



November 18, 2008

SUBJECT: **2006-0712 – Trumark Companies** [Applicant] **Ray Street Office, LLC.** [Owner] Application for related proposals on a 6.63 acre site located at **1275 and 1287 Lawrence Station Road** (near Elko Drive) in an Industrial and Service (M-S) Zoning District. (APNs: 110-15-045, 110-15-044)

Ordinance Amend Title 19 of the Sunnyvale Municipal Code (Zoning) to create a Mixed Use Zoning Combining District (MU), which may be combined with the R-3, R-4, and R-5 Residential Zoning Districts.

REPORT IN BRIEF

This Title 19 Amendment is being processed concurrently with two related applications: 1) the Luminaire/Lawrence Station Road Project Environmental Impact Report, and 2) a General Plan Amendment, Rezoning, Special Development Permit (SDP), and Tentative Map application for project entitlement. The decision on the Environmental Impact Report will precede this application (same hearing date) and the decision of project entitlement applications will be subsequent to this amendment (same hearing date).

At their February 14, 2006 meeting, the City Council directed City staff to explore the creation of a new Mixed Use Combining District under Title 19 (Zoning) of the Sunnyvale Municipal Code (SMC). The City's current Zoning code does not adequately address mixed use projects located in residential zones. The purpose of this amendment is to create a set of standards and criteria to help define and review mixed use developments.

The application was heard before the Planning Commission at their October 13, 2008 meeting. The Commission voted 7-0 to recommend approval to the City Council.

Staff recommends the City Council Amend Title 19 of the Sunnyvale Municipal Code to create a Mixed Use Combining District for the R-3, R-4, and R-5 Residential Zoning Districts, in accordance with the Planning Commission recommendation.

BACKGROUND

This Title 19 Amendment is being processed concurrently with two related applications consisting of six components: 1) an Environmental Impact Report (EIR) for the project; 2) an amendment to Title 19 of the Sunnyvale Municipal Code to create a new Mixed Use Zoning Combining District (MU); 3) a General Plan Amendment to change the land use on the site from Industrial to Very High Density Residential; 4) a Rezone of this site from M-S (Industrial and Service) to R-5/MU (High Density Residential and Office/Mixed Use); 5) an SDP application; and 6) a Vesting Tentative Map. These six components are described in more detail below.

1) Environmental Impact Report: An EIR (Luminaire/Lawrence Station Road Project) is being processed concurrently with this application. The EIR is addressed under a separate staff report and needs to be considered prior to any other actions under consideration.

2) New Mixed Use Combining District: An amendment to Title 19 of the SMC to create a Mixed Use Zoning Combining District (MU) is being processed concurrently with this application. The amendment is addressed under a separate staff report and should be considered prior to any other actions addressed in this report. The existing Title 19 zoning designations currently utilized by the City do not adequately address the type of development currently proposed for this site. The new Mixed Use District will contain the new development requirements and criteria for use with sites throughout the City.

3) General Plan Amendment: The project includes a request for an amendment to the City's General Plan Land Use Map designation from Industrial to Very High Density Residential in order to allow for redevelopment of the site. The primary goal of the proposed land use change is to allow the development of the site with residential mixed use combined with commercial development.

4) Rezone: Associated with the General Plan Amendment and Title 19 amendment is a proposal to rezone the site from M-S (Industrial and Service) to R-5/MU (High Density Residential and Office/Mixed Use). This designation would allow development of the site under the newly adopted Mixed Use Combining District.

5) Special Development Permit: The applicant is also requesting approval of an SDP to allow construction of 338 mid-rise rental units (which includes 16 live/work units) and 16,000 square feet of commercial space. The project will include the required 15% of Below Market Rate (BMR) housing rental units (46 units), which is based on the number of units allowed without a density bonus, pursuant to SMC Section 19.66.020 (see BMR Conditions of approval in Attachment B).

6) Vesting Tentative Map: The applicant is requesting approval of a Vesting Tentative Map to merge two parcels, totaling approximately 6.63 acres, into one common lot with 338 residential condominium units and 16,000 square feet of commercial space. The applicant has stated the project will be constructed for rental units but may be converted to ownership units in the future.

