



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** November 6, 2008

**COUNCIL DISTRICT:** City-Wide  
**SNI AREA:** N/A

**SUBJECT:** AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING THESE PORTIONS OF TITLE 20 OF THE MUNICIPAL CODE:

- CHAPTER 20.30, SECTIONS 20.30.500 TO ALLOW THE SQUARE FOOTAGE OF ACCESSORY STRUCTURES TO MATCH THOSE OF GARAGES,
- CHAPTER 20.30, SECTIONS 20.30.520 TO CLARIFY THE MINIMUM SEPARATION REQUIRED FOR ACCESSORY BUILDINGS AND ACCESSORY STRUCTURES,
- CHAPTER 20.90, SECTION 20.90.220, TO ALLOW BY RIGHT PARKING REDUCTIONS TO ONE-CAR GARAGES FOR SINGLE-FAMILY RESIDENCES LOCATED IN THE R-1, R-2 AND R-M RESIDENCE ZONING DISTRICTS, AND
- CHAPTER 20.100, SECTION 20.100.500, TO ALLOW MINOR ADDITIONS TO TWO-FAMILY DWELLINGS PROVIDED CURRENT PARKING REGULATIONS ARE BEING FOLLOWED.

## **RECOMMENDATION**

The Planning Commission voted 5-1-0 (Commissioner Do opposed) to recommend that the City Council the City Council approve the proposed ordinance to amend the existing development standards for accessory buildings in residential zoning districts to allow the square footage of accessory structures to match that of garages, clarify the minimum separation requirements for accessory buildings and accessory structures, to allow by right parking reductions for single-family residences located in the R-1, R-2 and R-M Residence Zoning Districts, and allow minor additions to two-family dwellings with a Permit Adjustment; and that the Neighborhood Roundtable be asked for feedback in six months regarding the ordinance amendment regarding one-car garages.

Commissioner Do voted against the motion because he did not find that feedback in six months time for the results of the streamlined process for allowing one-car garages by right is necessary.

## OUTCOME

The proposed ordinance would streamline the development of accessory buildings on residentially zoned properties, and one-car garages for single-family residences, by removing the requirement of a Development Permit for accessory structures that exceed 200 square feet and for allowing a reduction in the required off-street parking for one-family dwellings. The proposed ordinance would also clarify that accessory **buildings** must have a minimum of six feet horizontal separation distance between any other buildings; however, there is no such separation requirement for accessory **structures**. Further, the proposed ordinance would streamline the permitting process for small additions to two-family dwellings by reducing the review process to approval of a Permit Adjustment in lieu of a Site Development Permit.

## BACKGROUND

On November 5, 2008, the Planning Commission held a public hearing to consider the proposed ordinance amendments. There were no members of the community that spoke on the proposed amendments.

Commissioner Campos made a motion to approve the proposed ordinance amendments.

Commissioner Jensen stated that she supports the streamlining of the process for homeowners who want to build a one-car garage.

Commissioner Zito expressed concern that the ordinance amendment for one-car garages was a reduction in the amount of required parking for single-family residences from two spaces to one space. Staff explained that it is a reduction in the amount of covered parking, but that two to three cars would be able to stack in the required driveway. Staff also explained that in the past six years that the one-car garages that have been approved with the issuance of Special Use Permits have received almost no public comments in opposition.

Commissioner Kamkar said he was worried that developers would use this to reduce the amount of parking in new developments. Staff responded that developers often want to build residences with three-car garages and that no new single-family detached developments have included detached garages.

Commissioner Kamkar stated that tandem issue would force people to change their behavior, be detrimental to existing neighborhoods, and that staff should re-evaluate this ordinance amendment in the future. Staff explained that the one-car garages would generally only occur in neighborhoods that have predominately been built with detached garages. Also, staff is not concerned about 1970's tract homes with attached garages being demolished and new homes being built with detached garages as being detrimental. However staff could go back to Neighborhood roundtable in six months for feedback.

Commissioner Campos amended the motion to include gathering feedback from the Neighborhood Roundtable regarding the one-car garage amendment.

Commissioner Do stated that the feedback was not necessary, since encouraging one-car garages allows for more traditional streetscapes that are more pedestrian friendly and was encouraged that staff is working to streamline the development process.

### ANALYSIS

The proposed ordinance amendments would allow a streamlined process for residential property owners proposing relatively small additions and accessory buildings/structures. See original staff report for additional discussion.

### POLICY ALTERNATIVES

**Alternative:** Retain existing Zoning Ordinance provisions and do not streamline and clarify the requirements relative to accessory buildings, structures, one-car garages and duplex additions.

**Pros:** This alternative would maintain consistency regarding Zoning Ordinance requirements for specific uses over time. Retaining current regulations would not compromise the City's land use or public outreach goals.

