



Draft Reviewed by the Planning Commission
on October 12, 2009

Council Meeting: October 27, 2009

SUBJECT: 2007-0764 Zoning Code Amendments for Accessory Structures

BACKGROUND

After a substantial study, on August 19, 2008, the City Council authorized changes to the shed regulations in response to residents' concerns that the existing development standards were not adequate to ensure compatibility of new accessory structures with the surrounding neighborhood (RTC 08-251). Changing community standards have resulted in some residents calling for additional regulation. At the same time, other residents are not aware that permits are required for many accessory utility buildings. Staff held public outreach and heard the following community concerns:

- Types of uses being conducted in accessory structures,
- Visibility from the street and neighboring properties
- Size of the buildings
- Current shed ordinance is overly broad and challenging to understand and apply

To address these concerns, the City Council approved the following policy changes (See Attachment C, Minutes):

- New subcategories of accessory structures to better reflect the different characteristics of what residents wish to build. These categories include: open garden features, open play equipment, utility buildings, detached garages/carports and detached habitable spaces.
- New height threshold of 10 ft., (where the previous height threshold was 15 ft.), requiring a Use Permit for most accessory structures greater than 10 ft.
- New permitting requirements for the five new types of accessory structures.

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

Since the Council direction to modify the shed regulations, three issues have been raised:

1. A new building code that affects setbacks and construction types for sheds closer than 5 ft. to the property line. Structures within this setback have increased construction standards to enhance fire safety.
2. Concerns with the costs to both City staff and applicants of implementing the proposed changes.
3. Concerns about the complexity of regulations, and a renewed focus on easing permitting requirements for homeowners while maintaining community standards.

As a result, staff took the opportunity to simplify the shed regulations and achieve consistency with the building code. These changes maintain the stated goals of revising the shed ordinance with new categories, height thresholds, and new permitting requirements while reducing the number of permits required, saving time and cost in review as well as reducing applicant costs.

Some of the changes made from the August 2008 Council direction are:

1. **Create two height categories for sheds instead of three.** The previous height categories were: less than seven feet, between seven and ten feet, and greater than ten feet. In order to simplify the regulations, and make the shed regulations consistent with the changes to fence heights proposed by staff, staff created a new cutoff of 8 ft. Sheds less than 8 ft. have very few permitting and setback requirements. Sheds greater than 8 ft. require an MPP with a notice to adjoining property owners prior to any action being taken.
2. **Make the permit requirements for detached habitable living spaces and utility buildings the same.** Previously, utility buildings required a Miscellaneous Plan Permit (MPP) while detached habitable living spaces were allowed by right. Now both types of buildings require no permit when less than 8 ft. (provided they meet the setback requirements) and a MPP with Notice when greater than 8 ft. in height.
3. **Remove the section on “accessory utility buildings attached to the house in the side yard”** as it is inconsistent with building code requirements. New building code has strict standards about structures closer than 5 ft. to the side property line.
4. **Clarify the concept of “enclosed.”** This term is important to define to fully classify “open” features versus other detached spaces.
5. **Institute a 15 ft. height standard for detached garages** and specify that the detached garage standards apply to required parking only. Detached garages providing parking spaces above the minimum site requirements will be required to meet the more stringent standards of utility buildings. Previously, there was no specific height limit for

detached garages and no distinction made between required parking and “extra” parking.

6. **Include front and required reducible front yard setback standards** for all categories of accessory structures. Front and required reducible front yard setbacks were not previously addressed.
7. **Eliminate “discretionary” as a setback standard** and establish minimum setbacks in all cases. The discretionary standard was proposed for accessory utility buildings over 120 sq. ft. and open garden features.
8. **Eliminate the need for a planning permit** if structure meets minimum setbacks as described in Item #6 and is 8 ft. or less in height. Staff recommends instituting setback standards and eliminating the need for discretionary planning permits where possible.

ENVIRONMENTAL REVIEW

A Negative Declaration was previously completed and adopted by the City Council on August 19, 2008 that detailed these changes.

FISCAL IMPACT

The previous RTC did not list any specific costs associated with these actions. Staff believes that the processes described within the improved ordinance can be absorbed within existing budgets.

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. A notice was also posted in the Sunnyvale Sun newspaper, and residents interested in this issue were sent a notice.

ALTERNATIVES

1. Adopt Ordinance in Attachment A, which implements staff's recommended modifications to the shed ordinance.
2. Adopt Ordinance in Attachment B, which implements the original Council action with no changes.
3. Adopt a further modified ordinance.

RECOMMENDATION

Recommend Alternative 1 to City Council. Adopt Ordinance in Attachment A, which implements staff's recommended modifications to the shed ordinance.

Reviewed by:

Hanson Hom Director, Community Development Department

Reviewed by: Trudi Ryan, Planning Officer

Prepared by: Diana O'Dell, Project Planner

Approved by:

Gary M. Luebbbers

City Manager

Attachments

- A. Draft Ordinance to implement proposed changes to the shed ordinance.
- B. Draft ordinance to implement original Council action
- C. Minutes of 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), 19.18 (RESIDENTIAL ZONING DISTRICTS), 19.28 (DOWNTOWN SPECIFIC PLAN DISTRICT), 19.34 (FRONT, SIDE AND REAR YARDS), 19.40 (ACCESSORY UTILITY BUILDINGS), 19.42 (OPERATING STANDARDS), 19.48 (FENCES, DISTANCES BETWEEN BUILDINGS AND EXTENSIONS INTO YARDS), 19.68 (MOBILE AND ACCESSORY LIVING UNITS), 19.82 (MISCELLANEOUS PLAN PERMIT), AND 19.98 (GENERAL PROCEDURES) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO ACCESSORY STRUCTURES—SHEDS

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

SECTION 1. SECTION 19.12.020 AMENDED. Section 19.12.020 ("A") of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.020. "A"

(1) ~~"Accessory building" means any subordinate building the use of which is incidental to that of the main building on the same lot or premises, and which is used exclusively by the occupants of the main building.~~

"Accessory structure" means a detached subordinate structure, with or without a foundation, the use of which is incidental to that of the main building or to the use of the land on the same lot. Types of accessory structures include:

(a) Detached habitable spaces. An accessory structure which is detached from the main structure and meets the minimum requirements of the building code for human occupancy. For the purposes of this section, detached habitable spaces do not have cooking and/or eating facilities and may not qualify as accessory living units. If a detached habitable space has cooking and/or eating facilities, it is regulated as an accessory living unit.