General Plan Initiation: In 2006 a General Plan Initiation request was received from Trumark Companies requesting a change in the existing Land Use designation from Industrial to Residential High Density with Office (45 dwelling units per acre). The preliminary plans called for the development of a mixed use project including retail, office, and residential uses. At the February 14, 2006 City Council meeting the applicant stated more specifically that the project would include:

- Mixed use development with office (10,000 sf.), retail (15,999 sf.), and housing components,
- 300 housing units ranging in size from 1,200 to 1,400 square feet,
- Underground parking,
- Building heights below 50 feet,
- Ownership housing units.

At the meeting the Council authorized the General Plan Amendment Study on a 5-2 vote (see Council Meeting Minutes in Attachment C for additional details). As part of the amendment study the Council directed staff to examine the following:

- Explore a new Mixed Use zoning designation,
- Examine the appropriateness of different residential densities, including R-3 (medium density), R-4 (high density), and R-5 (high density with office),
- Examine the appropriateness of new residential uses in a predominately industrial region of the city,
- Consider the advantages of increased residential, retail, and office opportunities,
- Evaluate noise and traffic impacts to the proposed development,
- Examine the opportunities to provide additional affordable housing units.

Description of Proposed Project: The proposed project includes an amendment to Title 19 of the SMC to create a new Mixed Use Zoning Combining District (MU) that can be applied to the R-3, R-4, and R-5 Residential Zoning Districts. The new Mixed Use District contains the new development requirements and criteria, in the same way other Combining Districts, such as Single-Story or Planned Development, are applied to other base zones throughout the City.

Mixed use generally is defined as a development consisting of one or more lots developed as a cohesive project and designed with a blend of various compatible uses such as commercial, office, and residential. The uses may be located in the same building or in separate buildings.

EXISTING POLICY

GENERAL PLAN

The following General Plan Goals and Policies are related to this Title 19 Amendment:

Housing and Community Revitalization Sub-element

Policy D.1: *Encourage innovative types of housing in existing residential zoning districts.*

Land Use and Transportation Element

Goal C1: *Preserve and enhance an attractive community, with a positive image and a sense of place that consists of distinctive neighborhoods, pockets of interest, and human-scale developments.*

Action Statement C3.2.3: *Encourage mixed use developments that provide pedestrian scale and transit oriented services and amenities. The intent is to provide opportunities for mixed use.*

Policy N1.1: *Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.*

Action Statement N1.1.1: *Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.*

Policy N1.2: *Require new development to be compatible with the neighborhood, adjacent land uses and the transportation system.*

Community Design Sub-element

Policy A.2: *Ensure that new development is compatible with the character of special districts and residential neighborhoods.*

Title 19 - ZONING

The following is a summary of the mixed use allowances under the Zoning Code:

Commercial Zones (C-1, C-2, C-3) – Residential can be considered in conjunction with commercial uses through a Use Permit (UP) or SDP, as long as the primary intent of the commercial use is met.

Industrial Zones (M-S, M-S/POA, M-3) – Small amounts of residential may be considered through a UP or SDP, but a mix of uses is not typically considered for projects that include a major residential component. Typical residential in the Industrial Zone: on-site manager for a self storage facility.

Office Zones (O, P-F) – Residential can be considered in conjunction with office uses through a Use Permit (UP) or SDP.

Residential Zones (R-0, R-1, R-2) – Retail uses are not permitted; office may be considered with a Use Permit.

Residential Zones (R-3, R-4, R-5) - Retail uses can only be considered if incidental to the primary residential use. For example, small retail store serving on-site residents only. Larger mixed use projects cannot be considered.

ENVIRONMENTAL REVIEW

An Environmental Impact Report (Luminaire/Lawrence Station Road Project) is being processed concurrently with this application. The EIR addresses the impacts of the conversion of 6.63 acres from industrial to residential/ mixed use and the impacts to the surrounding area. The EIR also evaluates potential impacts associated with creation of a new Mixed Use Combining District, project alternatives, and future impacts to the residents of the project. The EIR will be certified prior to this legislative action.

Future development projects applying for the MU designation are not reviewed under this EIR and may be subject to further environmental review. The determination of environmental review will be made at the time of project submittal to the City.

DISCUSSION

Mixed use developments combine residential, commercial, retail, office, and/or other uses in one project. They vary in size from a single building to an entire neighborhood. Mixed use development complements many other planning techniques, including compact design, historic preservation, infill, redevelopment, downtown revitalization, and transit oriented development. It can reduce reliance on cars by locating jobs, shopping, and residences in one place. Mixed use projects can foster a sense of community with residential serving amenities located on-site.

