Agenda Item # 4

CITY OF SUNNYVALE
REPORT
Planning Commission

March 27, 2006

SUBJECT: 2004-0167 – City of Sunnyvale – Study Issue
Zoning Tools to Encourage the Development of Ownership Housing

REPORT IN BRIEF

The City of Sunnyvale has a long history of addressing the housing needs of the community. It has attempted to maintain a variety of housing by: 1) type; 2) ownership opportunity (for sale or rental); and, 3) price. In the mid-1980's, community concern focused on housing affordability, and City Council took steps to protect against widespread condominium conversion and considered steps to encourage construction of rental housing. A below market rate (BMR) housing program was created to address affordability in both rental and for-sale housing projects, one of the first such programs in the country.

Since the 1980's, a significant amount of apartment development has taken place, and, until recently, less for-sale housing has been built. Over the last 20 years, the homeownership rate in Sunnyvale has decreased from 51% to 48%. As a result, community interest has shifted to for-sale housing and a concern that a proper balance be maintained between rental and ownership housing. This study issue was initiated to address that concern.

This report considers the appropriate balance between ownership and rental housing, and suggests that 50% may be the balance that the community finds acceptable. It then identifies 45 potential options for encouraging homeownership, within the following categories:

- Options to encourage construction of single-family detached housing
- Options to encourage townhome construction
- Options to encourage construction of condominium flats
- Options to discourage owners from leasing their homes to renters
- Options to encourage condominium conversion

Staff recommends that City Council approve 15 (in some form) of the 45 options, and adopt an ordinance to amend the zoning code to implement them. The options recommended by staff would generally streamline processing and increase predictability for developers of single-family detached housing and

townhomes, and would remove obstacles to condominium conversion, while still maintaining a stock of rental housing.

BACKGROUND

Since the early 1980s the City of Sunnyvale has taken a leadership role in adopting policies that encourage the development of housing. These policies have included making more land available for housing development, preserving affordable housing, requiring the development of affordable housing in all new development, and offering both education and financing programs to potential homeowners.

1. The City initiated General Plan amendments to change land use designations from **Industrial to Residential**. Since 1980, about 900 acres of land were re-designated resulting in about 11,000 housing units.
   - Mary/California
   - Southern Pacific
   - El Camino Real
   - Mobile Home Park General Plan Designation
   - Futures Study

2. The City enacted the **Conversion of Rental Housing to Community Housing Projects** (Sunnyvale Municipal Code Chapter 19.70) in 1982 to maintain an adequate supply of rental housing for low and moderate income residents. The main components of the regulations include:
   (1) Restrictions on converting rental property during periods when rental vacancy rates are low,
   (2) Regulations for bringing existing apartments into compliance with building standards for condominium conversions, and
   (3) Regulations related to tenant (and buyer) protection and relocation assistance.

3. The **Below Market Rate** (BMR) housing requirements (Inclusionary Zoning) were adopted in 1980 and require that a certain percent of new housing units be reserved as affordable to Low or Moderate income households. The original rate was 10%; however this was updated in 2003. The current rate for ownership projects is 12.5%; rental project rates are still 10% and will be 15% when rents recover. The 2003 amendments also require that condominium conversion projects designate 12.5% of the units as BMR units.

4. **Zoning requirements for apartment developments** were modified in the early 1990s to "equalize" the requirements of ownership and apartment developments. Prior to this time park dedication was only required of subdivisions (ownership developments) and parking requirements were based on type of ownership. Both of these provisions were modified so that now all new residential developments have a requirement to dedicate park land (or contribute to the park dedication in-lieu fee fund) and to provide parking based on number of bedrooms and type of parking, not tenure of units.

5. The **First Time Homebuyer Support Program** provides education, readiness training and down payment assistance to potential homebuyers.

6. **Housing for Public and School District Employees and Childcare Teachers**, assists qualified employees and teachers in obtaining housing by providing education, loans and down payment assistance.

7. **Housing Mitigation fees** are required for industrial developments over specified Floor Area Ratios (typically 35% FAR). These mitigation fees are used for implementation of affordable housing programs in the City and currently include acquisition and preservation of rental housing projects and assistance to homebuyers.

8. **Financial support** is provided to non-profit agencies for the construction of affordable projects. Through the CDBG and HOME fund programs, and the housing mitigation (including the BMR in-lieu) fund, the City financially supports the construction and renovation of affordable housing. The City has also contributed to the Housing Trust Fund of Santa Clara County which leverages funding for multi-family rental housing and home ownership programs.

In the mid-1980s, due to concerns about condominium conversions and available affordable housing for all segments of the community, the Council suggested a study issue that would explore apartment-only zoning districts. This study was never selected or ranked based on a concern of the legality of specifying tenure of housing units (The term "tenure" refers to the "holding of property" and includes several forms of rental and several forms of ownership. The U.S. Census uses the term to distinguish owner occupied and renter occupied housing units, which is how the term is applied in the remainder of this report). State statutes and case law prohibit or discourage tenure-based zoning requirements.

Since the 1980's there has been significant apartment construction in Sunnyvale, but, until lately, less for-sale housing construction. In 2003, the Community Development Department prepared a Community Development Strategy to give direction to the Department's work program over the subsequent five years. During the research phase of the study, the decline in the rate of ownership in the city was documented as follows:

Year	Sunnyvale Homeownership Rate
1980	51%
1990	48.9%
2000	47.6%

The rate of home ownership in Sunnyvale is now lower than the national, state and Santa Clara County averages:

	2000 Rate
National	66.2%
California	56.9%
Santa Clara County	56.8%

According to the 2000 Census, neighboring cities have a variety of homeownership rates:

	2000 Rate
Cupertino	63.6%
Mountain View	41.5%
Santa Clara	46.1%
San José	61.8%

As part of the data collection and analysis for the Community Development Strategy staff noted those areas of the city with lower rates of homeownership tended to have more property maintenance issues, and that areas with higher rates of homeownership tended to have a greater investment by residents in the neighborhood. As a result of the above research and observations, staff recommended, and the City Council adopted, a goal to encourage households to invest in the city and its neighborhoods through homeownership.

The *Zoning Tools to Encourage the Development of Ownership Housing* study issue was originally ranked 7 of 12 by the City Council for 2004 but was deferred by Council until 2005/2006 in order to undertake study issues related to auto dealer signage (Attachment A).

EXISTING POLICY

General Plan Policy

The City adopted its first General Plan in 1957, and has continually updated it to reflect changing community values. The General Plan provides long-term broad-based goals and policies to guide the development of the community.

Land use and Transportation Element

Goal C2: *ENSURE OWNERSHIP AND RENTAL HOUSING OPTIONS IN TERMS OF STYLE, SIZE, AND DENSITY THAT ARE APPROPRIATE AND CONTRIBUTE POSITIVELY TO THE SURROUNDING AREA.*

Policy C2.1 Provide land use categories for and maintenance of a variety of residential densities to offer existing and future residents of all income levels, age groups and special needs sufficient opportunities and choices for locating in the community.

Policy C2.2 Encourage the development of ownership housing to maintain a majority of housing in the city for ownership choice.

Policy C2.3 Maintain lower density residential development areas where feasible.

Housing and Community Revitalization Sub-Element

GOAL D: *MAINTAIN DIVERSITY IN TENURE, TYPE, SIZE, AND LOCATION AND OF HOUSING TO PERMIT A RANGE OF INDIVIDUAL CHOICES FOR ALL CURRENT RESIDENTS AND THOSE EXPECTED TO BECOME CITY RESIDENTS.*

Policy D.4 Provide a mixture of owner and rental housing opportunities by allowing conversion from apartments to condominiums or cooperatives when a benefit to the overall city housing situation can be shown and when the citywide vacancy rate for rental units warrants.

Action Statement D.4.a Continue the Condominium Conversion regulations that provide a system for evaluating condominium and cooperative conversion proposals.

Other General Plan policies relating to the provision of housing and the provision of ownership housing are included in Attachment C.

Zoning Code

The pertinent zoning policy for this study is drawn from the Zoning Code land use tables, development standards (height, setback, bulk, parking, etc.), affordable housing provisions, condominium conversion requirements, and land use development processes. Relevant policy is also found in the City-wide design guidelines (Attachment C). The following sections of the Zoning Code (found in Attachment D) may be considered for revision in this study:

1) Chapters 19.16 through 19.34 for Zoning Districts, Uses and Related Development Regulations,
2) Chapters 19.38 through 19.60 for General Development Standards, and
3) Chapter 19.70 for Conversion of Rental Housing to Community Housing Projects requirements (see below).

Condominium Conversion Requirements

The City's existing conversion policy (Conversion of Rental Housing to Community Housing Projects), as listed under Chapter 19.70, establishes process review requirements, and extends protection measures to both current tenants and potential buyers. The Code sections are summarized below, and the full Code is in Attachment B.

Apartment Vacancy Surplus Required for Conversion (19.70.020, 19.70.030)

No permit shall be issued for conversion of any apartment building unless the vacancy rate *(as determined for the entire city)* has exceeded 3.0% for at least one year prior to the application. Twice a year (in April and October), the Director of Community Development determines the apartment vacancy rate and apartment vacancy surplus based on a survey of a representative sampling of apartments.

Use Permits and Special Development Permits (19.70.040)

(a) Approval through a Use Permit or Special Development Permit process is required prior to the conversion.

(b) When a surplus exists, condominium conversion applications may be filed annually in May and November.

(c) When more than one application is filed and approval will result in the vacancy rate being exceeded, the City Council determines which application will be approved based on a composite score (outlined in 19.70.060).