(b) Detached required parking. An accessory structure which is detached from the main structure and is designed for, devoted to, or intended to meet the parking requirements for the property. Garages or carports that are not intended to meet required parking are classified as utility buildings as defined herein.

(c) Open garden feature. An accessory structure which does not have solid walls, is less than 50% covered, and is primarily intended as a decorative garden feature. Open garden features typically include arbors and trellises. Garden features which are 50% covered or more are classified as utility buildings as defined herein.

(d) Open outdoor equipment. Accessory equipment or structures which are not roofed, do not have solid walls and are primarily intended for recreation or outdoor cooking. Outdoor equipment may include play structures such as swings, trampolines, and jungle gyms, outdoor fireplaces or accessory

cooking areas such as barbecues and ovens. Play houses and other enclosed equipment is classified as utility buildings as defined herein.

(e) Temporary Utility Tents. These structures are built with lightweight poles, typically plastic or aluminum, that are covered with a taro or other similar temporary materials. They may be freestanding or embedded into the ground. Temporary utility tents include car tents, vehicle awnings, and other similar types of covers and are intended to cover vehicles or other types of storage. Temporary utility tents may not be installed for longer than 90 days in a one-year period.

(f) Utility Building. An accessory structure which cannot be categorized as detached required parking, detached habitable space, open garden feature, open outdoor equipment or temporary utility tent. Utility buildings include detached patio covers, tool sheds, storage sheds, workshops, greenhouses, animal shelters, gazebos, enclosed play houses, and other similar uses.

(2) - (3) [Text unchanged]

~~—(4) "Accessory utility building" means a detached, subordinate structure, with or without a foundation, the use of which is incidental to that of the main building on the same lot or to the use of the land, which is or has been designed for, devoted, or intended for use as a garage, carport, workshop, greenhouse gazebo, animal shelter, playhouse, tool shed, storage shed, or other similar use but does not include structures designed for, devoted to, or intended for human occupancy.~~

(5) - (18) [Renumbered (4) – (17) consecutively; text unchanged]

SECTION 2. SECTION 19.12.170 AMENDED. Section 19.12.170 ("P") of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.170. "P"

(1) - (4) [Text unchanged.]

(5) "Portable storage unit" means any type of portable unit including, but not limited to, sheds, cargo containers or truck trailers not designed for human occupancy, and used exclusively for storage or housing of mechanical equipment. Portable storage unit does not include emergency shelter containers, hazardous materials storage facilities or accessory utility buildings structures.

(6) - (14) [Text unchanged.]

SECTION 3. SECTION 19.18.030 AMENDED. Section 19.18.030 (Permitted, conditionally permitted and prohibited uses in residential zones) of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.18.030. Permitted, conditionally permitted and prohibited uses in residential zones.

(a) Table 19.18.030 sets forth those uses which are permitted, conditionally permitted, and prohibited in residential zoning districts, and the type of approval a use requires.

(b) It is a violation of this chapter to:

(1) Engage in a use that is conditional without complying with the imposed conditions;

- (2) Engage in a prohibited use;
- (3) Engage in a use requiring a miscellaneous plan permit, use permit or special development permit without obtaining the required permit.

TABLE 19.18.030

Permitted, Conditionally Permitted and Prohibited Uses in Residential Zones

In the table, the letters and symbols are defined as follows:

- P = Permitted use
- MPP = Miscellaneous Plan Permit required
- UP = Use Permit required
- SDP = Special Development Permit required
- N = Not permitted, prohibited

RESIDENTIAL ZONES	R-0/R-1	R-1.5	R-1.7/PD	R-2	R-3	R-4	R-5	R-MH
<i>1. Residential</i>								
A. Single-family dwellings	P	P	SDP	P	UP	UP	UP	P ¹
B. – G. [Text unchanged.]								
2. – 4. [Text unchanged.]								
<i>5. Accessory Uses</i>								
A. Accessory living units	MPP	N	N	MPP ³	N	N	N	N
B. Accessory utility buildings as permitted by Chapter 19.40 structures	P ² MPP ⁴ See Chapter 19.40	P ² MPP ⁴ See Chapter 19.40	MPP ⁴ See Chapter 19.40	MPP ⁶ See Chapter 19.40	MPP ^{4,5}	MPP ^{4,5}	MPP ^{4,5}	MPP ^{4,5}
C. Retail, if incidental to other permitted uses and combined with residential use	N	N	N	N	UP	UP	UP	UP
D. Storage or parking of commercial, industrial or public utility vehicles	N	N	N	N	N	N	N	N
6. [Text unchanged.]								
<i>7. Other Uses</i>								
A. – I. [Text unchanged.]								
J. Storage of materials or equipment between the face of the main building and a street-unless fully screened from view ^{5,6}	N	N	N	N	N	N	N	N
K. Any use which is obnoxious, offensive or creates a nuisance	N	N	N	N	N	N	N	N
L. Automobile/vehicle repair ⁷	N	N	N	N	N	N	N	N

¹ For use by owner and/or operator only.