The following are definitions of mixed use configurations:

Vertical Mixed Use - A single structure with the above floors used for residential or office and a portion of the ground floor for retail commercial or service uses. Examples include the Downtown Redevelopment project, Avalon Apartments (Lawrence/101), Historic Murphy Avenue, Charles Schwab shopping center, the Amber Circle Shopping Center (Erik's Deli), and the recently approved Essex project (Fair Oaks/Tasman).

Horizontal Mixed Use: One or more structures which provide commercial or service uses in the structures fronting a street, with residential or office uses whether attached or detached. Example includes Plaza de Las Flores (affordable senior housing) at Sunnyvale and Washington, Lakeside Sheraton Redevelopment (Lakeside/101) and the Cherry Orchard project.

All of the above examples, except the Avalon Apartments, are located in Commercial Zoning Districts. The Avalon Apartments are under the Lawrence/101 Specific Plan Zoning District.

New Mixed Use Options and Criteria

Zoning District vs. Combining District: There are two primary options for the City Council to consider in developing a zoning tool to encourage mixed use developments: either a new zoning district or a combining district. A separate zoning district would have to exclusively define all zoning code categories, such as allowable height, lot coverage, FAR, setbacks, etc. Using a combining district approach allows for the underlying zoning standards to remain in effect, while adding enhancements or modifications to the base zone.

Staff is recommending the combining district approach as the potential Mixed Use Districts may be in different areas of the City with entirely different neighborhood characters. Utilizing the existing zoning is a benefit since it is likely to already be compatible with the surrounding neighborhood. Historically, the City of Sunnyvale has taken the approach of using the combining district model, such as with the Planned Development (PD), Places of Assembly (POA), El Camino Real Precise Plan (ECR), Heritage Housing (HH), and Single Story (S) combining districts. As stated in SMC:

The purpose of the combining district is to provide modifications, addition and limitation to other zoning districts to meet special conditions and situations concerning properties within such zoning districts that cannot otherwise be handled satisfactorily (SMC 19.26.010(b)).

Zoning Districts: As previously described, the commercially zoned areas of the City already allow for residential mixed use projects, as long as the primary intent of the commercial use is met. A number of mixed use projects have been developed in commercial zones throughout the City. As part of the General Plan Initiation application, the City Council directed staff to explore the opportunity of mixed use in combination with multi-family residential projects. Staff finds the R-3, R-4, and R-5 zones are the only appropriate districts for mixed use based on their ability to integrate residential units and commercial square footage within the same project.

Under the R-3 (Medium Density) zone a typical project could result in a development with residential and commercial components horizontally mixed, but separated on-site. A density of up to 24 units per acre could be achieved (with a 75% minimum density of 18 units per acre). With a 15% density bonus, an R-3 project could achieve up to 27 units per acre. The Cherry Orchard development is an example of a similar project.

Under the R-4 (High Density) and R-5 (High Density with Office) zones a typical project could result in stacked condominiums in a vertical mixed use design. Densities between 36 to 45 units per acre could be achieved (with 75% minimum densities at 27 to 33 units per acre respectively). Examples of similar projects are Essex at Tasman/Fair Oaks, Avalon Apartments at 101/Lawrence, and portions of the Downtown.

Staff does not believe the R-0, R-1, or R-2 zones are appropriate for mixed use since they are intended for lower density, traditional neighborhood developments. The typical product type is single-family detached housing or attached duplexes, neither of which is suitable for mixed use projects, due to their land intensive pattern of development.

Lot Size: Minimum lot sizes for new mixed use projects are an important consideration when combining commercial square footage with residential projects. Smaller parcels are considerably more difficult to design with all the required components of a project (e.g. trash enclosures, clubhouse, driveways, consolidated open space, parking) than are larger parcels. Most new R-3 to R-5 zoned projects are at least three acres or more. Staff is recommending the Mixed Use District have a minimum project size of two acres.

Commercial Component Requirement: In order to ensure the Mixed Use District will contain commercial/office uses, there must be a minimum percentage of the lot area required to be commercial square footage. During staff's research of mixed use regulations in other cities it was determined there was not a consistent measure with which to establish a baseline. Some cities used a maximum square footage and some limit the percentage of residential, while

others have no minimum requirements. These varying regulations primarily reflect the issues and values being faced by the individual cities.