(d) Applications require information on the tenants, units (including building and pest reports), and proposed sale price.

Minimum Requirements to Protect Tenants and Buyers (19.70.050)

(a) Prohibition of discrimination against prospective buyers with children.

(b) Tenant Protections, including first right to purchase, permission to terminate lease, brief extension of tenancy, and limited relocation expenses.

(c) Buyer Protections, including copies of property report, building history report, pest report, Use Permit (or SDP), and Statement of Compliance with California Real Estate Department requirements.

(d) Site Improvements and amenities, including:

(1) Minimum 300 cubic feet weatherproof, lockable storage;

(2) Individual hookups for washing machines and dryers (unless common facilities) and new appliances;

(3) All existing and proposed utilities (including communications) placed underground per SMC 19.38;

(4) Off-street parking provided per SMC 19.46;

(5) Compliance with Fire and Building requirements, including installation of smoke detectors, and compliance of wall & floor/ceiling assemblies with Uniform Building Code and noise/vibration requirements.

(6) Utility distribution system, including separate metering and billing of gas and electric.

(7) Utility Safety Devices, including accessible electric panels, and accessible water shut-off values for all outlets.

(8) Insulation of appliances determined to be a source of noise or vibration; and

(9) Guarantee of all major appliances for at least one year.

(e) Compliance with all other Codes relating to health and safety but not previously addressed.

Evaluation of Projects and Application Scoring (19.70.060)

(a) In addition to meeting the SMC 19.70.050 requirements, all applications shall be evaluated for impact on the housing market.

(b) Provides a means of ranking competing applications submitted at the same time.

(c) Scoring criteria to determine mitigation of social and economic impacts to existing tenant and prospective buyers.

(d) Scoring of additional project amenities.

Certificate of Use and Occupancy for Community Housing Project (19.70.070)
Certificate required for all conversions prior to the sale, lease, use or occupancy of a project.

Community Development Strategy
In 2003 staff presented proposed goals for the Community Development Strategy to the City Council. These goals, as modified and adopted by the City Council, included:

Homeownership: to encourage households to invest in the City and its neighborhoods through homeownership.

California State Regulations
In 1985, the State Legislature passed the Ellis Act, which prohibits cities from compelling the owner of residential rental property to retain it as rental property. However, both the Ellis Act and the Subdivision Map Act allow cities to continue regulating the *process* of converting property from rental to ownership through the enactment of condominium conversion ordinances. Process controls may include restrictions on the timing and quantity of apartment conversions. The vacancy rate restriction in the Sunnyvale regulations controls the timing (i.e., it is appropriate to convert when the vacancy rate is above 3%).

DISCUSSION

City policy supports the goal of homeownership as one housing option. The intent of the goal is to encourage households to make longer term social and financial investments in their neighborhoods and community.

City policy also supports the availability of rental housing, primarily to ensure that households that cannot afford to buy a house (or chose not to buy a house) have the opportunity to live in decent shelter which they can afford. In

fact, as pointed out earlier, in the mid-1980s, the City Council considered a study issue to explore the creation of apartment-only districts in order to encourage construction of more rental housing.

This study, therefore, first considers two questions:

1. What are the legal parameters affecting homeownership?
2. What is the appropriate balance between owner and rental housing in Sunnyvale?

Legal Parameters

It is a well-settled principle that cities may not enact legislation that prohibits homeowners from renting their properties. California courts have invalidated local ordinances that have attempted to restrict occupancy to owners only. These types of restrictions are deemed unconstitutional on privacy and equal protection grounds.

Based on staff's research, some Homeowners Associations (HOA) have imposed a maximum allowable percentage of rental units in a residential complex, with the burden of enforcement falling on the HOA. Since this agreement is between two private parties, namely the HOA and the homeowner, the City is not at risk since there is no governmental action. However, case law has not yet clearly established whether or not these HOA residency clauses are enforceable as a reasonable restriction on property.

Cities typically establish owner-occupancy requirements in their Below Market Rate (BMR) and other low-income housing programs. There is precedent that allows cities to require owner-occupancy in low income housing programs due to the governmental benefits bestowed upon participants that are not available to the general public.

As a general matter, courts are highly deferential to zoning laws enacted by cities. Therefore, it is legal for a community to express a goal for increased home ownership in the community as long as that policy is reasonably related to the public welfare. Consistent with their police power, cities may extend reasonable incentives to types of housing (such as townhomes) that have a higher propensity to be owner-occupied.

Appropriate Balance of Ownership and Rental

Ultimately, the appropriate balance of ownership and rental housing is a policy decision for the City Council, subject to legal guidelines. The percent of owner occupied vs. rented housing has decreased over the last three decades due to increased number of apartment units built and a general trend in the region for property owners to acquire housing as an investment (renting out the units). Staff has reviewed historical data and determined:

- In 1980 the homeownership rate was 51.0%. In 1985 the sentiment of the community, as expressed by City Council (e.g., exploring an apartment-only zoning district), was that more apartments were needed to provide adequate affordable housing.

- In 1997, the City Council adopted a policy to encourage opportunities for homeownership (Land Use and Transportation Element). In 2003, through the CD Strategy, the Council reiterated the goal of increasing homeownership. In 2000, the homeownership rate was about 47.6%.

- An ownership rate between the two rates of 47.6% and 51.0% for the two types of tenure may be appropriate. The average of these two rates is 49.3%; however, based on the policy to maintain a majority of housing for ownership *choice* and acknowledging that some of these housing units will be rented, staff has concluded that an equal balance of ownership and rental units is reasonable for Sunnyvale, subject to City Council confirmation.

To assure that the owner occupancy rate reaches 50%, the **opportunity** for ownership housing would have to be higher than 50% because homeowners have the right to lease their property to another household.

Staff estimates that approximately 1,500 housing units are currently approved or under construction, of which 90% are ownership opportunities. These additional housing units will result in an increase in the ownership opportunity. Using a similar rate of ownership by housing type, staff estimates that an actual ownership rate of 48.4% will be achieved when these housing units are completed and occupied.

	Ownership Opportunity Rate	**Owner-Occupied Rate**
Current	53.6%	47.6%
Projected	54.5%	48.4%

The current real estate market favors construction of ownership units, and it appears that Sunnyvale is on its way toward achieving a 50/50 balance of rental and ownership units. This market, however, is not likely to continue forever. As interest rates rise, and as apartment occupancy and rents increase, the market will gradually shift from owner to rental housing. The real estate market is the strongest determinant of which type of housing will be developed. When the market achieves a balance between favoring for-sale and favoring

rental construction, City regulations could tip the balance to favor one type over the other. It is the purpose of this study to determine what changes to the City's zoning regulations might encourage construction of ownership housing.

Encouraging Construction of Housing Most Likely to be Owner Occupied

Staff evaluated various types of housing to assess rate of owner occupancy and zoning regulations that may contribute to their construction. Following are the various types of housing and the zoning code definition.

- **Single-family detached**

"Single-Family Dwelling" means a detached building on a single lot used for occupancy by one family, and containing only one kitchen.

- **Single-family attached** (townhomes and two-family dwellings-duplex)

"Townhouse" means a building containing three or more dwelling units which are separated by a common party wall and each of which has ground floor access to the outside.

"Two-family dwelling" means a building which contains two separate dwelling units, used for occupancy by two families living independently from one another.

- **Mobile Home**

"Mobile home" means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Vehicle Code Section 35790, a mobile home, as defined in Section 18008 of the Health and Safety Code, or a manufactured home, as defined in Health and Safety Code Section 18007. A mobile home does not include a recreational vehicle as defined in Civil Code Section 799.24 and Health and Safety Code Section 18010, a commercial coach, or factory-built housing as defined in Health and Safety Code Section 19971, or successor section.

- **Multi-family dwelling**

"Multiple-family dwelling" means a building on a single lot which contains three or more separate dwelling units used for occupancy by families living independently of one another.

For purposes of clarity, staff also provides this definition:

- **Flats**

"Flats" are multi-family dwelling units where at least one of two of the units in a building are stacked on top of each other, or where entry to the units is from a common lobby or hallway. A building that includes "townhouse style" and stacked units is referred to as flats.

The following table indicates the approximate current rate of owner-occupied units in Sunnyvale, in descending order.

Housing Type Zoning Definition	Typical Zoning Districts	% Owner-Occupied
• Mobile homes	RMH	95%
• Single-family Detached	R-0, R-1, R-1.5, R-1.7/PD & R-2	90%
• Townhomes	R-2 & R-3	84%
• Multi-family flat (Ownership Only)	R-3, R-4 & R-5	71%
• Duplex	R-2	12%
• Multi-family flats (Rental and Ownership combined)	R-3, R-4 & R-5	6%

Staff has evaluated these housing unit types and is suggesting zoning tools that could affect the decision to construct ownership units.

Mobile Homes:
The mobile home owner occupancy rate is particularly high because most of the mobile home parks in Sunnyvale require owners to occupy their units.

Sunnyvale has 17 mobile home parks, consisting of about 400 acres and about 3500 mobile homes. Because mobile home parks require large tracts of relatively low-priced land, it is unlikely that new parks will be built. Section 19.72 of the Municipal Code contains provisions intended to preserve existing parks and protect their residents. Staff offers no additional options to encourage mobile home park construction and preservation.

Single-family Detached Housing:
The most direct way to encourage homeownership would be to rezone large areas of the city for single-family detached housing. The only large vacant

residential site, the Corn Palace on Lawrence Expressway, is already zoned for single-family development (R-0/PD and R-1.5/PD). The rezoning of any other large areas in the city to single-family detached zoning districts would require a "downzoning" from a higher density or more intensive use category.