² For use by mobile home park occupants only.

³ Maximum of two dwelling units per parcel only in conjunction with a single family dwelling unit.

⁴ Processing requirements vary, see Chapter 19.40.

^{5, 6} 5. – 7. [Text unchanged; renumber 4. – 6.]

SECTION 4. SECTION 19.28.060 AMENDED. Section 19.28.060 (Single-family uses and structures) of Chapter 19.28 (Downtown Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.28.060. Single-family uses and structures.

(a) – (b) [Text unchanged.]

(c) ~~Single-family dwellings and accessory structures must comply with lot coverage, setback, floor area ratio and other applicable development standards for the R-0 District, as set forth in Chapters 19.32 and 19.34.~~

SECTION 5. TABLE 19.28.080 AMENDED. Table 19.28.080 (Permitted, Conditionally Permitted and Prohibited Uses in Residential DSP Blocks) of Chapter 19.28 (Downtown Specific Plan Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.28.080

Permitted, Conditionally Permitted and Prohibited Uses in Residential DSP Blocks

In the table, the letters and symbols are defined as follows:

- P = Permitted use
- SDP = Special development permit required
- MPP = Miscellaneous plan permit required
- N = Not pennitted, prohibited

DSP RESIDENTIAL BLOCKS	4, 5, 14, 15, 16	6, 10a	8, 9, 10, 11, 12 and 17	8a	8b, 9a
1. Residential					
A. Single-family dwelling and accessory buildings and uses developed on an existing, legally created lot	P	P	P	P	P
B. – G. [Text unchanged.]					
2. Education, Recreation, and Places of Assembly					
A. – F. [Text unchanged.]					
G. Places of Assembly – eCommunity Serving	SDP	SDP	SDP	SDP	SDP
H. Card Rooms	N	N	N	N	N
3. [Text unchanged.]					
4. Accessory Uses					
A. Accessory living units	SDP	SDP	SDP	SDP	SDP
B. Accessory utility buildingsstructures	MPP	MPP	MPPSee Chapter 19.40	MPPSee Chapter 19.40	MPPSee Chapter 19.40
C. – D. [Text unchanged.]					
5. – 6. [Text unchanged.]					

Within an existing building.

2 Subject to provisions of Chapter 9.41.
3 Subject to provisions of Section 19.18.050.

SECTION 6. SECTION 19.34.100 AMENDED. Section 19.34.100 (Side yards— Modifications—When allowed) 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:

19.34.100. Side yards—Modifications—When allowed.

(a) In an R-4 zoning district, when a single-family dwelling is constructed on a legally created lot, the required side yards applicable to the R-0 zoning district shall apply. When a two-family dwelling structure is constructed on a legally created lot, the required side yards applicable to the R-2 zoning district shall apply.

(b) In any residential zoning district where two buildings are located or planned for one lot or parcel, the required minimum and total side yards for each building may be calculated separately, so long as such separate side yards do not cross one another. If the line of the front face of one building extending for the full width of the lot overlaps the line of the rear face of the other building, minimum and total side yard requirements shall apply as if the two buildings were one building. The modifications of side yards permitted by this section shall not apply to ~~accessory utility buildings structures~~ which are regulated by Chapter 19.40.

SECTION 7. CHAPTER 19.40 AMENDED. Chapter 19.40 (Accessory Structures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Chapter 19.40.

ACCESSORY UTILITY BUILDING STRUCTURES

19.40.010. Purpose.

19.40.020. General requirements.

19.40.030. ~~Buildings that are attached to the house which extend into the side yard setback~~ Permit requirements for accessory structures

19.40.040. ~~Building area of one hundred twenty square feet or less~~ Minimum setback requirements for accessory structures

19.40.050. ~~Building area greater than one hundred square feet but no more than four hundred fifty square feet~~

19.40.060. ~~Buildings greater than four hundred fifty square feet~~

19.40.010. Purpose.

The purpose of this chapter is to regulate and establish standards for ~~accessory~~ accessory ~~0, R-1, R-1.5 and R-1.7/PD residential zones~~ structures within R-0, R-1, R-1.5, R-1.7/PD, R-2 residential zoning districts, and DSP Blocks 8 through 12 and Block 17. Accessory structures in other zoning districts are subject to development and permitting requirements for those zoning districts.

19.40.020. General requirements.

(a) Measurement of Area: The area (square footage) of an accessory structure is determined by measuring the floor area exclusive of eaves, overhangs or other projections.

(b) Calculation of Height: The height of an accessory structure shall be determined by measuring the vertical distance from the average finished grade within five feet of the accessory structure, or within five feet of the main building, whichever is less, to the highest point of the accessory building.

(c) Appearance: All accessory structures greater than one hundred twenty square feet shall be compatible in exterior appearance with the principal structure on the premises. Permanent accessory structures are not permitted to be constructed of temporary materials such as tarps, plastic, or aluminum poles. The director of community development is authorized to require modifications to the exterior of such an accessory structure as necessary to achieve a compatible appearance.

(d) Total Lot Coverage and Required Rear Yard Coverage: Detached habitable spaces, detached required parking, and utility buildings are counted toward permitted lot coverage and rear yard coverage (as required in 19.32.020 and 19.48.050). These structures shall not cause lot coverage or rear yard coverage to be exceeded unless otherwise approved by a use permit.

(e) Maximum Height: No accessory structure may exceed 15 ft. in height unless otherwise approved with a use permit.

(f) Maximum Allowable Square Footage: Any single accessory structure or the total area of all accessory structures on a property shall not exceed 450 square feet unless otherwise approved by a use permit. In no event shall the total area of all accessory structures exceed 800 square feet. Legal accessory units as regulated in 19.68 shall be exempt from the maximum allowable square footage for accessory structures.