Since the new Mixed Use District is proposed to be combined with a base multi-family residential zone with a minimum density goal of 75%, staff is recommending a baseline for the commercial/office component of the project to ensure commercial space. Staff believes a minimum of commercial or office square footage equal to 10% of the lot area (FAR) should be required. Staff also recommends a maximum commercial square footage of up to 25% of the lot area be allowed.

Mixed Use Allowances: Under the Mixed Use Combining District, commercial square footage between 10-25% could be added to the base zoning of the site (R-3, R-4, or R-5). In order to accommodate this additional square footage and associated commercial site features (trash enclosure, customer parking, landscaping) there may be certain allowances needed over the base zoning maximums permitted. The residential base zone requirements were not designed to accommodate commercial uses or a mix of uses and are therefore, too restrictive to apply without some flexibility. Providing certain allowances through the Mixed Use District, the project will be better able to meet the minimum commercial percentage requirement and may achieve the 75% minimum density goal. The following are potential allowances:

1. Increase in height limit up to 10' over the base zoning maximum.
The increase in height is often critical for mixed use projects if they are to be vertically mixed use rather than horizontally mixed use in separate buildings. The base zoning height limits are intended only to accommodate the maximum density of residential units not one or two stories of commercial/office. In addition, commercial floor to ceiling heights ideally should be 20 feet in height in order to attract quality tenants. Retail ceiling heights less than 20 feet can be found in some older shopping centers or older downtown areas where the ceiling heights were a determination of the construction limitations of the time.
2. Increase in the number of stories of up to one story over the base zoning maximum.
Similar to the increase in height, the number of stories is often necessary to accommodate a mix of uses.
3. Increase in the maximum lot coverage over the base zoning maximum.
In order to accommodate the additional 10-25% of commercial square footage, there may be a corresponding increase in the lot coverage allowed under the Mixed Use District. While the commercial

and residential components should be designed to be vertically stacked with a natural increase in height and number of stories, there may also be an increase in the overall footprint of new buildings. Associated with the mixed use buildings are features such as structured parking, back-of-house commercial areas, integrated solid waste enclosure areas, office lobby space, or other site design amenities that are considered enhancements to mixed use projects.

Other R-4 and R-5 density projects approved in the City have lot coverages ranging from 21% to 35%. Projects such as Essex at Tasman/Fair Oaks (32%) and Avalon Apartments at 101/Lawrence (35%) have underground parking areas, so the lot coverage is minimized. Other developments such as the Lakeside Sheraton at Lakeside/101 (21%) have above ground parking but an increase in height and number of stories to reduce lot coverage.

If an additional 10% lot coverage is not incorporated as part of the companion mixed use application, a likely outcome will be that the projects would either reduce the number of units substantially, increase the number of stories, or above ground parking will need to be placed underground in order to minimize the building area. If the 10% is adopted as an allowance, the usable open space and/or landscaping requirements may be negatively affected.

Site Plan Design: The proposed Title 19 Amendment includes a section about mixed use site design that encourages vertical mixed use and underground parking as part of the MU District. Both of these site design features are previously discussed in this report. Staff is not recommending these be included as required elements of the new Mixed Use District since they may become too difficult to incorporate into all mixed use projects but are still encouraged.

Permitted Uses: Staff is recommending that the list of commercial/office uses in the Mixed Use District should be consistent with the existing SMC C-1 Neighborhood Commercial District. Under this category uses such as restaurants, office, personal service, and small shops are permitted. Other uses require a Use Permit such as places of assembly, classrooms, and child care. SMC defines the C-1 Zone as:

19.20.020 (a) The C-1 neighborhood business district is reserved for the construction, use and occupancy of commercial buildings providing retail commercial shopping and service facilities to the adjacent neighborhood residential areas.

Through the SDP process uses can be further modified if the context calls for greater limitations.

Live/work Units: As part of the SDP application, the developer has suggested the idea of incorporating live/work units as an allowed use under the Mixed Use Combining District. Staff concurs that live/work units are appropriate in a mixed use setting and is recommending live/work units as part of this Title 19 Amendment.