Another option is to encourage single-family housing on in-fill sites as they redevelop. Infill ownership housing has recently been built in several instances:

- The Church site on Mary at Iowa, originally zoned R-0, was rezoned to R-2 to construct 34 single-family homes.
- The Mary Avenue Shopping Center on Mary at Washington, originally zoned C-1, was partially rezoned to R-1.7/PD to construct 31 single-family homes.
- The Sunnyvale Nursery site on Sunnyvale-Saratoga Road near Cheyenne, was zoned R-2-PD and was approved for 25 single-family homes.
- Numerous small (e.g., 4-unit subdivisions) sites formerly developed with one single-family unit or duplex.

In each of the above instances, the previous use and zoning of the site was such that a developer could purchase the land and make a profit building housing at densities at the low-medium density range (8-14 dwelling units per acre). In each instance, deviations, as authorized by the zoning code, were granted to achieve the density and to provide single-family detached housing. The fact that deviations were necessary increased the risk for the developers, because they had to invest considerable time and money before knowing if they could achieve the number and size of units which would make their projects profitable.

With only one exception that staff is aware of, single-family detached development has only been built on sites zoned R-2 or lower density. The number of potential infill sites already zoned R-2 or lower which can economically redevelop into single-family dwellings is limited (less than 50 sites). Other potential residential sites, including most of those in the Industrial-to-Residential areas, are zoned for R-3 or higher density (R-3 allows medium density or 15-27 dwelling units per acre).

Listed in the following table are possible tools to make single-family development more likely. Those designated with an asterisk (*) were suggested by housing developers.

Options to Encourage Construction of Single-family Detached Housing

	Tool	Staff Comment
Rezone Single-Family Detached areas		
a.	*Rezone property*	This action would rezone higher density properties to a single-family detached zoning district. Council could specify on which properties to explore rezoning. If Council contemplates decreasing zoning densities it requires (per State law) detailed findings that the City can still meet its fair share regional housing need allocation and that the integrity of the Housing Element is not compromised.
Permit, by right, common deviations These tools apply primarily to the R-2 zoning district. Because some tools also streamline the review process for all small lot districts they also make R-1.5 and R-1.7/PD more attractive districts for development.		
b.	*Eliminate or Reduce minimum Lot Size*: Allow flexibility in lot size while retaining maximum density provisions SMC 19.30.020	The R-2 zoning district requires an 8,000 s.f. minimum lot size. This standard contemplated primarily duplex development in this district. Deviations to this standard, through the PD combining district and an SDP, are routinely approved for ownership housing (while maintaining density requirements). The code could be modified to allow less than 8,000 s.f. lots provided the overall density is consistent with the zone.
c.	*Eliminate or reduce minimum Lot Width*: SMC 19.30.020	Along with minimum lot size, the Code also sets minimum requirements for lot width (76 feet for an interior R-2 lot). Along with lot size, this modification would allow for reduced lot width for small-lot single-family homes to be considered without it being considered a "deviation" from the Code. See Attachment I for policy on Small Lot Development.

	Tool	Staff Comment
d.	*Modify Lot Frontage Requirement*: SMC19.12.030(11)	The Code defines a "Lot" as a parcel of land with frontage on a public street used or capable of being used under the provisions of the Code. This tool would permit lot frontage on a private street if the "master lot" fronts on a public street. The Code could be revised to allow developments to have separate ownership lots on private streets or driveways, as long as the project fronts on a public street and the private street or drive connects to a public street. This tool may be useful in R-1.5 and R-1.7/PD developments that wish to provide private streets.
e.	**Exclude some Floor Area from FAR calculations* SMC 19.12.080(7)	Basement area and underground parking are already exempt from the calculation of residential floor area ratio (FAR). FAR regulations were adopted for single-family detached homes to control the overall size and bulk of new homes and home additions. Developers have suggested that garages, porches, covered entryways, and patios be excluded from FAR calculations. Porches, identified as desirable design features in the City's Design Guidelines, are currently included in the FAR calculation. Recent single-family detached homes have been approved at slightly higher FARs with the rationale that they provide porches.
f.	**Allow reduced Setbacks* SMC 19.34.030	The R-1.5, R-1.7/PD and R-2 zoning districts require a total sideyard setback of 12 feet, and a four foot minimum sideyard. Front yard requirements are 15 feet except in the R-1.5 where 20 feet is required. In small lot single-family development the side-yard setback is frequently approved at 5 feet (10 feet between buildings) and is a zoning code deviation. Front yards down to 12 feet on both private streets and public streets are not uncommon. A smaller setback for these smaller properties may be an acceptable community standard. The community has historically stated a preference for maintaining setbacks in order to provide for privacy between dwellings; however, the concern is more frequently noted between existing development and new development. Larger front yard setback deviations have been granted most frequently on private streets.

Single-Family Attached Housing (Townhomes):

Many infill sites in Sunnyvale are now being redeveloped with townhomes, the second most likely type of housing to be owner-occupied. These sites are generally zoned R-3, which permits up to 24 units per acre as any style of multi-family housing. This zone was originally used to build apartments, and is now primarily being developed with townhomes because of the strong for-sale housing market.

Townhomes, as a style of unit, are usually 2-3 stories (with a garage on the lowest level and living area above). Private outdoor area at the ground level is usually associated with these units. In order to meet density requirements of the R-3 zoning district and to provide the larger size unit (square footage) consistent with market demand, current townhome development in Sunnyvale is almost exclusively 3-stories with units the same width as or only slightly wider than the garage.

Townhomes can be developed with three basic tenure (ownership) patterns:

1) Ownership of individual living unit including the building and the land (i.e., on "postage stamp" lots)
2) Air-space condominium ownership providing common ownership of all land and buildings with individuals' rights on the interior of the dwelling unit
3) Single owner of all land and units (rentals)

Current patterns of townhome development in the R-3 zoning district cannot be accommodated without deviations from the code. Proposing townhomes, therefore, is riskier than proposing two-story apartments without deviations, since the developer must expend considerable time and money before knowing if deviations necessary for townhome construction will be granted. Although developers are taking the risk in this period of strong ownership development, they are likely to shift back to apartment construction on such sites when the for-sale market weakens relative to the rental market.

Listed in the following table are possible modifications to the Zoning Code to encourage townhome construction in medium–density zoning districts (R-3 and a few blocks in the Downtown Specific Plan area). Those modifications designated with an asterisk (*) were suggested by housing developers.

Options to Encourage Townhome Construction

	Tool	Staff Comment
Create new Townhome Zoning District		
g.	*New Townhome Zoning District* SMC 19.18.020	This tool would allow for townhomes as a separate zoning district or combining district, providing unique development requirements. A townhome zoning district (or combining district) with development regulations tailored to this type of housing unit would allow for townhomes to be approved without deviations (if the development meets the established allowable requirements). During market periods when townhomes are not profitable, properties zoned exclusively for townhomes may either not develop or seek rezoning to another zoning district. Specific allowable standards would need to be established, and the process for rezoning the property or allowing for the type of development in existing zoning districts would need to be established. Some of the townhome specific development standards are included in the remainder of this table. Council has suggested a potential Study Issue on this topic.
Allow differential standards for Townhomes (including common deviations) This series of tools would amend the zoning code to specify different zoning standards for different residential building types in the same zoning district. For example, a development with "flats" might have a height limit of 2 stories, while a development of townhomes might have a height limit of 3 stories. The list includes some tools that are similar to those discussed above for single-family detached housing.		
h.	*Eliminate or Reduce Minimum Lot Size* SMC 19.30.020	This tool allows flexibility in lot size while retaining maximum density provisions. The R-3 zoning district requires an 8,000 s.f. minimum lot size. Often a townhouse development includes either individual lots of each dwelling unit or, in the case of condominium ownership, separate parcels for a building with 2-8 dwelling units, plus common lots such as driveway, open space, community room, etc. This tool would allow lot sizes less than 8,000 square feet to support these ownership situations. See also Tool "b." above.

	Tool	Staff Comment
i.	*Eliminate or Reduce Lot Frontage Width* SMC 19.30.020	This item is related to lot size (above). See also Tool "c." above.
j.	*Modify Lot Frontage Requirement* SMC19.12.030(11)	This item is discussed as Tool "d." above.
k.	*Building Height and Number of Stories* SMC 19.32.020	Increased height limit and number of stories could be considered for townhome developments. Council recently considered a Study Issue for increased height limits for R-3 zoning districts. Council made no changes to the 2-story 30-foot height limit for R-3 and suggested a study issue on a townhouse only zoning district. Height has been approached on a case-by-case basis. Height exceptions have been granted for both townhome style development and flats.
l.	*Allow increased Building Height adjacent to Single Family Zone* SMC 19.32.040	The Zoning Code calls for a height restriction for multi-family buildings constructed within seventy-five feet of the property line of a single-family residence zoning district. If the existing single-family dwelling is one-story, then the height of the new construction is not to exceed twenty feet (even though the zoning would permit the single-story home to add a second story). If the existing building is two stories (or the lot is undeveloped), the allowable height of the new development cannot exceed thirty feet (which is the standard for the R-2 and R-3 zoning districts). The requirement places great restrictions infill developments particularly on smaller or narrower properties that are difficult to design. This modification would allow increased building height for townhomes adjacent to one-story single-family development.