~~(a) Except for pump, filtration or related mechanical equipment for a pool or spa, no natural gas fueled or electrical heating or air conditioning apparatus, pump or other mechanical equipment may be installed in any accessory utility building.~~

~~(b) The height of an accessory utility building shall be determined by measuring the vertical distance from the average finished grade within five feet of the accessory utility building, or within five feet of the main building, whichever is less, to the highest point of the accessory building.~~

~~(c) No accessory utility building, regardless of size or location, may drain onto adjacent property.~~

~~(d) No accessory utility building shall be located within a public utility easement unless it has a floor area of thirty square feet or less.~~

~~(e) Except for permanent garages or permanent carports, no accessory utility building shall be placed or maintained between the face of any main building and any public street, unless otherwise approved by a use permit.~~

~~(f) All accessory utility buildings greater than one hundred twenty square feet shall be compatible in exterior appearance with the principal structure on the premises. The director of community development is authorized to require such modifications to the exterior of such a building as are necessary to achieve a compatible appearance.~~

~~(g) Any parcel with more than four hundred fifty square feet of gross floor area devoted to accessory utility building use shall provide and maintain on site covered parking for at least two automobiles.~~

~~(h) The area (square footage) of an accessory utility building is determined by measuring the floor area exclusive of eaves, overhangs or other projections.~~

~~(g) Permits Required. Permits required for accessory structures are as set forth below.~~

19.40.030. Buildings that are attached to the house which extend into the side yard setback. Permit requirements for accessory structures.

~~(a) No planning permit is required for buildings that are attached, or immediately adjacent, to the principal structure and are located three feet or more from the side property line provided:~~

- ~~(1) There is no more than one shed per side yard;~~
- ~~(2) The length of the building does not exceed twenty percent of the length of the wall of the principal structure to which it is attached (or adjacent);~~
- ~~(3) Lot coverage in the required rear yard does not exceed twenty-five percent, unless otherwise approved by a miscellaneous plan permit; and;~~
- ~~(4) Lot coverage of forty-five percent is not exceeded, unless otherwise approved by a miscellaneous plan permit.~~

~~(b) A two-foot setback from the side property line is allowed if, in addition to the requirements in subsection (a), the following are provided:~~

- ~~(1) A one-hour fire wall on the side of the shed closest to the side property line; and,~~
- ~~(2) A parapet wall extending between the principal structure and building (as required by the Uniform Building Code).~~

Accessory structures greater than 450 square feet are subject to approval of a use permit. Permit requirements for accessory structures 450 square feet or less are described in Table 19 40 030.

TABLE 19.40.030
Permit Requirements for Accessory Structures Less Than 450 sq. ft.

Structure Type	Location	
	Front or Reducible Front Yard ¹	All Other Areas
Open Garden Feature		
8 ft. or less in height	No planning permit required	No planning permit required
Greater than 8 ft. in height up to 15 ft.	MPP with Notice	MPP with Notice
Open Outdoor Equipment, Utility Buildings and Detached Habitable Spaces		
8 ft. or less in height	Prohibited	No planning permit required
Greater than 8 ft. in height up to 15 ft.	Prohibited	MPP with Notice
Detached Required Parking		
Up to 15 ft. in height	Prohibited	MPP with Notice
Greater than 15 ft. in height	Prohibited	UP

1. Includes any areas where the structure is visible between any a c e of the building and the street.

19.40.040. ~~Building area of one hundred twenty square feet or less~~
Minimum setback requirements for accessory structures :

~~———— (a) If the area of the accessory utility building is less than one hundred twenty square feet and the height is less than six and one-half feet, then no planning permit is required, so long as the building:~~

~~———— (1) Maintains a minimum two-foot clearance between it and any other building;~~

~~———— (2) Is screened to the highest point when located in the yard adjacent to the longest street frontage (required reducible front yard) on a corner lot;~~

~~———— (3) If used to house pool or spa equipment and meets the setback requirements for the zone within which the site is located;~~

~~———— (4) Does not by itself, or when combined with all accessory buildings if more than one, exceed twenty-five percent coverage of the rear yard (unless otherwise approved by a miscellaneous plan permit);~~

~~———— (5) In combination with all other buildings on the site, do not exceed maximum allowable lot coverage of forty-five percent, unless otherwise approved by a miscellaneous plan permit.~~

~~———— (b) If the area of the accessory utility building is less than one hundred twenty square feet and the building height is greater than six and one-half feet, then no planning permit is required, so long as the building:~~

~~———— (1) Is located at least ten feet from the rear property line.~~

~~———— (2) Building height does not exceed fifteen feet.~~

~~———— (3) Meets the side setback requirement of the zone within which the building is located. Buildings in R-1.5 zoning districts must meet the side setback requirements for an R-0 zone;~~

~~———— (4) Lot coverage in the required rear yard does not exceed twenty-five percent, unless otherwise approved by a miscellaneous plan permit; and;~~

~~———— (5) Lot coverage of forty-five percent is not exceeded, unless otherwise approved by a miscellaneous plan permit.~~

~~———— (c) If the area of the accessory building is less than one hundred twenty square feet and the building height is greater than six and one-half feet, and the building is located less than ten feet from the rear property line, then the building must meet the side setback requirement of the zone in which the building is located. Buildings in R-1.5 zoning districts must meet the side yard setback requirements for an R-0 zone.~~

~~———— (d) For all accessory buildings less than ten feet from the rear property line, a miscellaneous plan permit is required.~~

Accessory structures greater than 450 square feet must meet zoning district setbacks. Minimum setback requirements for accessory structures 450 square feet or less are described in Table 19.40.040.