Live/work units can be defined as: a single unit (e.g. studio, loft, or one bedroom) consisting of both commercial/office and residential components that is occupied by the same resident. The live/work unit shall be the primary dwelling of the occupant. Typically live/works are found in high-urban cities such as Oakland, San Francisco, Los Angeles, where the cost of both living and owning a small independent business is prohibitive. More recently however, live/works have been an emerging trend in medium-low density cities as an alternative to traditional living lifestyle. Staff found several other cities in the Bay Area with live/work projects and municipal code provisions, including San Jose, Fremont, Milpitas, Emeryville, and Berkeley.

Staff is recommending a portion of the live/work units may be counted towards the minimum commercial/office requirement. Most live/works have a commercial component and a residential living space within the same unit. Unfortunately many live/work residents do not use the commercial space as work space and convert the entire unit to a residential use. Requiring this space remain as work space is difficult and not easily implemented. Based on discussions with staff from other cities, it is estimated that only 50% of the units will be used as commercial square footage, with the other 50% being converted to residential uses. Staff is recommending that only 50% of the total commercial space in the live/work units may be counted towards the minimum commercial requirement.

Staff believes the live/work units are an opportunity to help create a different housing type for the City and an opportunity to enhance the uniqueness of the Mixed Use District. Staff is recommending a set of regulations for the proposed live/work units that can be found in Attachment A.

Proximity to Public Transit: One option for considering mixed use projects would be to require they be located close to a major transit stop. A major public transit stop could mean VTA Light Rail, Caltrain, and “high activity bus stop” (100+ weekday ridership). The VTA uses a criterion of one-quarter to one-half of mile when locating high density projects adjacent to transit. The City also has a Council policy (Residential Transportation Demand Management) to promote a range of transportation options in the City. The City also endorses location of high density development within one-third of a mile along major

transportation corridors and transit lines. The Tasman/Fair Oaks Light Rail Corridor area is a targeted action area for implementation of Transportation Demand Management guidelines in the City.

While a significant number of future housing sites in the City are within proximity of transit stops, some are not. Staff acknowledges the importance of development near transit, but also understands that larger mixed use project may either serve an existing neighborhood or create their own neighborhood through incorporation of commercial uses. Staff is not recommending applying a proximity criterion to the new Mixed Use District since it could limit mixed use opportunities in the future.

Staff is, however, recommending that certain locational requirements are incorporated into the purpose statement of the Mixed Use District. This will provide guidance to future applicants and the City on appropriate locations for mixed use projects. The locational criteria state the projects should be located adjacent (within ½ mile) to a major expressway, arterial street, or public transit stop (VTA or Cal Train).

Parking: Recently changes to the parking requirements of the Sunnyvale Municipal Code allow staff to consider shared parking calculations for mixed use projects. The City Council on September 30, 2008 adopted the Urban Land Use (ULI 2005) parking standards for mixed use projects.

Surrounding Cities Criteria: As part of this report, staff researched the codes used by nearby cities in Santa Clara County to determine if they had mixed use zones, how they process mixed use projects, and the goals and policies of the City. The following table is a brief summary:

City	Criteria	Policies and Goals
<p>Campbell (Allowed through PD overlay zone)</p>	<p>Mixed use projects are permitted under four General Plan Designations:</p> <p>Office/Low-Medium Density Residential (6-13 units/acre)</p> <p>Commercial/Medium Density Residential (14-27 units/acre)</p> <p>Commercial/Professional Office/Residential (Up to 27 units/acre)</p>	<p>Mixed use project are permitted to combine only residential with commercial/office.</p> <p>Projects that have commercial/office on the ground floor with residential units above (vertical mix) are encouraged over projects with commercial structures on the front portion of the lot with residential placed at the rear (horizontal).</p> <p>Mixed use is applied through the PD process and provides a degree of flexibility and allows a combination of</p>

