



# Memorandum

**TO: DRIVING A STRONG  
ECONOMY COMMITTEE**

**FROM:** Leslye Krutko and  
Joseph Horwedel

**SUBJECT: SECONDARY UNITS  
MID-YEAR REPORT**

**DATE:** June 9, 2006

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Approved

Date

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**COUNCIL DISTRICT:** Citywide  
**SNI:** All

## **RECOMMENDATION**

It is recommended that the Driving a Strong Economy Committee accept the mid-year report for the secondary unit pilot program.

## **OUTCOME**

The following information update will help the City Council to understand the City's secondary unit pilot program.

## **BACKGROUND**

In November 2005, the City Council approved a pilot program allowing the limited development of secondary residential units. Under the pilot program, secondary units are ancillary to the primary unit and located on the same parcel. Secondary units are allowed only in the R-1 Zoning District or Planned Development (PD) Zoning District that are subject to the standards of the R-1 Zoning District. The secondary unit pilot program allows for either the development of up to 100 new units or the termination of the program on December 31, 2006, whichever comes first.

On January 9, 2006, the City first began accepting appointments and applications for the development of secondary units. As part of the pilot program, the City Council has approved the following parameters for the program:

- Only allowed in R-1 zones;
- Minimum 6,000 sq. ft. for attached unit and 8,000 for detached unit;
- Maximum 600 sq. ft. secondary unit;
- Maximum of one bedroom;

- Required one additional parking space (in addition to the two provided for the main dwelling unit);
- Required owner-occupied residency in either the primary or secondary dwelling unit; and
- Other design and siting criteria to ensure the least adverse impact on neighborhoods.

As part of the approval for a secondary unit pilot program, staff indicated that they would report back to the Council and Committees on the progress of the program. This progress report is for the first half-year of the pilot program and includes information about the number of secondary unit permits issued, those now in the secondary unit permit process, and typical examples of secondary unit proposals.

### **ANALYSIS**

Secondary unit applications are being accepted by appointment by the Building Division. Applications include building-permit ready drawings; Planning review and clearance is performed at the time of intake. In a typical permit process involving both Planning and Building review, schematic architectural plans would first be reviewed and approved by the Planning Division, with the Building Division receiving detailed permit drawings only after the Planning review is completed. Because the second unit process is coordinated between Planning and Building, review times are relatively quick, between two and four weeks for a new secondary unit. Review time is the same as for a single-family addition, which typically does not require Planning clearance.

As an auxiliary to the secondary unit application process, staff has been conducting free preliminary reviews with potential applicants. The preliminary review process has helped applicants to understand the secondary unit criteria as they apply to the applicant's lot, and to identify any potential site issues prior to application. As a result only about 15% of the applications for secondary units could not be accepted for review at the first formal appointment with City staff.

As of June 1, 2006, a total of twenty applications have been received for secondary units. Slightly more than half of the applications (eleven) have been for detached units on lots over 8,000 square feet. Six of the applications are currently in the construction and inspection phase of the process. The location of applications has been spread throughout the City of San José. The following chart outlines, by Council District, applications received/approved including the average size of the unit and lot.

	<b>D1</b>	<b>D2</b>	<b>D3</b>	<b>D4</b>	<b>D5</b>	<b>D6</b>	<b>D7</b>	<b>D8</b>	<b>D9</b>	<b>D10</b>
Applications	1	2	0	3	1	8	0	3	1	0
Average Unit (s.f.)	450	600	N/A	480	600	570	N/A	530	550	N/A
Average Lot (s.f.)	10,900	13,500	N/A	7,900	7,800	10,200	N/A	9,700	6,500	N/A

As expected, a relatively high percentage of the proposed units are located in Council District 6, especially in and around Willow Glen. The large, deep lots that are typical in Willow Glen are especially conducive to locating a secondary unit on the site.

The lack of applications in District 3 is likely due to the fact that there are only about 1,500 properties in the downtown area district that might qualify for a second unit. The small number of qualifying properties is due to the fact that most of the district is not zoned R-1 Single Family, but instead R-2 Two-Family, and R-M Multiple Family districts. However, it is surprising that there have not been applications from District 10, given the larger lot sizes that are typical in the area. A possible explanation is that more potential lots in the Almaden Valley are affected by topography and there are fewer lots that have enough additional buildable lot area to accommodate a secondary unit.

### *Illegal Units*

In addition to reporting about the progress of the pilot program, the City Council has also directed staff to provide follow-up regarding potential policies/programs to address the illegal secondary units in San José. In January, graduate students from the UC Berkeley Goldman School for Public Policy began a project for the City of San José to evaluate and make recommendations regarding possible options for dealing with the illegal secondary units. This report was finalized in May 2006 and is currently being reviewed by the Administration. Once this review is complete, the Administration will provide the City Council with alternatives for addressing this serious issue.