TABLE 19.40.040
Minimum Setback Requirements for Accessory Structures Less Than 450 Sq. Ft.

Structure Type	Required Setback		
	Front Yard and Reducible Front Yard	Side	Rear Yard
Open Garden Feature			
Up to 8 ft. in height and up to 120 sq. ft.	0 ft.	0 ft.	0 ft.
Up to 8 ft. in height and more than 120 sq. ft.	20 ft.	Zoning Setback	10 ft.
Greater than 8 ft. in height up to 15 ft.	20 ft.	Zoning Setback	10 ft.
Open Outdoor Equipment, Utility Buildings and Detached Habitable Spaces			
Up to 8 ft. in height and up to 120 sq. ft.	N/A	0 ft.	0 ft.
Up to 8 ft. in height and more than 120 sq. ft.	N/A	Zoning Setback	10 ft.
Greater than 8 ft. in height up to 15 ft.	N/A	Zoning Setback	10 ft.
Detached Required Parking Garages			
Up to 15 ft. in height	20 ft.	Zoning Setback	10 ft.
Greater than 15 ft. in height	20 ft.	Zoning Setback	10 ft.
Temporary Utility Tents up to 15 ft in height.	20 ft.	Zoning Setback	10 ft.

19.40.050. ~~Building area greater than one hundred twenty square feet but no more than four hundred fifty square feet~~

- ~~— No planning permit is required if the building:~~
- ~~— (a) Meets the side yard setback requirements of the zone within which it is located, unless otherwise approved by a variance;~~
- ~~— (b) Does not cover more than twenty-five percent of the rear yard area;~~
- ~~— (c) Is located ten feet or more from the rear property line, unless otherwise approved by a variance; and;~~
- ~~— (d) Is fifteen feet or less in height.~~

19.40.060. ~~Buildings greater than four hundred fifty square feet~~

- ~~— (a) A use permit is required if:~~
- ~~— (1) A single building exceeds four hundred fifty square feet of building floor area; or;~~
- ~~— (2) The total of all accessory utility buildings on the parcel (including the new building) exceeds four hundred fifty square feet of building floor area.~~
- ~~— (b) In addition to a use permit, if the total building floor area of all accessory utility buildings exceeds eight hundred square feet, then a variance is required.~~

SECTION 8. SECTION 19.42.010 ADDED. Section 19.42.010 (Operation of home occupations) is hereby added to Chapter 19.42 (Operating Standards) of Title 19 (Zoning) of the Sunnyvale Municipal Code to read as follows:

19.42.010. Operation of home occupations.

Home occupations may be conducted in any zoning district with a business license, provided the director of community development has determined that the proposed use shall comply with the following restrictions:

(a) The home occupation will not change the residential character or appearance of the dwelling unit or mobile home;

(b) The home occupation shall be restricted to the dwelling area and shall not be conducted in the yard, garage or any accessory structure except detached habitable spaces;

(c) – (n) [Text unchanged.]

SECTION 9. SECTION 19.48.040 AMENDED. Section 19.48.040 (Distance between main buildings—Exceptions) of Chapter 19.48 (Fences, Distances Between Buildings and Extensions Into Yards) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.48.040. Distance between main buildings and accessory structures—~~Exceptions.~~

~~A detached garage or other detached accessory building structure shall not be closer than ten feet clear distance to the main building, provided that the distance may be reduced to five feet if none of the windows are less than ten feet clear distance from each other, or if one accessory building is a carport without walls be located either directly adjacent to the structure or at least 5 ft. away from another accessory structure, accessory living unit or main building.~~

SECTION 10. SECTION 19.48.050 AMENDED. Section 19.48.050 (Extension of buildings into required rear yards) of Chapter 19.48 (Fences, Distances Between Buildings and Extensions Into Yards) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.48.050. Extension of buildings into required rear yards.

Any single story main or accessory ~~building structure~~ in any residential zoning district, subject to conformance with maximum structural coverage regulations, may extend ten feet into the required rear yard providing the area of such extension does not exceed twenty-five percent of the required rear yard area.

SECTION 11. SECTION 19.48.060 AMENDED. Section 19.48.060 (Extension of storage structures into required side or rear yards) of Chapter 19.48 (Fences, Distances Between Buildings and Extensions Into Yards) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby deleted as follows:

~~**19.48.060. — Extension of storage structures into required side or rear yards.**~~

~~Structures designed and used for storage purposes of not more than six feet in height or twenty-five square feet in floor area may extend into any required~~

~~side yard a distance of not to exceed one-half of the width of any required side yard, and into any required rear yard a distance of not to exceed four feet.~~

SECTION 12. SECTION 19.68.020 AMENDED. Section 19.68.020 (Mobile living units) of Chapter 19.68 (Mobile and Accessory Living Units) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.68.020. Mobile living units.

The use, occupancy or placement of mobile living units, portable office structures, guard shafts, cargo containers or other portable storage units are permitted only as follows:

(a) – (c) [Text unchanged.]

(f) Portable storage units including cargo containers and sheds, not governed by Sections 19.22.060 (hazardous materials storage facilities) and Chapter 19.40 (accessory ~~utility buildings~~structures), in any nonresidential zoning district.

SECTION 13. SECTION 19.82.020 AMENDED. Section 19.82.020 (When requires) of Chapter 19.82 (Miscellaneous Plan Permit) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.82.020. When required.

(a) General Reviews:

(1) [Text unchanged.]

(2) Additions to residential property within residential zoning districts, including ~~carports and garages~~accessory structures as regulated in 19.40, but not including addition of units;

(3) – (30) [Text unchanged.]

(b) – (k) [Text unchanged.]

SECTION 14. 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:

(a) For design review, miscellaneous plan permits and tree removal permits, the director of community development may take an action without public notice or hearing (except as provided in subsection (f and g) of this section).

