

**County of Santa Clara**  
**Department of Planning and Development**  
Planning Office



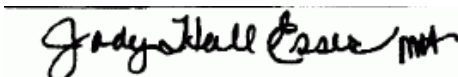
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PLN01 082009

Prepared by: Carolyn Walsh  
Principal Planner

DATE: August 20, 2009

TO: Supervisor Donald F. Gage, Chairperson  
Supervisor Liz Kniss, Vice Chair  
Housing, Land Use, Environment, & Transportation Committee (HLUET)

FROM:   
Jody Hall Esser  
Director of Planning and Development

SUBJECT: Report addressing the April 7, 2009 referral (BOS 040709 1) regarding policy options to allow placement of shed and other accessory buildings on land that does not have a residence, agricultural or other primary structure.

**RECOMMENDED ACTION**

The current Zoning Ordinance does not permit accessory structures if there is no primary structure or agricultural use on the property. It is recommended that the existing Zoning Ordinance remain unchanged.

**FISCAL IMPLICATIONS**

There are no fiscal impacts to the General Fund as a result of this action.

**CONTRACT HISTORY**

None.

## **REASONS FOR RECOMMENDATION**

Staff recommends that sheds and other accessory buildings only be allowed when they are located on the same parcel as a residence or agriculture.

A shed or other accessory building on a vacant parcel may invite vandalism or graffiti because there is no regular occupancy or use of the property. More often, accessory buildings on vacant land are converted to unpermitted uses or become deteriorated over time, resulting in negative impacts to neighboring properties. Sheds and accessory buildings that are located on a property with a residence are generally maintained in good condition, because of the presence of the property owner and ongoing use of the building.

## **BACKGROUND**

Section 1.30.030 of the County Zoning Ordinance defines “accessory structure” as “A structure or building that is auxiliary and subordinate to the main structure or building on a lot, except as otherwise provided herein. Any building that is incidental to the conduct of any agricultural use shall be considered to be an agricultural accessory building. No building designed, intended or used for dwelling purposes shall be considered to be an accessory structure.”

This definition allows an accessory structure (such as a garden shed, storage shed, garage or other detached building) only if there is a residence, agriculture or commercial use of the property. It does not allow these detached buildings or structures on vacant land.

A property with a residence or agriculture is regularly occupied or used by the owner. This regular use helps to ensure that the property is maintained, that the detached building's appearance is maintained and is free of graffiti, that it does not become an attractive nuisance, that impacts to neighboring properties are minimized, and that the use of the building is sustained over time.

Other local jurisdictions were surveyed to determine whether or not accessory structures were allowed on vacant parcels. The Cities of San Jose, Morgan Hill and Gilroy and the Counties of San Mateo, Alameda, Santa Cruz, and Contra Costa allow detached buildings and structures only when they are accessory to a primary use, such as a residence or agriculture. These jurisdiction's ordinances are consistent with Santa Clara County's Zoning Ordinance. San

Benito County allows an agricultural building (maximum 1,000 square feet) on a vacant parcel in certain zoning districts. However, they are considering revising their ordinance, because many of these buildings that have been converted to unpermitted uses.

If the HLUET Committee wishes to recommend revisions to the ordinance to allow accessory buildings or structures on vacant parcels, staff recommends that the following limitations be considered:

- Limit the size, height and location of the building or structure;
- Limit the use of the building or structure;
- Impose setbacks to limit the placement of the structure;
- Consider allowing these structures only in certain zoning districts;
- Impose a limit on the number of such buildings per parcel;
- Prohibit plumbing and electrical connections in or to the building.

### **CONSEQUENCES OF NEGATIVE ACTION**

If the HLUET Committee and the Board direct that the Zoning Ordinance be revised, the Planning Office will undertake a revision of the Zoning Ordinance to allow detached buildings on vacant parcels. Such an ordinance will require review and recommendation by the Planning Commission and then consideration by the Board of Supervisors.

### **STEPS FOLLOWING APPROVAL**

The HLUET Committee will either recommend to the Board that the ordinance remain unchanged or will recommend revisions to the Zoning Ordinance. If the Board directs a revision to the Zoning Ordinance, the Planning Office will undertake a revision of the Zoning Ordinance to allow detached buildings on vacant parcels. The proposed ordinance will be reviewed by the Planning Commission. The Planning Commission's recommendation will then be considered by the Board.

### **ATTACHMENTS**

- Board Referral (BOS 040709 1)