### *Examples of Secondary Unit Proposals*

Based on experience from the first five months of the pilot program, we have found that the bulk of the proposals display common characteristics. Two examples follow that highlight some of the challenges to constructing a secondary unit under the pilot program.

The first example is a proposed unit in the Willow Glen neighborhood (**Attachment A**). The lot is over 10,000 square feet in area and is eligible for a detached unit. The lot contains a 1,800 square foot house, detached garage, pool, arbor, and storage shed.

The lot is significantly longer than more recently developed lots, and includes a detached garage with a driveway that is suitable for parking under the secondary unit ordinance. Even though the lot is relatively large and deep and the house is relatively small by current standards, the position of the proposed secondary unit is constrained by the existing structures on the lot. In this case, the storage shed will have to be removed, and the arbor reduced in size to make room for the proposed secondary unit. It can be even more challenging to find a suitable location for a secondary unit on lots that are smaller or shallower. Also, it can be difficult to find an appropriate location for parking on lots that do not have the benefit of a long driveway that is typically appurtenant to a detached garage.

The proposed second unit shown in **Attachment B** is a typical configuration on more recently developed lots that are the result of cul-de-sacs and curved streets. These lots often have more yard area available for a second unit. The lot is less than 8,000 square feet in area, and therefore the proposed unit must be attached to the main house. The unit is attached via a short breezeway that shares an integrated roof structure with both the main house and proposed unit. The house is ten feet away from the side property line, which is the minimum requirement for a driveway under the current Zoning Code. The proposed parking is located outside of the front and side setbacks, to the right of the house. Many other proposals for secondary units on similar lots cannot be approved, because of the lack of parking or driveway access to parking outside of the front and side setbacks.

### *Alternative Uses*

A trend that is also developing is that a number of proposed secondary units are being designed for additional uses beyond a living unit. Homeowners are seeing the secondary unit process as a way to add value to their property, and as a way to pursue design ideas that were previously prohibited under the Zoning Code.

One example is a 460 square foot detached unit that could double as a pool house, with a kitchen and shower. Under the Zoning Code, accessory buildings are limited in size to 200 square feet of non-garage space, limited to two plumbing connections, and limited to unconditioned non-habitable space. Functionally, these Zoning Code provisions limit accessory buildings to uses like storage sheds, potting sheds, and tool rooms. These design restrictions were meant to limit the possibility of accessory buildings being illegally converted to secondary units. The secondary unit process has created a legal avenue for creating living space in a separate building, which can have additional benefits in terms of design flexibility for the homeowner.

A second example is an attached unit that is intended to be a darkroom. The homeowner wanted the darkroom to include a work sink and shower. The location of the darkroom, functionally separate from the main house, created concerns for planners reviewing the project prior to the adoption of the secondary unit pilot program. The secondary unit program has allowed the homeowner to pursue his darkroom, and to have a legal second unit, which should increase the overall value of the house.

### **PUBLIC OUTREACH**

As a part of the pilot program, staff is working on additional outreach to help increase the visibility of the secondary unit pilot program. Given that this is only a pilot program a short-term strategy was developed that involves: creating a flyer and brochure (with Spanish and Vietnamese contacts) to distribute to community centers, libraries, and City Council offices; Public Service Announcements (PSA) in Spanish and Vietnamese; brief articles in the local "industry" newsletters/magazines for builders and architects; an article in the Neighborhood Development Center (NDC); an ongoing announcement about the secondary units program through neighborhood e-newsletters; and continuing contact with local newspapers about the status of the program.

**NEXT STEPS**

The pilot program will either run through the 2006 calendar year or until the program receives 100 new applications. At that time, staff will return with a final evaluation and assessment of the program and a report on the overall effectiveness of the pilot program, including information the existing illegal secondary units.

**COORDINATION**

This memorandum was coordinated with the City Attorney's Office.

**CEQA**

Not a project.