(b - f) Text unchanged.

(g) Miscellaneous plan permits for accessory structures require that prior to any action being taken: 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 calendar days following the date on the notice.

(g – 1) Renumbered.

SECTION 15. CEQA–NEGATIVE DECLARATION. The City Council hereby determines that the Negative Declaration prepared for this ordinance has been completed in

compliance with the requirements of the California Environmental Quality Act (CEQA) and reflects the independent judgment of the City, and finds that adoption of the ordinance will have no significant negative impact on the area's resources, cumulative or otherwise. The Director of Community Development may file a Notice of Determination with the County Clerk pursuant to CEQA guidelines. Any future project that may benefit from these changes will still need to undergo its own environmental review, if required by CEQA, and potential impacts may be determined at that time.

SECTION 16. 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 17. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 18. 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 _____, 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
Date of Attestation: _____

Mayor

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 CHAPTERS 19.12 (DEFINITIONS); AND 19.40 (ACCESSORY STRUCTURES) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO SHEDS

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

SECTION 1. SECTION 19.12.020 AMENDED. Section 19.12.020 ("A") of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.020. "A"

(1) "Accessory building" means any subordinate building the use of which is incidental to that of the main building on the same lot or premises, and which is used exclusively by the occupants of the main building.

(2) "Accessory living unit" means any one-bedroom dwelling unit which provides independent provisions for living, sleeping, eating, cooking and sanitation, for one or more persons, whether attached or detached to the principal dwelling unit. A mobile home shall not be erected as an accessory living unit.

(3) "Accessory use" means a use which is subordinate or supplementary to a main use.

(4) ~~"Accessory utility building" means a detached, subordinate structure, with or without a foundation, the use of which is incidental to that of the main building on the same lot or to the use of the land, which is or has been designed for, devoted, or intended for use as a garage, carport, workshop, greenhouse, gazebo, animal shelter, playhouse, tool shed, storage shed, or other similar use but does not include structures designed for, devoted to, or intended for human occupancy.~~ "Accessory structure" means a subordinate structure, with or without a foundation, the use of which is incidental to that of the main building or to the use of the land on the same lot. Accessory structures are typically detached but may also be attached to or immediately adjacent to the main structure. Types of accessory structures include:

(a) Detached habitable space. An accessory structure which is detached from the main structure and is designed for, devoted to, or intended for human occupancy. Detached habitable spaces include accessory living units as regulated in 19.68, as well as detached bedrooms.

(b) Detached permanent carport or garage. An accessory structure which is detached from the main structure and is designed for, devoted to, or intended for the storage of vehicles.

(c) Accessory utility building. An accessory structure, either attached or detached, which is not designed for, devoted to, or intended for human occupancy and is not a detached garage, detached carport, open garden feature, or open play equipment. Accessory utility buildings include tool sheds, storage sheds,

workshops, greenhouses, animal shelters, greenhouses, covered and/or enclosed gazebos, enclosed play houses, and other similar uses.

(d) Open garden feature. An accessory structure which is unenclosed, is less than 50% covered, and is primarily intended as a decorative garden feature. Open garden features may include arbors, trellises, and some gazebos. Garden features which are at least 50% covered are classified as accessory utility buildings as defined in 19.12.020(4)(c).

(e) Open play equipment. An accessory structure which is unenclosed and is primarily intended as a play area for children. Play equipment may include swings, trampolines, and jungle gyms. Play houses and other enclosed play equipment are classified as accessory utility buildings as defined in 19.12.020(4)(c).

(5) – (18) [Text unchanged.]

SECTION 2. SECTION 19.40.010 AMENDED. Section 19.40.010 ("Purpose") of Chapter 19.40 (Accessory Structures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.40.010. Purpose.

The purpose of this chapter is to regulate and establish standards for accessory utility buildings within R-0, R-1, R-1.5 and R-1.7/PD, and K-2 residential zones.

SECTION 3. SECTION 19.40.020 AMENDED. Section 19.40.020 ("General requirements for accessory structures") of Chapter 19.40 (Accessory Structures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.40.020. General requirements.

(a) Except for pump, filtration or related mechanical equipment for a pool, or spa, no natural gas-fueled or electrical heating or air-conditioning apparatus, pump or other mechanical equipment may be installed in any ~~accessory-utility building structure~~, except in detached habitable spaces;

~~_____ (1) Accessory structures used to house pool or spa equipment must meet the setback requirements of the zoning district in which the site is located.~~

(b) The height of an ~~accessory-utility building structure (except detached habitable spaces)~~ shall be determined by measuring the vertical distance from the average finished grade within five feet of the ~~accessory-utility building structure~~, or within five feet of the main building, whichever is less, to the highest point of the ~~accessory-building structure~~. The height of the detached habitable spaces shall be determined in the same way as for main structures as set forth in 19.12.030.

(c) No ~~accessory-utility building structure~~, regardless of size or location, may drain onto adjacent property.

(d) No ~~accessory-utility building structure~~ shall be located within a public utility easement unless it has a floor area of thirty square feet or less.

(e) Except for permanent garages or permanent carports, no ~~accessory utility-building structure~~ shall be placed or maintained between the face of any ~~main building and any~~ public street, unless otherwise approved by a use permit.

Open garden features located between the face of the main building and the street require approval of a miscellaneous plan permit.

(f) All ~~accessory utility building~~ structures greater than one hundred twenty square feet shall be compatible in exterior appearance with the principal structure on the premises. The director of community development is authorized to require such modifications to the exterior of such ~~a building structure~~ as are necessary to achieve a compatible appearance.