	Tool	Staff Comment
m.	**Delete Lockable Storage Requirement if there is an enclosed private garage* SMC 19.38.040	The zoning code requires developments in the non-single-family zoning districts to provide a minimum of 300 cubic feet of storage area per unit. Developments that provide a 400-square foot, 2-car garage have been granted a deviation to this requirement on the rationale that garages provide the required storage just as they do in single-family homes.
n.	**Allow Reduced Density* SMC 19.30.040 and General Plan Housing Element	It was suggested that the minimum 75% of required density is a burden for some townhome developments and that a 15-16 du/acre standard is more enticing for developers than the 18 unit per acre minimum for R-3. A reduced density might allow for larger dwelling units and more open space. This modification is a policy shift and in conflict with the Housing and Community Revitalization Sub-element policy.
o.	**Allow Tandem Parking to Count Toward Required Parking* SMC 19.46.110	Parking requirements are often the primary constraint on the number of units that can be developed on a given lot. Tandem parking requires less land area per parking space and may allow for reduced lot width per unit. Tandem parking is less convenient and often results in one tandem space being used for storage. The impact may be less for smaller homes or homes with fewer bedrooms. Homeowners near mass transit may own the same number of vehicles and use them less often, making the tandem space less of an inconvenience. Council recently approved a small percentage of tandem parking spaces for a condominium project that had an open underground parking garage.

Multi-Family Flats:

Apartment houses, or flats, are generally located in the medium-density (R-3) and high-density zones (R-4, R-5). When a condominium map (subdivision of air rights) is filed with such a multi-family project, the units can be sold as condominiums rather than rented as apartments.

Listed in the following table are possible modifications to the Zoning Code to encourage a new multi-family housing project to be subdivided through a

condominium map to provide for owner-occupancy. Again, those designated with an asterisk * were suggested by housing developers. These tools might also apply to townhome style development, although they are not specific to that form of housing.

Options to Encourage Construction of Condominium Flats

	Tool	Staff Comment
Incentives for filing a Subdivision Map Another incentive based approach could be to provide exceptions to development standards when the project includes the filing of a subdivision map, indicating the project is intended for individual unit ownerships. The differential could be: 1) specific (e.g., 300 s.f. of landscaping per unit vs. 380 or plus or minus 5% of the standard); or, 2) enabled by a finding at a public hearing (e.g., it is not detrimental to other property in the area). Potential standards to use as incentives are discussed more fully below. Because this approach is an incentive and not a requirement, it *may* meet the test of legality. However, because it deals directly with ownership it could be perceived as not providing equal protection to all forms of ownership.		
p.	*Density*: Allow a density bonus if a map is filed (SMC 19.30.040).	This incentive based tool would allow additional density, above and beyond the density programs already available if a map is filed with the project. Under current regulations, a project that proposes additional units under a density bonus must meet all other zoning requirements (open space, landscaping, height, setbacks, etc.). Several projects have been built availing the 15% density bonus (enabled through the Below Market Rate program); however, deviations to other standards (especially height) usually accompany the requests. Nothing would prevent any of the units from being rented.

	Tool	Staff Comment
q.	*Allow a density bonus if certain percentage to be owner-occupied* SMC 19.30.040	Requiring units to be owner-occupied would be difficult to monitor and may be difficult to enforce legally. This standard may require the owner to write the conditions into the CC&Rs. Based on California court cases which have invalidated occupancy restrictions, staff finds it doubtful that such a provision could be legally required or enforced.
r.	**Allow Reduced Setbacks* SMC 19.34.030	This is an issue of the relationship between the proposed buildings on the site and the neighboring property. The community has historically stated a preference for maintaining setbacks, in order to provide for privacy between dwellings.
s.	**Allow for Reduced Distance Between Buildings on Site* SMC 19.48.030	This tool would address the relationship between the buildings on the site, and not the setbacks from the proposed development to original property lines. The greater distance between buildings allows for greater window privacy and for additional open space between buildings. Allowing for reduced distance between buildings but maintaining the lot coverage requirement would allow for clustering of buildings and larger portions of open space. Occasional exceptions to this requirement have been allowed when privacy between units is maintained. The building code minimums for safety would still need to be met.
t.	**Reduced Landscaping* SMC 19.38.070	Reduced landscaping may result in more units being built. Maintaining the overall landscaping and open space requirements assists the site and general vicinity in meeting the stormwater management requirements for on-site percolation. Reducing on-site open space may increase the impact on City parks to meet the community's need for recreational open space.
u.	**Reduced Usable Open Space* SMC 19.38.070	Similar to landscaping, a reduction in usable open space may result in more units being built. Also, similar to landscaping, maintaining on-site usable open space may reduce the impact on City parks to meet the community's need for recreational open space.

	Tool	Staff Comment
v.	**Reduced Parking* SMC 19.46.050	Parking requirements, such as a range from 1.8 to 2 spaces per unit, may result in parking overflow to public streets and adjacent developments. The reduction may be appropriate in certain circumstances, such as within proximity of a major transit center.
w.	**Include Street Parking as part of total requirement* SMC 19.46.010	Counting parking spaces on the street permits less on-site parking. It may lead to reduced availability of parking for guests and deliveries. The reduction may be appropriate in certain circumstances, such as within proximity of a major transit center. Density may be higher if fewer parking spaces are provided on site. The zoning code used to include a note indicating that additional parking may be required in situations where on-street parking was limited.
x.	**Allow Tandem Parking to Count Toward Required Parking* SMC 19.46.110	This tool was discussed under Tool "o."
General Modifications to Encourage Housing Development The following suggestions were made by developers as general incentives for housing development. Staff does not consider these concepts specific to homeownership, but they could affect the density of development on a site. For an ownership development this could mean a few more housing units are achieved.		
y.	**Allow joint driveways* SMC 19.46.130	This tool would mostly apply to a duplex situation. Allowing combined driveways with a total aisle width that meets design standards allows for reduced overall impervious surface and may allow for greater flexibility in the site design. Joint driveways for separate lots require an easement and may impact the future development potential of the site.

	Tool	Staff Comment
z.	**Round down when calculating Parking* SMC 19.46.020	The Municipal Code currently requires "rounding up" to the next full number when calculating required parking. This allows for any fraction of a parking space to be considered one full space. This tool would reduce the parking by one space in about half of the developments.
aa.	**Determine parking requirement based on number of rooms* SMC 19.46.050	The Code currently calls for determining required parking based on number of bedrooms and type of parking (uncovered, carport, enclosed or underground). One- to three-bedroom units require 1.5 to 2.5 spaces per unit, based on the number of bedrooms per unit and the type of parking (open, carport or enclosed). An additional 0.15 parking spaces per bedroom is required for 4 or more bedroom units. Some developers felt that a total room count may be more representative of parking space need than bedrooms, and could overall require fewer parking spaces, thus encouraging the development of more dwelling units.
bb.	**Stormwater*: Allow reduced requirements (SMC 12.60.100 and 12.60.120).	The stormwater requirements may involve additional pervious surfaces for water percolation. Some developers have suggested the requirements involve additional landscape requirements, affect density, and may result in liability issues. However, the C-3 stormwater requirements are based on a regional permit requirement, which is not under the jurisdiction of the City.

Discouraging Homeowners from Leasing Their Homes to Renters

Construction of an ownership unit (single-family, townhome, condominium, or mobile home) does not guarantee that an owner will live in that unit, as private rentals are commonplace. Of the 55,000 dwelling units in Sunnyvale, 53.6% provide ownership opportunities. Nevertheless, because many of these housing units (approximately 3,300) are leased by their owners to other households, only 47.6% are owner-occupied.

As noted throughout this report, the City cannot legally regulate tenure. Property owners have the right to lease their properties to other households. Staff has been unable to identify any modifications to the Zoning Code which would discourage single-family homeowners from leasing their property. With

regard to other types of ownership there is a limited opportunity to discourage leasing of units through the homeowners' association.

Options to Discourage Owners from Leasing Their Homes to Renters

	Tool	Staff Comment
cc.	*Recommend Homeowners Associations place occupancy restrictions in their CC&Rs*	This concept is not a zoning tool, but rather a policy. Staff is aware of condominium/townhouse developments that have included provisions limiting rental of units. The provisions were most likely imposed by the developer or subsequent owners. Although this tool would be in the form of a recommendation to property owners, the City cannot legally require or recommend CC&Rs favoring ownership over rental of properties.

Encouraging Condominium Conversions

A condominium conversion is the transformation of existing rental units in a single complex to for-sale housing. Two general types of conversion are possible, with the distinction being in the ownership of the land. The first type is an "air-space" condominium which results in future owners collectively owning all of the land and buildings, with individual rights to the interior of their units. This form of conversion is typical with multi-story apartments. The second is to subdivide property to create smaller lots, each accommodating one dwelling unit. This second technique works only for developments where units have no other dwelling unit above or below them, thus creating a townhome type of ownership. Another example would be subdivision of a duplex, resulting in completely separated properties with a zero lot line between the buildings.

Unless the original structure was designed and built to meet Building Code and Zoning Code requirements, the conversion of an existing structure to include ownership of the building can be difficult. The following Zoning Code and Building Code challenges are often the most daunting:

Zoning:

1) Provide required off-street parking (including at least one covered space per unit
2) Provide minimum 300 cubic feet weatherproof, lockable storage
3) Provide individual hookups for washing machines and dryers (unless common facilities are made available)
4) Undergrounding of Utilities
5) Provide separately metered gas and electric service for each unit

Building and Fire Code:

1) Comply with wall & floor/ceiling assemblies with Uniform Building Code and noise/vibration requirements.
2) Provide separate metering and billing of gas and electric utilities
3) Provide Utility Safety Devices, including accessible electric panels, and accessible water shut-off values for all outlets.
4) For "non-condominium" conversions (e.g., splitting a duplex in two and creating separate land lots), upgraded fire walls are required between the shared walls of the units.