LESLYE KRUTKO  
Director of Housing

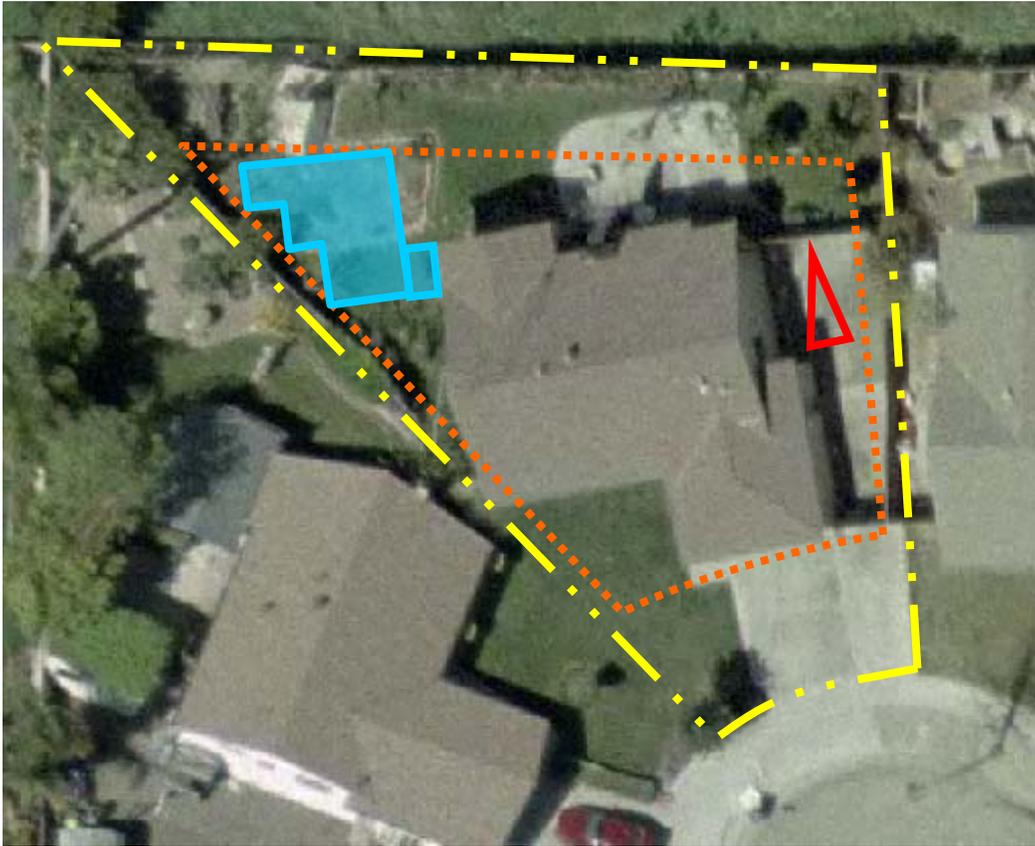
JOSEPH HORWEDEL  
Acting Director of Planning,  
Building and Code Enforcement

## Attachment A



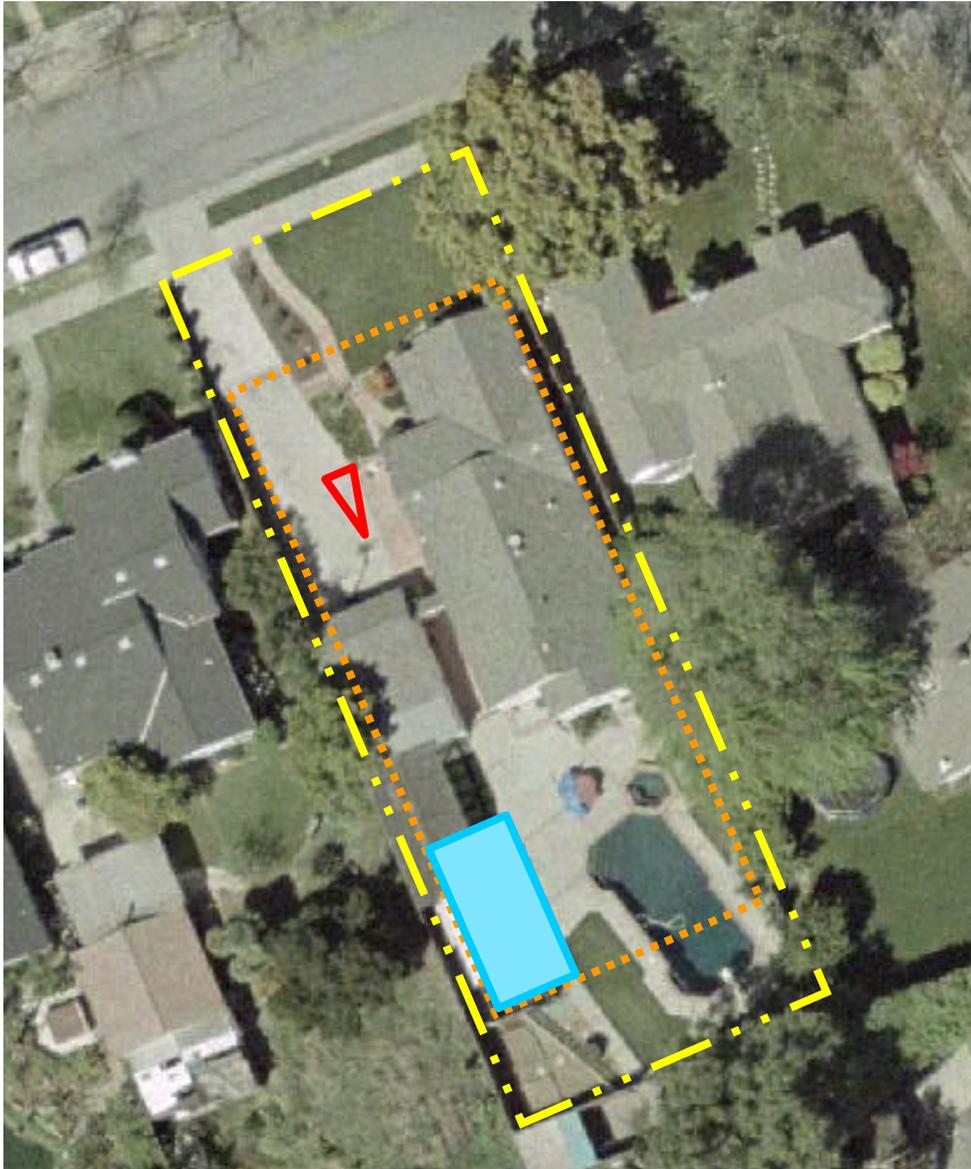
Proposed detached secondary unit, Willow Glen. Property lines are shown in yellow, setback lines are shown in orange, proposed secondary unit is shown in blue, and proposed parking location is shown in red. Parking has to be located outside of the front and side setbacks to be considered legal.