~~(g) Any parcel with more than four hundred fifty square feet of gross floor area devoted to accessory utility building use shall provide and maintain on-site covered parking for at least two automobiles.~~

~~(h) The area (square footage) of an accessory utility building structure is determined by measuring the floor area from the outside dimensions of the structure exclusive of eaves, overhangs or other projections.~~

~~(h) Accessory structures are counted toward permitted lot coverage and rear yard coverage. No accessory structure shall cause lot coverage or rear yard coverage to be exceeded unless otherwise approved by a use permit.~~

~~(i) Except for permanent garages, permanent carports, and open garden features, no accessory structures shall be visible from any public street unless otherwise approved by a miscellaneous plan permit.~~

~~(j) Except for attached accessory utility buildings as regulated in Table 19.40.050, a cessory structures must maintain a minimum two-foot clearance from any other building.~~

~~(k) Except for permanent garages, permanent carports, and detached habitable spaces, no accessory structure may exceed 10 feet in height unless otherwise approved by a use permit.~~

~~(l) No accessory structure may exceed 450 square feet in area, nor may the total of all accessory structures on a lot exceed 450 square feet, unless otherwise approved by a use permit.~~

~~(m) No accessory structure may exceed 800 square feet in area, nor may the total of all accessory structures on a lot exceed 800 square feet.~~

~~(n) Except for detached habitable spaces as defined in 19.40.050, no accessory structure may be designed for, intended for, devoted to, or used for human habitation.~~

SECTION 4. SECTION 19.40.030 AMENDED. Section 19.40.030 ("Requirements for detached habitable spaces") of Chapter 19.40 (Accessory Structures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

~~19.40.030. — Buildings that are attached to the house which extend into the side yard setback.~~

~~(a) No planning permit is required for buildings that are attached, or immediately adjacent, to the principal structure and are located three feet or more from the side property line provided:~~

~~(1) There is no more than one shed per side yard;~~

~~(2) The length of the building does not exceed twenty percent of the length of the wall of the principal structure to which it is attached (or adjacent);~~

~~(3) Lot coverage in the required rear yard does not exceed twenty-five percent, unless otherwise approved by a miscellaneous plan permit; and;~~

- _____ (4) Lot coverage of forty five percent is not exceeded, unless otherwise approved by a miscellaneous plan permit.
- _____ (b) A two-foot setback from the side property line is allowed if, in addition to the requirements in subsection (a), the following are provided:
 - _____ (1) A one-hour fire wall on the side of the shed closest to the side property line; and,
 - _____ (2) A parapet wall extending between the principal structure and building (as required by the Uniform Building Code).

19.40.030. Requirements for detached habitable spaces.

Detached habitable spaces may be constructed subject to the requirements in Table 19.40.030.

Table 19.40.030

DETACHED HABITABLE SPACES

<u>Height</u>	<u>Side Setback</u>	<u>Rear Setback</u>	<u>Permit</u>	<u>In Front of Main Structure?</u>
<u>≤7'</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>Not permitted</u>
<u>>7' up to 8'</u>	<u>Zoning District std.</u>	<u>Zoning District std.</u>	<u>None</u>	<u>Not permitted</u>
<u>>8' up to 9'</u>	<u>Zoning District std.</u>	<u>Zoning District std.</u>	<u>None</u>	<u>Not permitted</u>
<u>>9' up to 10'</u>	<u>Zoning District std.</u>	<u>Zoning District std.</u>	<u>None</u>	<u>Not permitted</u>
<u>≥10'</u>	<u>Zoning District std.</u>	<u>Zoning District std.</u>	<u>MPP</u>	<u>Not permitted</u>

SECTION 5. SECTION 19.40.040 AMENDED. Section 19.40.040 ("Requirements for detached garages and carports") of Chapter 19.40 (Accessory Structures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.40.040. — Building area of one hundred twenty square feet or less.

- _____ (a) If the area of the accessory utility building is less than one hundred twenty square feet and the height is less than six and one-half feet, then no planning permit is required, so long as the building:
 - _____ (1) Maintains a minimum two-foot clearance between it and any other
 - _____ (2) Is screened to the highest point when located in the yard adjacent to the longest street frontage (required reducible front yard) on a corner lot;
 - _____ (3) If used to house pool or spa equipment and meets the setback requirements for the zone within which the site is located;
 - _____ (4) Does not by itself, or when combined with all accessory buildings if more than one, exceed twenty five percent coverage of the rear yard (unless otherwise approved by a miscellaneous plan permit);
 - _____ (5) In combination with all other buildings on the site, do not exceed maximum allowable lot coverage of forty five percent, unless otherwise approved by a miscellaneous plan permit.
- _____ (b) If the area of the accessory utility building is less than one hundred twenty square feet and the building height is greater than six and one-half feet, then no planning permit is required, so long as the building:

- (1) Is located at least ten feet from the rear property line;
- (2) Building height does not exceed fifteen feet;
- (3) Meets the side setback requirement of the zone within which the building is located. Buildings in R-1.5 zoning districts must meet the side setback requirements for an R-0 zone;
- (4) Lot coverage in the required rear yard does not exceed twenty-five percent, unless otherwise approved by a miscellaneous plan permit; and;
- (5) Lot coverage of forty-five percent is not exceeded, unless otherwise approved by a miscellaneous plan permit.
- (c) If the area of the accessory building is less than one hundred twenty square feet and the building height is greater than six and one-half feet, and the building is located less than ten feet from the rear property line, then the building must meet the side setback requirement of the zone in which the building is located. Buildings in R-1.5 zoning districts must meet the side yard setback requirements for an R-0 zone.
- (d) For all accessory buildings less than ten feet from the rear property line, a miscellaneous plan permit is required.

19.40.040. Requirements for detached garages and carports.

Detached garages and carports may be constructed subject to the requirements in Table 19.40.040.

