum lot size for R-2: 8,000 s.f.
- Minimum lot width for R-2: 76 ft.

There are about 2200 R-2 properties that are developed with single-family homes or duplexes. About 65% of these single-family and duplex lots are 50 feet in width. The remaining 1000 R-2 lots are primarily developed with townhouses and are not likely to have many proposals for additions to the property.

The following table shows how the 20% proportional combined total side yard setback would affect R-0 and R-2 lots.

R-0 and R-2 Combined Total Side Yard Setback Standards at 20% of Lot Width

Lot Width (ft.)	Total Sideyard Setback (ft)
Up to 52.5 ft	10
Between 52.5 ft. and 57.5 ft.	11
Between 57.5 ft. and 62.5 ft.	**12** (existing: for all R-0 and R-2 lots)
Between 62.5 ft. and 67.5 ft.	13
Between 67.5 ft. and 72.5 ft.	14
Between 72.5 ft. and 77.5 ft.	15
Greater than 77.5 ft.	20% of total lot width

R-1 Zoning District:

- Minimum lot size for R-1: 8,000 s.f.
- Minimum lot width for R-1: 76 ft

Among the R-1 lots, a lot width of 80 feet is common. Approximately 15% of R-1 lots (~700 of 4500) are greater than 80 feet wide and about 3% (~125 of 4500) have widths greater than 89 feet. The following table

shows how the proportional total side yard setback would affect most R-1 lots.

R-1 Combined Total Side Yard Setback Standards at 20% of Lot Width

Lot Width (ft)	Total Sideyard Setback (ft)
Up to 77.5	**15** (existing: for all R-1 lots)
Between 77.5 ft. and 82.5 ft.	16
Between 82.5 ft. and 87.5 ft.	17
Between 87.5 ft. and 92.5 ft.	18
Between 92.5 ft. and 97.5 ft.	19
Between 97.5 ft. and 102.5 ft.	20

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RTC 08-251
08-251 additional info

2007-0764 – Consideration of Changes to Single-Family Home Development Standards and Accessory Utility Building Standards (Study Issue)

Assistant Planner Mariya Hodge presented the staff report.

Councilmember Moylan discussed with staff the appeal process and who may have the opportunity to appeal. Director of Community Development Hom explained that someone may want to appeal a decision for a project for reasons other than their concerns over having a direct view of a structure.

Councilmember Moylan verified with Planning Officer Ryan that staff is suggesting that on narrower lots the total set back is reduced to 10 feet and to increase the setback for wider lots to eighteen feet, versus the current fifteen. Staff is not recommending a proportional set back.

Vice Mayor Hamilton verified that staff's opinion regarding the use of story poles and netting is that although some cities use both items to depict the mass of a structure being built, it does not really identify what the building will look like architecturally and can become unsightly. Vice Mayor Hamilton stated that the bulk of a building is the main concern and she would be in favor of the City adopting story poles. Planning Officer Ryan explained that staff is recommending alternative tools in place of story poles, such as streetscape and perspective illustrations in order to provide more information to interested parties.

Mayor Spitaleri verified with Assistant Planner Hodge that staff has placed a height restriction on residential buildings, which does not affect the setback requirements, but does add to the floor area ratio calculations.

Mayor Spitaleri stated he is concerned that the City might be too restrictive. Planning Officer Ryan stated the issues for staff involve to what extent the existing character of neighborhood should be preserved versus to what extent reinvestment and improvements should be accommodated, and what is the proper balance between those two issues. Staff looked for a way to balance those issues and developed the proposed tools to allow the neighborhood more opportunity to see what is being proposed and if it would be desirable in their neighborhood.

Public hearing opened at 10:57 p.m.

Colleen Yamada stated she currently has submitted home plans to the City and those plans are going through the design review process. Yamada stated she would like to offer some thoughts on the study. Yamada stated twelve of the fifteen recommendations take property rights and freedom of expression away from homeowners. Yamada spoke about concerns over the proposed design techniques and the outreach to the community regarding this study. Yamada recommended developing an escalation process for neighborhood disagreements and minimizing the proposed regulations.

Ron Yamaguchi stated he may need to enlarge his home to accommodate family members as identified earlier by Mayor Spitaleri. Yamaguchi stated

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he is opposed to any further restrictions on building permits at this time.

Public hearing closed at 11:03 p.m.