**Cons:** Retaining current requirements would impede/hamper the City of San Jose's ability to improve the permitting process for small residential projects, would not facilitate the development of building and structures in private, single-family rear yards and two-family dwellings, and would not facilitate the efforts of homeowners to develop and invest in their properties.

**Reason for not recommending:** The proposed streamlining measures offer tangible benefits in reduced time and costs for single-family and duplex property applicants without compromising the objectives of the City's land use approval processes.

### PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City.
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach.

Staff has done outreach by presenting the proposed ordinance to the Neighborhood Roundtable, e-mailing a summary of the proposed ordinance (aka, a white paper) and the public hearing notice to a citywide e-mail list consisting of neighborhood associations. The proposed ordinance and staff report has been posted on the Department's website and the public hearing notice,

HONORABLE MAYOR AND CITY COUNCIL

November 6, 2008

**Subject:** Residential Ordinance Amendments

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which included the Planning Commission and City Council hearing dates, has been published in the Mercury News and posted on the Department's website.

**COORDINATION**

This project was coordinated with the Building Division and the City Attorney's office.

**FISCAL/POLICY ALIGNMENT**

The proposed ordinance would reduce the amount of development applications required, which may reduce the amount of revenue received by the Planning Division.

**COST SUMMARY/IMPLICATIONS**

Not applicable.

**BUDGET REFERENCE**

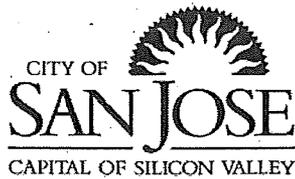
Not applicable.

**CEQA**

The proposed ordinance is exempt pursuant to CEQA Guidelines Section 15061(b)(3), which states that if it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, then the activity is not subject to CEQA (File No. PP08-174).

*for*   
JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Avril Baty at 408-535-7800.



# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** October 14, 2008

**COUNCIL DISTRICT:** Citywide  
**SNI AREA:** N/A

**SUBJECT:** AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING THESE PORTIONS OF TITLE 20 OF THE MUNICIPAL CODE:

- **CHAPTER 20.30, SECTIONS 20.30.500 TO ALLOW THE SQUARE FOOTAGE OF ACCESSORY STRUCTURES TO MATCH THOSE OF GARAGES,**
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- **CHAPTER 20.100, SECTION 20.100.500, TO ALLOW MINOR ADDITIONS TO TWO-FAMILY DWELLINGS PROVIDED CURRENT PARKING REGULATIONS ARE BEING FOLLOWED.**

## **RECOMMENDATION**

It is recommended that the Planning Commission recommend that the City Council approve the proposed ordinance to amend the existing development standards for accessory buildings in residential zoning districts to allow the square footage of accessory structures to match that of garages, clarify the minimum separation requirements for accessory buildings and accessory structures, to allow by right parking reductions for single-family residences located in the R-1, R-2 and R-M Residence Zoning Districts, and allow minor additions to two-family dwellings with a Permit Adjustment.

## **OUTCOME**

The proposed ordinance would streamline the development of accessory buildings on residentially zoned properties, and one-car garages for single-family residences, by removing the requirement of a Development Permit for accessory structures that exceed 200 square feet and for allowing a reduction in the required off-street parking for one-family dwellings. The

proposed ordinance would also clarify that accessory **buildings** must have a minimum of six feet horizontal separation distance between any other buildings; however, there is no such separation requirement for accessory **structures**. Further, the proposed ordinance would streamline the permitting process for small additions to two-family dwellings by reducing the review process to approval of a Permit Adjustment in lieu of a Site Development Permit.

## **BACKGROUND**

The Mayor and City Council approved funding for a position in the Planning Division as part of the 2007-2008 and 2008-2009 Operating Budgets to streamline the Planning review process. This position is intended to assist in simplifying the development process and shortening the review cycle, in order to reduce permit processing times. As part of improving the Planning review process, staff has examined the current Zoning Ordinance to determine which sections can benefit from a reduction in regulation.

## **ANALYSIS**

### **Increased Accessory Building Size**

The current accessory building regulations allow garages to be up to 650 square feet and all other accessory buildings and structures to be up to 200 square feet by right. Accessory buildings are defined as separate and subordinate to the main residence of a property. They are not allowed to contain living space (including recreation rooms and offices), sleeping quarters, or storage space for commercial vehicles. An accessory building is limited to two plumbing connections and must be unconditioned space. The proposed ordinance change would not modify any of these restrictions.

The proposed ordinance change would remove the maximum size differentiation between accessory buildings that are garages and accessory buildings/structures that are not (such as sheds, workshops, green houses, and gazebos). The proposed maximum size allowed by right would be 650 square feet for both accessory buildings and structures, which would include garages.