Table 19.40.040

DETACHED GARAGES AND CARPORTS

<u>Height</u>	<u>Side Setback</u>	<u>Rear Setback</u>	<u>Permit</u>	<u>In Front of Main Structure?</u>
<u>< One Story</u>	<u>Zoning District std.</u>	<u>Zoning District std.</u>	<u>MPP</u>	<u>Permitted</u>
<u>≥ One Story</u>	<u>Zoning District std.</u>	<u>Zoning District std.</u>	<u>Not permitted</u>	<u>N/A</u>

SECTION 6. SECTION 19.40.050 AMENDED. Section 19.40.050 ("Requirements for attached accessory utility buildings") of Chapter 19.40 (Accessory Structures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.40.050. — Building area greater than one hundred twenty square feet but no more than four hundred fifty square feet.

- No planning permit is required if the building:
 - (a) Meets the side yard setback requirements of the zone within which it is located, unless otherwise approved by a variance;
 - (b) Does not cover more than twenty-five percent of the rear yard area;
 - (c) Is located ten feet or more from the rear property line, unless otherwise approved by a variance; and;
 - (d) Is fifteen feet or less in height.

19.40.050. Requirements for attached accessory utility buildings.

Accessory utility buildings may be attached to or immediately adjacent to the main structure subject to the requirements in Table 19.40.050, provided:

(1) There is no more than one accessory utility building ~~on~~ side yard:

(2) The length of the accessory utility building does not exceed twenty percent of the length of the wall of the principal structure to which it is attached (or immediately adjacent).

Table 19.40.050

**ACCESSORY UTILITY BUILDINGS WHICH ARE ATTACHED TO
 OR IMMEDIATELY ADJACENT TO THE MAIN STRUCTURE**

<u>Height</u>	<u>Side Setback</u>	<u>Rear Setback</u>	<u>Permit</u>	<u>In Front of Main Structure?</u>
<10'	3'	Zoning District std.	None	Use Permit
≥10'	3'	Zoning District std.	Use Permit	Use Permit

SECTION 7. SECTION 19.40.060 AMENDED. Section 19.40.060 ("Requirements for detached accessory utility buildings") of Chapter 19.40 (Accessory Structures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.40.060. — Buildings greater than four hundred fifty square feet.

— (a) A use permit is required if:

— (1) A single building exceeds four hundred fifty square feet of building floor area; or,

— (2) The total of all accessory utility buildings on the parcel (including the new building) exceeds four hundred fifty square feet of building floor area.

— (b) In addition to a use permit, if the total building floor area of all accessory utility buildings exceeds eight hundred square feet, then a variance is required.

19.40.060. Requirements for detached accessory utility buildings.

Detached accessory utility buildings may be constructed subject to the requirements in Tables 19.40.060(a) and 19.40.060(b).

Table 19.40.060(a)

DETACHED ACCESSORY UTILITY BUILDINGS ≤ 120 SQUARE FEET

<u>Height</u>	<u>Side Setback</u>	<u>Rear Setback</u>	<u>Permit</u>	<u>In Front of Main Structure?</u>
≤7'	None	None	None	Use Permit
>7' up to 8'	Zoning District std.	4'	None	Use Permit
>8' up to 9'	Zoning District std.	7'	None	Use Permit
>9' up to 10'	Zoning District std.	10'	None	Use Permit
>10'	Zoning District std.	10'	Use Permit	Use Permit

Table 19.40.060(b)

DETACHED ACCESSORY UTILITY BUILDINGS ≥ 120 SQUARE FEET

<u>Height</u>	<u>Side Setback</u>	<u>Rear Setback</u>	<u>Permit</u>	<u>In Front of Main Structure?</u>
<7'	Zoning District std.	Discretionary (MPP)	MPP	Use Permit
>7' up to 8'	Zoning District std.	10'	MPP	Use Permit
>8' up to 9'	Zoning District std.	10'	MPP	Use Permit
>9' up to 10'	Zoning District std.	10'	MPP	Use Permit
>10'	Zoning District std.	10'	Use Permit	Use Permit

SECTION 8. SECTION 19.40.070 ADDED. Section 19.40.070 ("Requirements for open garden features") is hereby added to Chapter 19.40 (Accessory Structures) of Title 19 (Zoning) of the Sunnyvale Municipal Code to read as follows:

19.40.070. Requirements for open garden features.

Open garden features may be constructed subject to the requirements in Table 19.40.070.

Table 19.40.070

OPEN GARDEN FEATURES

<u>Height</u>	<u>Side Setback</u>	<u>Rear Setback</u>	<u>Permit</u>	<u>In Front of Main Structure?</u>
≤7'	None	None	None	MPP
>7' up to 10'	Zoning District std.	Discretionary (MPP)	MPP	MPP
≥10'	Zoning District std.	10'	Use Permit	Use Permit

SECTION 9. SECTION 19.40.080 ADDED. Section 19.40.080 ("Requirements for open play equipment") is hereby added to Chapter 19.40 (Accessory Structures) of Title 19 (Zoning) of the Sunnyvale Municipal Code to read as follows:

19.40.080. Requirements for open play equipment.

Open play equipment may be constructed subject to the requirements in Table 19.40.080.

Table 19.40.080

OPEN PLAY EQUIPMENT

<u>Height</u>	<u>Side Setback</u>	<u>Rear Setback</u>	<u>Permit</u>	<u>In Front of Main Structure?</u>
≤7'	None	None	None	Use Permit
>7' up to 10'	Zoning District std.	Discretionary (MPP)	MPP	Use Permit
≥10'	Zoning District std.	10'	Use Permit	Use Permit

SECTION 10. 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 11. 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 12. 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
Date of Attestation: _____

Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney

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

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

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

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

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.