## Attachment B



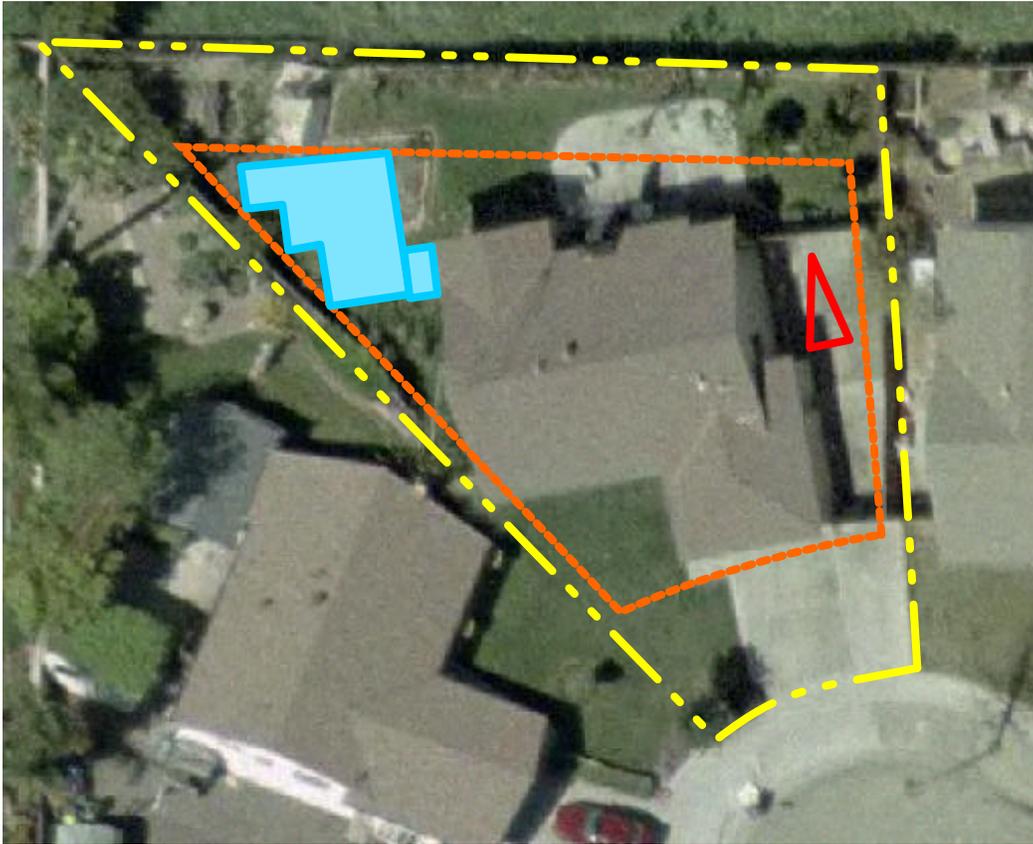
**Figure 2.** Proposed attached unit, Santa Teresa. The paving in the front setback not required for the primary unit's driveway will be replaced with paving stones or an alternative pervious surface.

## Attachment A



Proposed detached secondary unit, Willow Glen. Property lines are shown in yellow, setback lines are shown in orange, proposed secondary unit is shown in blue, and proposed parking location is shown in red. Parking has to be located outside of the front and side setbacks to be considered legal.

## Attachment B



**Figure 2.** Proposed attached unit, Santa Teresa. The paving in the front setback not required for the primary unit's driveway will be replaced with paving stones or an alternative pervious surface.