This proposed ordinance change for permitted size of accessory buildings and structures would streamline the permitting process for accessory structures and accessory buildings that are located a minimum of 60 feet from the front property line of residential properties, which generally restricts such structures to private, rear yards. The impacts of a 650 square foot shed or work shop are not significantly different from those of a detached 650 square foot garage. Given the height limits and rear yard coverage maximums contained in the Zoning Ordinance and Uniform Building Code regulations which currently regulate accessory buildings and structures, the requirement for discretionary review by Planning staff and a noticed public hearing is fairly onerous to homeowners and provides little benefit. The Development Permit applications for virtually all accessory buildings/structures remain on the consent portion of the agenda for the Director's Hearing. The proposed revision would not increase the cumulative amount of accessory structures and buildings that could be located in rear yards, nor would it allow an increase to the amount of rear yard coverage by such structures.

### Clarify Separation Regulation

The proposed ordinance change to the required separation for accessory buildings is for clarification purposes. An accessory building is defined as a separate and subordinate **building**, whereas an accessory **structure** is defined as a separate and subordinate structure which is "open in nature" (i.e., gazebos, arbors, trellises, and pergolas). The current regulation states the required separation is between walls, indicating that the separation pertains only to buildings. Section 20.30.520 begins with the phrase "except for built-in swimming pools", so removal of this phrase will provide the necessary clarification that a six-foot separation is only required between accessory buildings and all other buildings, and is not applicable to accessory structures. Pools must meet separation requirements as determined by the Uniform Building Code.

### Allow One-Car Garages by Right

The current ordinance requires a Development or Special Use Permit to allow a single-family residence to reduce the amount of off-street parking from two cars to one car. This reduction is only permitted when the following criteria are met: a) at least one covered parking space is provided; b) no more than one dwelling occupies the lot; c) the location of the required covered parking is set back 60 feet from the front property line and 50 feet from the side corner property line (to allow a driveway that accommodates additional resident and guest parking); d) the parking is accessed by a driveway 10 to 12 feet in width; e) any curb cuts are in proportion to the driveway width; f) no additional paving in the front setback area is used for parking; and g) the covered parking structure does not exceed 350 square feet in size.

The proposed ordinance change for one-car garages would allow this reduction by right and reduced the side corner setback from 50 feet to 40 feet. This change would facilitate one-car garages on corner lots. Since residential lots are typically 60 feet wide, there would typically be space for the 20-foot deep garage and the required 40 feet of setback and driveway. This change would still require all other minimum criteria in the Zoning Ordinance to be met. Since the minimum setback requirements would be 60 feet from the front setback and 40 feet from a corner side setback, there would be space available to stack one to two cars in the driveway out of required setback areas. This revision would be particularly of benefit for homeowners in areas of the City where garages are typically one-car, detached, and set to the rear of the lot with long driveways, accommodating additional parking.

### Administrative Review for Duplex Additions

The proposed ordinance change would significantly streamline the Planning review process for small additions to existing duplexes, referred to in Title 20 as two-family dwellings. The current regulations require the submittal of a Site Development Permit, which includes comprehensive review by Planning staff, public noticing, discussion at a Director's Hearing, and a mandatory appeal period. This process is expensive and time-consuming for the homeowner and an inefficient use of staff time. Generally such small additions, which are less than 200 square feet, or 10% of the existing building area, do not require extensive discretionary review and also do not warrant review by other departments at the Planning review stage. The proposed Permit Adjustment process would still include discretionary review by staff, which would ensure that the building materials of the proposed addition would match those of the existing building, that

the private open space is still provided as called for by the Residential Design Guidelines, and that parking would be provided as required by Chapter 20.90 of the Zoning Ordinance.

### **POLICY ALTERNATIVE**

**Alternative:** Retain existing Zoning Ordinance provisions and do not streamline and clarify the requirements relative to accessory buildings, structures, one-car garages and duplex additions.

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**Cons:** Retaining current requirements would impede/hamper the City of San José's ability to improve the permitting process for small residential projects, would not facilitate the development of building and structures in private, single-family rear yards and two-family dwellings, and would not facilitate the efforts of homeowners to develop and invest in their properties.

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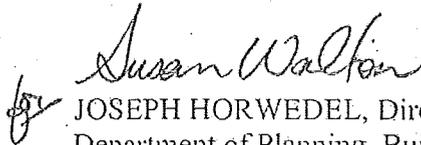
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### **COORDINATION**

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JOSEPH HORWEDEL, Director  
Department of Planning, Building and Code Enforcement

For questions please contact Avril Baty at 408-535-7800.