Other challenges to condominium conversion are the requirements for conversion in Section 19.70 of the Municipal Code. The following appear to be the most discouraging to potential conversion developers:

- The complex regulations (MC 19.70.020, 19.70.030(a)(b)(c) and 19.70.060) regarding apartment vacancy rates, including the requirement that the average city-wide apartment vacancy rate must exceed 3% before condominium conversions can be approved.

- Tenant protection provisions (MC 19.70.050(b)), including moving costs and relocation expenses.

Since the adoption of the ordinance in 1980 the vacancy rate has been above 3% twice: for one year in 1992-1993 and for 4 years from June 2001 to June 2005. The City has seen only three formal condominium conversion requests since 1980. In addition, between 1984 and 1986, three apartment complexes were pre-approved for conversion without the need for further Use Permit approval; one of these (at Fremont Avenue and Kingfisher Way) is in the process of conversion.

The three formal conversion applications include an application received for a site on Bellville Way in 1993. Per the requirement of the vacancy formula, not all of the units in the complex were eligible for conversion. This request was eventually abandoned by the applicant. A 271-unit apartment development (on Morse Avenue) was essentially pre-approved for "conversion" in 2004 prior to anyone occupying the units; the site is currently under one ownership and is 100% rental. The approval, similar to projects in the mid-1980s, allows future conversion to ownership, with extensive recorded agreements for protection of future tenants and buyers. The third project, a 60-unit townhouse development on Carlisle, was approved in 2005; renovation work to the site is underway. Several preliminary review applications for conversion of smaller sites (2-6 dwelling units) have been filed in the last several months.

Staff rarely received inquiries about conversion when vacancies rates were below 3%. It was more than two years into this most recent higher vacancy

period before staff received an increase in inquiries about the conversion process, suggesting that the market does not support conversions when the vacancy rate is low. Note, however, that the current rate is around 3% and staff is receiving a high number of inquiries about converting smaller sites.

The major advantages of condominium conversion are:

(1) homeownership opportunities are created, often at a more affordable purchase price than other housing units, and
(2) an older multi-family building is upgraded to improve its safety and functionality, and may be upgraded for appearance thereby extending its life.

The major disadvantages of condominium conversion are:

(1) rental opportunities, often at an affordable rent, are lost
(2) existing tenants are displaced
(3) maintenance of the property rests with a homeowners association rather than with an individual, and
(4) the ability to ultimately redevelop the property is decreased, since the agreement of multiple property owners is required.

Listed in the following table are possible modifications to the Zoning Code and Subdivision Regulations to encourage condominium conversion. Those designated with an asterisk (*) were suggested by housing developers.

Options for Encouraging Condominium Conversions

	Tool	Staff Comment
Remove Vacancy Rate Requirements The vacancy rate requirements may create procedural obstacles and may work against the City's goal to encourage ownership housing. These tools could be used in combination with others.		
dd.	*Eliminate the Vacancy requirement*	This approach would allow condominium conversion applications to be filed at any time. All other provisions of the conversion ordinance for site upgrades and tenant and buyer protection would stay in place. This modification would eliminate the need for the semi-annual vacancy survey and would be a cost savings to the City.

	Tool	Staff Comment
ee.	*Remove vacancy rate requirements with a cap on total units converted per year* SMC 19.70.030	This tool is similar to the previous item, but would allow the City to control the number of units converted in a given time period. This tool helps reduce the impact of multiple renters looking for alternate housing in the same time frame. The cap could be a percentage of total rental units (e.g., 1.5% in a calendar year) or a total number of units (e.g., 400).
ff.	*Remove vacancy rate requirements and add a higher BMR requirement* SMC 19.70.030	The concern of displacing lower income residents by condominium conversions may be addressed by increasing the BMR requirements for conversions. San Carlos, in their recent condo conversion ordinance update, increased BMR rate to 15% for condo conversions. The County of San Mateo inclusionary ordinance requires, for multifamily developments of five or more units, a minimum of 20% BMR units; the County's Environmental Services Director noted that in the upcoming condominium conversion ordinance, staff is likely to recommend the 20% BMR rate for condo conversions. East Palo Alto includes a 30% set aside for BMR units during the condo conversion process.

	Tool	Staff Comment
gg.	*Remove vacancy rate requirements and add greater tenant protection requirements* SMC 19.70.030	The vacancy requirement is primarily a protection for tenants who would be displaced by a conversion. Other protection for tenants could be required. Additional benefits might include mitigation measures already suggested in the ordinance including: (1) Extension of rights to purchase a unit for a period of one hundred eighty days (2) Extension of rent agreements for a period of one hundred eighty days (3) Provision of relocation assistance to tenants electing not to purchase equal to two months rent (4) Provision of relocation assistance to displaced tenants by preparing without charge a current list of available apartments of comparable price and size within three miles of the project site (5) Extension of tenancy to tenants sixty-two years of age and older for the life of the tenant(s) (6) Provision of right for existing tenants to purchase their unit at a price ten percent below that offered to the general public (8) Provision to allow fifty percent of rent or lease payments collected subsequent to approval of a use permit or special development permit for conversion to community housing to be applied toward a down payment for purchase of the unit currently occupied
hh.	*Remove the vacancy rate but require a Finding to approve conversions.* SMC 19.70.030	If the City's vacancy rate and formula requirements are removed, a Finding can be established that allows the potential impact of the conversion to be reviewed. The Code could be modified to require a Finding such as "the conversion would not adversely impact the community's ability to provide housing for all economic segments of the community."

	Tool	Staff Comment
Reduce the minimum requirements for conversion The code currently requires upgrades to the site as part of the conversion process. These requirements could be eliminated and the legal non-conforming status of the site could be retained.		
ii.	*Allow non-conforming parking to be maintained.*	The current requirement is that each site must provide, at a minimum, one covered parking space per unit (may be garage or carport) and provide other parking based on the number of bedrooms and type of parking provided. Many older sites were developed with only one uncovered parking space. Eliminating this requirement may encourage more conversions. Based on conversations with potential applicants, this issue seems to be the most significant barrier in converting a property.
jj.	*Washer/Dryer Hookups*	The code requires that if the individual units cannot be modified to provide hookups, then a common facility (one washer and dryer for each five units) must be provided. Eliminating this requirement would require owners to use Laundromat facilities.
kk.	*Appliance insulation*	This requirement is geared to assuring noise attenuation and energy efficiency. The removal of the requirement would maintain the status quo of the site.
ll.	*Exempt duplexes from the fire rated wall requirement for a land subdivision.*	The subdivision of townhomes would potentially allow for property, such as private backyard areas, rather than just an "air space" division. The requirement for the fire rated wall is part of the Uniform Building Code. Given that most apartment buildings were constructed with just the required one-hour firewall, reconstructing existing buildings to meet the requirement for land subdivision would be prohibitively expensive in most cases. Although this exemption may entice conversions, the City cannot exempt development from this requirement as the Uniform Building Code is required by the State.

	Tool	Staff Comment
Other Tools		
mm.	*Provide user-friendly* tools to homeowners for conversions.	Develop a "how to" manual with step-by-step information on the process for conversion of apartments to condominium units to assist owners of smaller sites.
nn.	**Exempt older units from fees* SMC 19.74.020	Condominium conversion would not typically trigger any impact fees, as the conversion would potentially change ownership but not use. Application fees would be charged for the Use Permit and Parcel (or Tentative) Map. Certain Public Works development fees may be required, such as sanitary sewer connection fees for new meters. In certain areas of the City, developments with over 20 units trigger Transportation Demand Management (TDM) requirements. However, this is only policy and not required by the City Code.
oo.	*Allow conversion when existing structure does not conform to density requirements* SMC 19.50.020	The Condominium Conversion regulations are silent on the issue of whether a legal non-conforming development can be converted. Staff would typically asses the level of non-conformity and would base a recommendation of what impact the existing development has on the neighborhood, or to what extent allowing the conversion inhibits realizing other plans. Allowing for the conversion would remove the opportunity to redevelop the site with a newer building which conforms to current zoning requirements and Building Code requirements.

	Tool	Staff Comment
pp.	**Reduce parking requirements* (SMC 19.46.050).	Provision of off-street parking per the current parking ratios is an existing Code requirement. In the projects reviewed for potential conversion to date, meeting the City's current parking requirement has posed a barrier, even though the conversion may not result in an increased demand for parking. In most cases, older multi-unit structures are under-parked, because the City's parking requirement has increased over time to reflect an increase in number of vehicles per household. The current parking requirement in the Condominium Conversion Code has resulted in some applicants reconfiguring the internal layout of their existing building, resulting in fewer units and more bedrooms per unit.
qq.	**Waive Below Market Rate (BMR) housing requirements for conversion units* (SMC 19.66.020).	The City recently updated the BMR Code to specifically state the requirement for BMR units for apartment conversion to condominium. The conversion process currently requires including BMR units (12.5% of the converted units). This requirement enables the City to work toward the goal of providing affordable housing, especially given that renters may be displaced by conversions. Eliminating this requirement may encourage more conversions.
rr.	**Allow reduction in landscaping requirements* SMC 19.38.070	There is not a specific requirement to upgrade landscaping; however, staff typically advises developers that this is a priority item for enhancing the site. For the conversion of apartments to condominium units, several factors impact the ability of the site to meet landscaping requirements, including the fact that the layout of the units is already established, landscaping requirements have increased over time to meet community expectations, and any available space on the lot needs to address the competing requirements of landscaping and parking.

	Tool	Staff Comment
ss.	**Allow for unpermitted additions* to remain as part of conversion (SMC 19.50.020).	Current practice places the burden of proof on the owner to prove construction was legal or completed prior to the City's requirement for permitting (this may be demonstrated through old County Assessor records). Permitting demonstrates the addition met Building Code at the time of construction and is more likely to be safe for habitation. The City cannot waive the requirement for compliance with the Building Code.