Vice Mayor Hamilton verified with Assistant Planner Hodge that the design techniques are applicable to any design review that staff performs and currently the techniques would be applied to anything that adds twenty percent or more to a home or new construction. Staff's proposal is to require design review for any major or significant modification to the exterior.

MOTION: Councilmember Moylan moved and Vice Mayor Hamilton seconded to approve Alternative 2: Council adopts the Negative Declaration and modifies the tools and budget modification request included in Alternative 1
with adopt an alternative version of the side yard set back, Attachment H - page 5, to read as: minimum side yard set back, on either side, in any zone, for any lot width is seven percent of the lot width and minimum twenty percent combined.

Vice Mayor Hamilton offered a friendly amendment to add that story poles are required for second story additions in order to give the neighborhood an idea of the scale of the addition.

Councilmember Moylan verified with Planning Officer Ryan that staff is not in favor of story poles.

Councilmember Moylan declined the friendly amendment.

Vice Mayor Hamilton offered a friendly amendment to have the addition/remodel notices out in the yard increase in size with the title large enough that someone driving by could read it from the curb.

Councilmember Moylan accepted the friendly amendment.

Assistant Planner Hodge stated staff has already made that recommendation to require larger notice boards and Vice Mayor Hamilton explained that what she is specifying is that the title be readable from a car driving by the site.

Councilmember Howe verified with Councilmember Moylan that he is requesting to change the chart listed on page 5 of Attachment I. Councilmember Moylan explained that Attachment H, page 5 needs to be corrected, as he previously mentioned, because it provides the rationale for the set backs. Councilmember Moylan stated he is also requesting that Attachment I, page 5, be corrected to reflect a minimum set back of seven percent on either side with the minimum combined to be 20 percent. Councilmember Moylan explained he is attempting to make one standard which would apply to the entire City, and would assist in creating a home on the lot that was reasonable for the size of the site.

Councilmember Howe verified with Councilmember Moylan that his change applies to single-story set backs and inquired about the set backs for second-story home. Councilmember Moylan responded that the staff recommendation states that second-story set backs will be 80 percent of

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the first floor, which will alleviate the giant two-story flat walls that go from top to bottom on homes. Councilmember Moylan stated that should be sufficient to handle any issues with two-story homes.

Director of Community Development Hom explained that a seven percent set back will create a lot of non-conforming structures and suggested grandfathering in the existing structures prior to the effective date of this ordinance, so that those structures would not be considered non-conforming. Councilmember Moylan responded that it was his understanding that legal non-conforming was the professional term for grandfathering. Councilmember Moylan stated the intent of his motion was for new construction and he agrees with Director Hom's suggestion. Planning Officer Ryan clarified that any addition to a legal non-conforming site would need to meet the new standard; however, if the site is considered to be legal, then the old standard can be repeated for the addition. Planning Officer Ryan stated the ordinance should be clarified to reflect items that are grandfathered in as legal non-conforming. Planning Officer Ryan stated that she would suggest that staff return to Council with the percentage of non-conforming units and Council can make modifications at that time.

Councilmember Moylan stated he does not object to making the existing sites legal.

Councilmember Howe asked staff if Council were to approve Councilmember Moylan's motion, would straight walls on second-story homes be allowed. Planning Officer Ryan responded that straight walls could be a possibility depending on where the home was placed on the property. Planning Officer Ryan stated there is a code provision which states that a second-story needs to observe an additional three feet from whatever the minimum was on the first floor; therefore, it is possible that the wall could go straight up if the homeowner exceeded the minimum by three feet.

Councilmember Howe explained to Councilmember Moylan that he needs to address the possibility of straight walls on second-story homes in his motion. Councilmember Moylan responded that he will modify his motion to include that all second-story side set backs shall be defined with respect to the first-story location, rather than where the property boundary is located. Councilmember Moylan stated staff can determine the set backs accordingly.

Planning Officer Ryan confirmed that Council is making a statement by this motion by not allowing certain styles of architecture, such as a colonial home which has straight walls. Councilmember Moylan responded that was correct and added that staff can make a small percentage for either side.

Vice Mayor Hamilton stated the four-foot minimum side set back seems reasonable whereas, using proportional set backs seems more confusing and can create very small side yards set backs. Vice Mayor Hamilton stated it did not make sense as to how value was being added when the houses are being squeezed onto a lot creating longer, narrower houses.