ENVIRONMENTAL REVIEW

This study is to establish policy and does not address specific project details (see Attachment J for Initial Environmental Study). A Negative Declaration was prepared as none of the changes in policy that were evaluated have the potential to significantly impact the environment. In addition, all new construction and condominium conversations require a Use Permit which will be subject to environmental review.

FISCAL IMPACT

The fiscal impact is dependent upon which options are enacted by the City Council. The staff recommendation would result in no significant fiscal impact. Planning permits require the payment of application fees. These fees are adjusted annually to reflect the cost of processing the applications. Some of the changes could result in a streamlined report preparation and review process, and this would be reflected in future fees.

CONCLUSION

Both ownership and rental housing are valued housing options in the City of Sunnyvale. The recent decline in the rate of homeownership, from 51% in 1980 to 47.6% in 2000, has prompted this investigation of zoning tools to encourage homeownership.

The City cannot legally require that new or existing housing be owner-occupied. The decision of a developer to build rental or ownership housing is largely market driven. When market conditions are equally favorable to both rental and ownership housing, City regulations may tip the balance to one or the other.

Owner-occupancy generally occurs in the following types of housing, listed in descending order of likelihood to be owner-occupied: mobile homes, single-family detached, single-family attached (e.g., townhomes), multi-family condominiums, and duplexes. The City regulates the type of housing that can be built through its Zoning Code. Staff has identified 27 possible tools which might encourage construction of single-family detached, single-family attached and multi-family condominiums.

Approximately 3,300 of Sunnyvale's housing units of the types most likely to be owner-occupied are leased by their owners to another household; the City is legally limited from prohibiting rentals.

The rate of homeownership can also be increased through conversion of rental property to condominium ownership. Staff has identified 17 tools to encourage condominium conversions.

PUBLIC CONTACT

Staff held two Study Sessions with the Planning Commission on key focus areas for this study, one meeting with the Housing and Human Services Commission, and a meeting with residential developers.

The Planning Commissioners expressed interest in looking further at the concept of making the minor modifications to address commonly approved deviations, but wanted to ensure that higher-impact issues (such as privacy and landscaping) remain as Code requirements. Other Planning Commissioner concerns included tenant and buyer protections, including the checklist document that verifies the status of a condominium prior to a change in ownership.

The Housing and Human Services Commissioners stressed the importance of tenant protections (which are not recommended for removal). The Commissioners expressed concern that some high-impact requirements may be reduced, such as parking. A suggestion was made to increase the BMR requirements for condominium conversions to offset the likelihood of displacing low-income families. Other ideas centered on financing programs, such as helping tenants with down payments and allowing priority access to the City's First time homebuyer assistance loans.

Seventeen rental and for-sale developers who have completed projects in Sunnyvale were contacted for their input on the development process and requirements (Attachment K for developer outreach list) and were also noticed for the public hearings. Staff discussed potential changes with six of the residential developers who met with staff on July 22, 2005 to provide their

input. Their collective ideas were included in the tables of options, together with associated staff comments.

Notices of the public hearings for Planning Commission and City Council hearings were advertised in the Sunnyvale Sun newspaper and placed on the City's official bulletin board. Public hearings were held by the Housing and Human Services (HH&S) Commission and the Planning Commission on August 24, 2005 and September 12, 2005 respectively.

ALTERNATIVES

1. This Alternative contain 3 parts (policy, tools and Title 19 amendments):

   A. Adopt attached policy (Attachment J) to "strive to achieve an equal balance of ownership and rental units in the community," which should be incorporated into the Land Use and Transportation Element of the General Plan in its next revision;

   B. Approve of staff preparation of user friendly tools for property owners considering conversions (Tool: listed as item "cc" in the body of the report in one of the table of alternatives.); and,

   C. Introduce the attached Ordinance (Attachment I) amending Title 19 of the Municipal Code to make the following modifications (which implement, in some form, 15 of the 45 tools):

      i. Eliminate **minimum lot size and minimum lot width** in multi-family zoning districts provided overall density is consistent with the zoning district. (Tools: b. c. h. i.)

      ii. Eliminate requirement for **lot frontage on a public street** provided the subdivision has public street frontage and the private drive or private streets are designated on subdivision map and front on a public street. (Tools: d. j.)

      iii. Reduce interior setbacks for single-family detached and townhome style developments: (Tool: f.)

         1. minimum **front yard setback** of 12 feet on private drives or private streets

         2. minimum interior **side yard setback** of 4 feet with a total interior side yard of 10 feet

      iv. Increase the **height limit** of townhome developments in the R-3 zoning district to 3 stories and 35 feet. (Tool: k.)

      v. Modify the R-2 and R-3 zoning districts **height limit** adjacent to single-story single-family homes and, regardless of the height of the adjacent structure, allow: (Tool: l.)

1. 30 feet height (2-stories) between 20 feet and 40 feet of the rear property line
2. 35 feet in height (3-stories) for the remainder of the rear yard setback (consistent with 1.d. above)
3. 30 feet height (2-stories) between 4 feet and 7 feet of the side property line
4. 35 feet in height (3-stories) for the remainder of the side yard property line (consistent with 1.d. above)

vi. Eliminate porches from calculation of **Floor Area Ratio** for residential development. (Tool: e.)

vii. Allow the **lockable storage** requirement to be met by providing a two-car garage. (Tool: m.)

viii. Allow **tandem parking** spaces (up to 10% of the units) for single-family and townhome development located within 1/3 of a mile of a major transit stop if Transportation Demand Management (TDM) techniques are implemented. (Tool: o.)

ix. Remove the **vacancy restriction** for condominium conversions provided:

1. Up to 300 units per year may be converted (Tool: ee.)
2. Planning Commission or City Council may approve conversion in excess of 300 units in a year upon a finding that "the conversion will not adversely impact the community's ability to provide housing for all economic segments of the community." (Tool: hh.)
3. Increase the BMR requirement to 15% and require conversion of 5 or more units to provide Below Market Rate Units. (Tool: ff.)

2. Alternative 1 with modifications to the policy, tools or Title 19 amendments.

3. Alternative 1 with or without modifications (to the policy, tools or Title 19 amendments), <u>and</u> sponsorship a Study Issues on "Financial Incentives for Encouraging Homeownership."

4. Take no action to encourage home-ownership.

RECOMMENDATION

Staff recommends Alternative 1.

Staff has recommended four types of tools to encourage the development of owner occupied housing:

1. Tools that affect the development of styles of housing most likely to be owner occupied. Most of the recommended tools relate to single-family detached and townhome developments (Alternative 1.C. i.-vii.) and reflect commonly approved zoning deviations (e.g., lot size, frontage on a public street, height, etc.). These tools simplify the development of small lot - small home and townhome developments and facilitate subdivisions of land that create ownership opportunity developments.
2. A tool that provides an incentive to building single-family detached or townhome development that supports the Council Policy on Residential Transportation Demand Management (Alternative 1. C. viii.)
3. Making Condominium conversions available even when the vacancy rate is low. These recommendations are geared to: minimize blanket restrictions on conversion during low vacancy periods while limiting the number of conversions in a given year; and, add affordability benefits to the community. (Alternative 1. C. ix.)
4. Educating property owners about the condominium conversion procedures. (Alternative 1. B.)

Staff is recommending a formal policy to articulate the desired homeownership rates by striving for a balance of ownership and rental opportunity in the community. Staff believes this policy statement reflects the general community values without constraining the City to only allow ownership opportunity housing.

Tools that reduce on-site amenities (open space, parking, landscaping, etc.) are not recommended. The Planning Commission and City Council have indicated that these are highly desirable features of a development. Any proposal to deviate from these standards can still be considered, but on a case by case basis, as approved at a public hearing.

Staff is not recommending any of the tools that affect density (either less than the minimum or density bonuses). Density has been a key discussion point in the community and it is staff's understanding that any change to density needs to be discussed and decided on a case by case basis.

Staff is not recommending that the potential study issue on financial incentives for encouraging ownership be pursued at this time. A program that assists

potential homeowners could be a valuable tool. The current real estate market is favorable to ownership and staff finds that other studies have a higher priority in the community

A number of the tools that were considered would violate applicable legal guidelines if enacted, and these tools are not recommended. All of the recommended changes to the zoning code are for zoning tools which are legally permitted; they primarily relate to type of housing (e.g., single-family detached, townhomes).

Reviewed by:

Trudi Ryan, Planning Officer
Prepared by: Jamie McLeod, Associate Planner

Reviewed by:

Robert Paternoster
Director, Community Development

Approved by:

Amy Chan
City Manager

Attachments

A. Study Issue Document

B. Sunnyvale's Conversion of Rental Housing to Community Housing Projects Code Requirements (SMC Chapter 19.70)

C. General Policy Statements

D. Sunnyvale Municipal Code (SMC) Sections Considered for Revision:

- Zoning Districts, Uses and Related Development Regulations (SMC Chapters 19.16 - 19.34),
- General Development Standards (SMC Chapters 19.38 - 19.60),
- Affordable Housing Requirements (SMC Chapter 19.66).

E. Community Development Multi-Family Neighborhood Action Areas

F. Guidelines for Small Lot Development

G. Initial Environmental Study

H. Developer Outreach List

I. Proposed Ordinance

J. Proposed Policy

NUMBER CDD-4

PROPOSED COUNCIL STUDY ISSUE

For Calendar Year: 2004

Continuing ☐

New ☐

Previous Year (below line/defer) ☒

Issue: Zoning Tools to Encourage the Development of Ownership Housing

Lead Department: Community Development

General Plan Element or Sub-Element: Land Use and Transportation

1. What are the key elements of the issue? What precipitated it?

During the data collection phase of the Community Development Strategy, it came to staff's attention that a few of the neighborhoods in the city that may require more support also experience higher housing rental rates. In some cases the properties were developed as rental housing; however, there may be interest in allowing these properties to convert to common-ownership (e.g. condominiums, small lot development). In addition, throughout the City, when small lot developments are proposed, Rezoning of the property to include the Planned Development Combining District (PD) is required to achieve lot sizes smaller than the minimum prescribed in the Zoning District. These properties comply with density categories with respect to Zoning and the General Plan. In 1985, the City adopted a Condominium Conversion ordinance. Many of the provisions in these regulations were to limit the conversion to ownership housing, while offering protection to residents when conversion could occur. State regulations now preclude a number of those provisions, so the Code should be updated. This issue is supported by the Community Development Strategy.

This study would examine zoning tools that would facilitate the conversion to, and development of, ownership housing while still maintaining protection to tenants that could potentially be displaced.

This item was ranked 3 of 5 by the Planning Commission in 2003. City Council ranked the item number 7 of 12 for the Community Development Department in 2003.

2. How does this relate to the General Plan or existing City Policy?

LAND USE AND TRANSPORTATION

GOAL C2 Ensure ownership and rental housing options in terms of style, size, and density that are appropriate and contribute positively to the surrounding area.

Action Statements C2.1.3 Promote the maintenance and rehabilitation of existing housing.

Action Statements C2.1.5 Study housing alternatives; including, co-housing, live-work spaces, and transitional housing options to serve a changing population.

Policy C2.2 Encourage the development of ownership housing to maintain a majority of housing in the city for ownership choice.

3. Origin of issue:

Councilmember: _____

General Plan: _____

Staff: Staff

BOARD or COMMISSION

Arts	☐	**Library**	☐
Bldg. Code of Appeals	☐	**Parks & Rec.**	☐
CCAB	☐	**Personnel**	☐
Heritage & Preservation	☐	**Planning**	☒
Housing & Human Svcs	☒		

Board / Commission Ranking/Comment:

Housing & Human Svcs **Board/Commission ranked** **2** **of** **6**

Planning Comm. **Board / Commission ranked** _____ **of** _____

4. **Due date for Continuing and Mandatory issues (if known):** _____

5. **Multiple Year Project?** Yes ☐ No ☒ **Expected Year of Completion** 2004

6. **Estimated work hours for completion of the study issue.**
   - (a) **Estimated work hours from the lead department** 250
   - (b) **Estimated work hours from consultant(s):** _____
   - (c) **Estimated work hours from the City Attorney's Office:** 40
   - (d) **List any other department(s) and number of work hours:**

     Department(s): Public Works 20

   Total Estimated Hours: 310

7. **Expected participation involved in the study issue process?**
   - (a) **Does Council need to approve a work plan?** Yes ☐ No ☒
   - (b) **Does this issue require review by a Board/Commission?** Yes ☒ No ☐

     If so, which Board/Commission? Planning
   - (c) **Is a Council Study Session anticipated?** Yes ☐ No ☒
   - (d) **What is the public participation process?**

Contact property owners of duplexes, and developers of small lot and townhouse developments. Normal public noticing process for potential changes to the Municipal Code.

8. **Estimated Fiscal Impact:**

Cost of Study	$ 0
Capital Budget Costs	$ 0
New Annual Operating Costs	$ 0
New Revenues or Savings	$ 0
10 Year RAP Total	$ 0

9. Staff Recommendation

- ☒ **Recommended for Study**
- ☐ **Against Study**
- ☐ **No Recommendation**

Explain below staff's recommendation if "for" or "against" study. Department director should also note the relative importance of this study to other major projects that the department is currently working on or that are soon to begin, and the impact on existing services/priorities.

Staff finds that home ownership is highly valued in the community. Opportunities to purchase housing may be hampered by availability of supply of less expensive ownership options. The ability to convert existing structures into for-sale units, and a more streamlined approach for constructing new ownership housing may benefit the community. This study would provide an opportunity to update the current condominium conversion regulations. This study is timely given the Community Development Strategy and General Plan goals of addressing home ownership.

reviewed by

Department Director	***Date***

approved by

City Manager	***Date***

Attachment B:

Sunnyvale's Conversion of Rental Housing to Community Housing Projects Code Requirements (SMC Chapter 19.70)

Sunnyvale Municipal Code Chapter 19.70
CONVERSION OF RENTAL HOUSING TO COMMUNITY HOUSING PROJECTS

19.70.010. Purpose and intent.

In addition to all other requirements and procedures as set forth in this code pertaining to conversions, as defined here, the additional requirements provided by this chapter shall also apply. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.020).

19.70.020. Apartment vacancy surplus required for conversion.

No use permit or special development permit for conversion of apartment to community housing units shall be approved, nor shall the conversion of any apartment project to a community housing project be approved, unless and until there has existed, for the period of at least one year preceding such application, an apartment vacancy surplus determined pursuant to the procedure set forth in this chapter. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.030).

19.70.030. Determination of apartment vacancy rate and surplus.

In April and October of each year, the director of community development shall determine, on the basis of a representative sampling of apartment buildings, the apartment vacancy rate and the apartment vacancy surplus, if any. Such determination shall be set forth in a written report to the planning commission and city council. New market priced apartments available to the general public, for which a certificate of use and occupancy has been issued since the last vacancy survey, shall be added on a unit-for-unit basis to either reduce the apartment vacancy deficiency or increase the apartment vacancy surplus. Apartments existing as of the last vacancy survey, for which demolition permits have since been issued, or for which a use permit or special development permit for conversion to community housing has been approved, shall be added or subtracted on a unit-for-unit basis to either increase the apartment vacancy deficiency or reduce the apartment vacancy surplus. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.040).

19.70.040. Use permits and special development permits.

(a) A use permit or special development permit, issued under Chapters 19.88 or 19.90 shall be required prior to the conversion of apartments to

community housing units, and prior to the approval of any tentative or parcel map in furtherance of same, in any zoning district.

(b) When the situation of an apartment vacancy surplus exists as of the most recent determination, an application for approval of a use permit or special development permit for conversion of apartments to community housing units may be filed with the department of community development semiannually during the months of May and November of each year if the number of lots, parcels, units or rights of exclusive occupancy proposed does not exceed the apartment vacancy surplus.

(c) When more than one use permit or special development permit application is filed with the department of community development, as provided under subsection (b) above, during any one filing period, and collectively the number of lots, parcels, units or rights of exclusive occupancy proposed exceed the apartment vacancy surplus, the city council upon recommendation from the planning commission and the director of community development may grant approval to those projects receiving the highest composite weighted score as determined pursuant to Section 19.70.060. In no event shall the collective number of lots, parcels, units or rights of exclusive occupancy approved for conversion exceed the apartment vacancy surplus; provided, however, that the city council may approve conversion of an apartment project where the total number of lots or units proposed does not exceed the apartment vacancy surplus by more than twenty-five percent, and:

(1) The developer agrees to retain and not to sell a block of units equal in number to the amount by which the apartment vacancy surplus is exceeded;

(2) The developer shall not increase rent levels for such retained units as charged at the time of application, in excess of the annual cost of living increase published for the housing segment of the San Francisco Bay Area Consumer Price Index.

(d) In addition to the other requirements of this title, such applications shall be accompanied by the following:

(1) Name, address, age and length of occupancy of every tenant and occupant, including children, in the project on the date of application;

(2) Current rents for each unit, along with the date and amount of prior rent increases for the preceding three year period;

(3) The approximate proposed sales price of each unit, and the pro forma budget proposed for submission to the California Real Estate Commissioner or similar estimate of projected annual operating and maintenance fees and assessments;

(4) All organizational documents:

(11) Any other information which, in the opinion of the director of community development, will assist in determining whether the proposed project will be consistent with the purposes of this title;

(12) The director of community development may waive the submission of certain of the above factual items if it is demonstrated that such information is not available and cannot be obtained. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.050).

19.70.050. Minimum requirements.

In addition to the other provisions of this title, each project approved for conversion shall comply with the following minimum requirements:

(a) Prohibition of Discrimination against Prospective Buyers with Children. Under no circumstances shall a project approved for conversion limit sales to families or individuals without children, unless it is demonstrated that the project as designed and built is not suitable for accommodation of children.

(b) Tenant Protection.

(1) The developer shall provide to each existing tenant an irrevocable, nontransferable, preemptive right to purchase the lot or unit presently occupied, or right of exclusive occupancy for same at a price no greater than the price offered to the general public for such lot or unit. Such right shall be irrevocable, unless declined in writing, for a period of ninety days after the commencement of sales or issuance of the final public report by the real estate commissioner.

(2) The developer shall offer an extension of tenancy of all existing lease or rental agreements to expire not less than ninety days subsequent to the time of commencement of sales or issuance of the final public report by the real estate commissioner.

(3) The developer shall permit any tenant to terminate any lease or rental agreement without any penalty whatsoever after filing of an application to convert to community housing, provided such tenant notifies the developer in writing thirty days in advance of such termination.

(4) Expenses for temporary relocation, including all moving costs and the securing of and paying for comparable replacement housing within the community for any tenant who has not entered into a contract to purchase his or her unit or lot, who is displaced on a temporary basis in order for the developer to perform necessary repairs to a unit in connection with a conversion shall be assumed in full by the developer.