Councilmember Moylan explained that the idea is to standardize the set

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back requirements across the City. The proportional method is an easier process for the homeowner as they only need to know their lot width to calculate their set back requirements. Councilmember Moylan suggested that an amendment could be made identifying that the set backs must be seven percent or a minimum of four feet, whichever is larger.

Vice Mayor Hamilton offered a friendly amendment that the set backs must be seven percent or four feet, whichever is larger.

Friendly amendment accepted.

Councilmember Swegles stated he does not see a problem with a three-foot set back.

Councilmember Whittum stated he opposes the motion. Councilmember Whittum stated this item is not ready to move forward because many hours still need to be spent on refining this information into something that can be applied. Councilmember Whittum stated that currently staff does not have enough hours to enforce the existing code; therefore, the City should spend more time on enforcing existing codes, rather than add more restrictions.

Councilmember Whittum praised staff for their report and stated that this item may be appropriate in the future, but not now as the City has other priorities and this is a complicated issue. Councilmember Whittum spoke of missing sidewalks in new developments as one of the priorities that he is concerned over and views as a higher priority.

Councilmember Lee stated he will not support the motion as additional notification to the community is needed and because the regulations are too strong. Councilmember Lee stated that a little correction might be good, but what is being proposed is far too much.

Mayor Spitaleri stated he will also oppose the motion. Mayor Spitaleri stated he is concerned that single family homes are not being built in Sunnyvale; therefore, the option of moving to a larger home when a family expands or brings in older relatives is gone. The only option is to enlarge their current home. Mayor Spitaleri stated these regulations are too restrictive.

Councilmember Moylan stated the motion attempts to reduce the huge volume of complaints the City receives regarding housing issues. Councilmember Moylan stated the main issue is that people feel the character of their neighborhood is being degraded by a project, but they are not finding out about it until it is too late to do anything. Councilmember Moylan stated this motion will increase the circumstances under which neighbors will have an opportunity to hear about a project in their neighborhood. Anyone with a reasonable project and without objections will be able to build it. Councilmember Moylan explained that not being able to enlarge a home in order to care for family is not a consequence of this motion. Residents are staying in their homes and enlarging them when they need more room, because they would be reassessed if they were to purchase a new larger home. Councilmember Moylan disagreed that there is a lack of concern from the public, rather it is because of the late hour this item is being discussed which has caused

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the low speaker turnout. Councilmember Moylan explained that the Planning Commission unanimously supported this issue. Councilmember Moylan stated this motion does not prevent anyone from doing anything, it just provides a higher level of review and it is reflective of the community values that Council has heard from the residents. Councilmember Moylan stated this is an attempt to respond to community concerns that Councilmembers have heard for years.

Vice Mayor Hamilton stated delaying this item does not make sense because the work has already been done and the issues and resident concerns should be dealt with now. Vice Mayor Hamilton stated these rules are meant to address older homes in the City.

Mayor Spitaleri stated if the issue is over noticing, that can be easily corrected, but this motion is about much more and places additional restrictions on development.

Restated MOTION: Councilmember Moylan moved and Vice Mayor Hamilton seconded to approve Alternative 2: Council adopts the Negative Declaration and modifies the tools and budget modification request included in Alternative 1
with

- Council adopts an alternative version of the side yard set back, Attachment H - page 5, to read as: minimum side yard set back, on either side, in any zone, for any lot width, is seven percent or four feet, whichever is larger, and a minimum of 20 percent combined;
- Notice titles shall be readable from a passing car, and
- Second-story setbacks need to be defined with respect to the first-story location rather than where the property boundary is located and staff can determine the set backs accordingly.

VOTE: 4-3 (Mayor Spitaleri and Councilmembers Lee and Whittum dissented)

MOTION: Vice Mayor Hamilton moved that story poles are required for second-story additions as part of the application.

Mayor Spitaleri announced the motion died for lack of a second.

Vice Mayor Hamilton proposed a study issue to collect e-mail addresses as part of the utility billing mailing. Those e-mails would be used for project notification purposes. Vice Mayor Hamilton stated having e-mail addresses tied to physical addresses could become valuable.

Mayor Spitaleri verified with the rest of Council that currently it only takes one Councilmember to support a study issue. Study issue accepted.