(5) An existing tenant's rent shall not be increased during the remaining period of residency from date of application for conversion, in excess of the housing segment of the annual cost of living increase published for the San Francisco Bay Area Consumer Price Index.

(c) Buyer Protection. The developer shall furnish each prospective purchaser of a lot or unit a true copy of each of the following documents:

(1) The use permit or special development permit as issued under the provisions of this chapter;

(2) Property report;

(3) Structural pest report;

(4) Building history report;

(5) Soils report;

(6) Statement of compliance issued by the Real Estate Department of the State of California, or its successor document relating to operating and maintenance funds during startup.

(d) Site Improvements and Amenities. Each of the following site improvements and amenities shall be complete as of the commencement of sales or issuance of the final public report by the real estate commissioner:

(1) A minimum of three hundred cubic feet of weatherproof, lockable storage space shall be provided for each unit in a location and of a design as shown on plans approved by the city council, and with hardware as approved by the director of public safety. Such storage space shall be in addition to normal kitchen cabinets, pantries or clothes closets.

(2) Individual hookups shall be provided in each unit to accommodate washing machines and dryers, unless common facilities, including all new appliances, are provided on the basis of one washer and dryer for each five units or fraction thereof.

(3) All existing and proposed on-site utilities, including communication service and distribution facilities, and electricity service and boundary distribution lines of thirty-four and one-half kV or less, shall be placed underground to the nearest off-site pole, in a manner as prescribed under Chapter 19.38 of this code.

(4) Off-street parking shall be provided as required by Chapter 19.46.

(5) The following fire prevention and building safety standards shall be met:

(i) Developer shall demonstrate that wall and floor/ceiling assemblies comply with fire wall separation standards, as specified in the Uniform Building Code;

(ii) Developer shall demonstrate that wall and floor/ceiling assemblies conform to the sound insulation performance criteria promulgated in Title 25, California Code of Regulations, Section 1092 or its successor;

(iii) A smoke detector of design as approved by the fire prevention division shall be provided in each unit;

(iv) Developer shall demonstrate that residential buildings conform to energy conservation standards promulgated in Title 24, Part 6, Article 1, California Code of Regulations, or its successor.

(6) The following shall be applicable to utility distribution systems:

(i) Gas and electric service shall be separately metered and billed for each individual lot or unit;

(ii) In the case of a community housing project in which units are not vertically separated by floor/ceiling assemblies, water service shall also be separately metered and billed for each individual lot or unit, as well as for all common facilities, the latter being billed to the association.

(7) The following utility safety devices shall be provided for each lot or unit:

(i) Water shutoff valves shall be provided in accessible locations for all outlets;

(ii) Electric panels shall be provided in accessible locations controlling the entire service to each unit.

(8) Including domestic appliances, which are determined by the director of community development to be a source or potential source of vibration or noise, shall be shock mounted, isolated from the floor and ceiling, or otherwise insulated in a manner approved by the director of community development to lessen the transmission of vibration or noise.

(9) All major appliances provided to individual lots or units shall be guaranteed to operate properly for a period of one year.

(e) Compliance with Codes. The design, improvement and construction of a community housing project shall conform to all requirements of all building, fire, housing, subdivision and zoning codes, and other applicable local, state or federal laws or ordinances relating to protection of public health and

safety in effect at the time of the filing of the use permit or special development permit. Additionally, any violations of the latest adopted edition of the Uniform Housing Code relating specifically to provisions protecting health and safety of residents, as determined by the director of community development following a walkthrough inspection of each unit and building, shall be corrected and any equipment or facilities which are found to be deteriorated or hazardous, shall be repaired or replaced as directed by the director of community development. The developer shall repair or replace any damaged or infested areas in need of repair or replacement as shown in the structural pest report. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.060).

19.70.060. Evaluation of projects and application scoring.

(a) In addition to satisfying the minimum requirements as provided for under Section 19.70.050, each use permit or special development permit application for conversion to community housing shall be evaluated with respect to the following measures which may mitigate the impact of a conversion on the existing housing market and which provide amenities to the project. A composite weighted score of at least thirty shall be required before any application can be approved for conversion.

(b) In the event of selection between two or more applications during a period of limited apartment vacancy surplus, as outlined in Section 19.70.030, applications shall be ranked and selected for approval in order of the highest composite weighted scores. Those applications which are found to satisfy all "minimum requirements" and which achieve a composite weighted score of thirty but fail to receive approval during any given evaluation period, shall automatically be deemed as denied without prejudice and shall automatically be reconsidered during the subsequent evaluation period. Each application for conversion to community housing shall be evaluated and scored relative to provision of the following optional measures as proposed by the developer. A weighted number score, as prescribed below, shall be awarded for compliance with each respective measure. A composite weighted score shall be assigned to each application by totaling each earned weighted component thereof.

(c) Mitigation of social and economic impact to existing tenants and prospective buyers:

(1) Extension of irrevocable, nontransferable, preemptive right of any existing tenant to purchase his or her unit in a manner as provided for pursuant to Section 19.70.050(b)(1), for a period of one hundred eighty days. Score: 10

(2) Extension of tenancy of lease or rental agreements for existing tenants in a manner as provided for pursuant to Section 19.70.050(b)(2), for a period of one hundred eighty days. Score: 10

(3) Provision of relocation assistance to tenants electing not to purchase and not qualifying under subsection (5) hereof in an amount equal to two months rent at the tenant's rate in effect at the time of application for conversion. Score: 20

(4) Provision of relocation assistance to displaced tenants by preparing without charge a current list of available apartments of comparable price and size within three miles of the project site, to be supplied to all tenants and to the department of community development prior to commencement of sales or issuance of a final public report. Score: 5

(5) Extension of tenancy by lease or rental agreement for tenants sixty-two years of age and older who elect not to purchase or relocate, in a manner as provided for pursuant to Section 19.70.050(b)(2), for the life of the tenant(s). Score: Variable depending on the percentage of tenants sixty-two years of age, up to a maximum of twenty

(6) Provision of an irrevocable, nontransferable, preemptive right for existing tenants to purchase the lot or unit presently occupied at a price ten percent below that offered to the general public within the time period prescribed under Section 19.70.050(b)(1). Score: 20

(7) Posting of an irrevocable bond or warranty with the project's homeowners association assuring the operation and maintenance of all elements of the project as addressed in the property report for a period of one year. Score: 15

(8) Provision to allow fifty percent of rent or lease payments collected subsequent to approval of a use permit or special development permit for conversion to community housing to be applied toward a down payment for purchase of the unit currently occupied. Score: 15

(d) Provision of additional project amenities:

(1) Site and landscaping plans as proposed offer an exceptional and above normal quantity and quality of passive recreation amenities, including landscape types, private and common open spaces, patios and related amenities. Score: Variable depending on the quality of plans presented up to a maximum of ten

(2) Site and architectural plans, as proposed, offer exceptional active recreational amenities, including recreation buildings, barbecue areas, pools, play equipment for children, etc. Score: Variable depending on the quality of plans presented up to a maximum of 10

(3) Site and architectural plans, as proposed, include provision for solar hot water heating for all lots or units, common buildings and pools. Score: 15

(4) Site and architectural plans, as proposed, include provision for other energy saving amenities, including solar space heating, efficient area lighting systems, maximized use of natural lighting for indoor spaces, use of deciduous tree cover on south and westerly building exposures, etc. Score: Variable depending on nature and extent of amenities provided up to a maximum of fifteen. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.070).

19.70.070. Certificate of use and occupancy for community housing project.

Prior to the sale, lease, use or occupancy of any units or building of a project as community housing, the developer shall first obtain a certificate of use and occupancy for each such unit or building. Such certificate shall be obtained regardless of the previous use, occupancy or tenancy or whether any changes, alterations or modifications have been made to any portion of any existing unit or building. Application for a certificate of use and occupancy for community housing shall be made to the director of community development upon satisfaction of each of the foregoing provisions of this chapter. (Ord. 2623-99 § 1 (part): prior zoning code § 19.84.080).

(i) The declaration of restrictions shall prohibit the unenclosed storage of any vehicle intended for recreation purposes, including land conveyances, vessels and aircraft, but not including attached camper bodies and motor homes not exceeding eighteen feet in length, unless approved storage areas are provided,

(ii) The declaration of restrictions shall provide for approval by the city of Sunnyvale prior to any future modification of site plans, architectural elevations, exterior materials and colors or of any of the organizational documents,

(iii) The declaration of restrictions shall require the designation of a project manager residing in the project or maintaining an office onsite to represent the association with full powers to enforce the various provisions of such document;

(5) A property report prepared by a registered engineer or licensed qualified contractor describing the physical condition and estimated remaining useful life of each of the various elements of the project proposed for conversion, including the following: building foundations, roofs, walls, sound insulation, mechanical, electrical and plumbing systems, onsite utilities, heating and air conditioning systems, and fire protection systems, together with recommendations relating thereto in order to assure their continued useful life for a minimum of five years;

(6) A structural pest control report prepared within sixty days of the date of application by a licensed structural pest control operator, pursuant to Sections 8516, et seq. of the California Business and Professions Code, or successor section;

(7) A building history report, including the date of construction of all elements of the project and a statement regarding the current ownership of all improvements and underlying land;

(8) A statement of any proposed repairs or improvements proposed to be completed prior to the sale of units, along with a time schedule therefor;

(9) A soils report, if not previously prepared, in compliance with the provisions of the Subdivision Map Act;

(10) A copy of the application to the Department of Real Estate of the state of California for issuance of a final public report for the proposed conversion, including all attachments and exhibits thereto required by the department, pursuant to Section 11011 of the California Business and Professions Code, or successor section;