City	Criteria	Policies and Goals
	Central Commercial (Downtown) also accommodates mixed use.	uses that comply with the underlying land use designation of the general plan.
<p>Milpitas (Allowed as Mixed Use Combo Dist.)</p>	<p>Permitted in Mixed Use District (MXD).</p> <p>Permitted in conjunction with Transit Oriented Development Combining District (TOD) and Site and Architectural Review (S) Combining Districts.</p>	<p>Encourage a compatible mix of residential, retail, entertainment, office, and commercial service uses within a pedestrian oriented streetscape and with urban open areas for multiple purposes.</p>
<p>Santa Clara (Allowed as Mixed Use Combo Dist.)</p>	<p>Permitted in the Mixed Use (MU) Combining Zoning and Transit-Oriented Mixed Use (TMU) Combining Zoning Districts.</p> <p>Permitted to be Combined with Commercial or Community Commercial Zoning Districts.</p>	<p>TMU and MU Districts: Encourage multifamily residential developments in conjunction with commercial development.</p> <p>Encourage development consistent with existing community, which have traditionally been zoned for commercial and office uses, but adjacent to residentially zoned property. Increase number of housing options.</p>
<p>Mountain View (Allowed as Mixed Use Combo Dist.)</p>	<p>Permitted in the Commercial/Residential-Arterial District (CRA).</p>	<p>Permitted in CRA District with Conditional Use Permit. There are special development standards for Mixed Use.</p>
<p>Saratoga (Allowed through PD overlay zone)</p>	<p>Permitted in Commercial & Professional & Administrative Office Districts with a Conditional Use Permit and compliance with Mixed Use Development Standards.</p>	<p>Implement the Housing Element of the General Plan throughout the various commercial and office districts and to protect existing and future commercial development.</p>

In general, the cities listed above use the Mixed Use District as a way of promoting residential uses in their existing commercial zones. While they may be applied to other zones on a case by case basis, they are not intended to apply to multi-family residential zones. This Title 19 Amendment is intended to promote mixed use development for appropriate residential sites only, as existing commercial zoning districts already enable mixed use.

FISCAL IMPACT

New mixed use projects are typically comprised of neighboring retail tenants; to the extent this results in additional retail sales, the City would realize increased sales tax revenue. Land values of mixed use sites could increase, thereby affecting property tax revenues.

CONCLUSION

The current SMC Title 19 does not provide the opportunity for larger mixed use projects in the City’s multifamily residential zoning districts. The goal of the Amendment is to create a set of standards and criteria to help define and review mixed use developments.

PUBLIC CONTACT

The applicant held a neighborhood meeting on October 4, 2007 at the project site where property owners and tenants within a 300 foot radius were sent invitations. Approximately five interested members (business owners) of the public attended this meeting. The applicant gave a brief overview of the project and fielded questions from the public. In general, most questions concerned the timing of the development.

Planning Commission Hearing: The application was heard before the Planning Commission at their October 13, 2008 meeting. At the hearing, the Commission discussed issues relating to the new overlay district including; minimum percentage of commercial, live/work units, increase in height, increase in stories, and open space versus lot coverage. The Commission, on a 7-0 vote, recommended approval of the application with the recommended conditions of approval.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none"> • Published in the <i>Sun</i> newspaper • Posted on the site • 990 notices mailed to the property owners, tenants, and residents within 300 ft. of the project site 	<ul style="list-style-type: none"> • Posted on the City of Sunnyvale's Website • Provided at the Reference Section of the City of Sunnyvale's Public Library 	<ul style="list-style-type: none"> • Posted on the City's official notice bulletin board • City of Sunnyvale's Website

ALTERNATIVES

1. Introduce an ordinance (Attachment A) to amend Title 19 of the Sunnyvale Municipal Code (Zoning) to create a Mixed Use Combining District for the R-3, R-4, and R-5 Residential Zoning Districts, with the following requirements:
 1. Minimum lot size shall be two acres; and
 2. Commercial/office shall be 10% to 25% of the lot area (Floor Area Ratio); and
 3. Allowance for an increase in height of 10 feet above the base zoning maximum; and
 4. Allowance for an increase in the number of stories of one story above the base zoning maximum; and
 5. Uses in the C-1 (Neighborhood Commercial) Zoning District can be considered; and
 6. Allow live/work units with attached SMC regulations; and
 7. 50% of the non-residential area of the live/work unit may be counted towards the minimum commercial requirement (10%), and
 8. An SDP is required for any new Mixed Use Combining District project.
2. Alternative A with modifications (such as allowing greater lot coverage by 10% or not allowing an increased height limit by 10 feet).
3. No change to the existing Sunnyvale Municipal Code.

RECOMMENDATION

Staff recommends Alternative 1, to introduce an ordinance (Attachment A) to amend Title 19 of the Sunnyvale Municipal Code (Zoning) to create a Mixed Use Combining District for the R-3, R-4, and R-5 Residential Zoning Districts, with the above listed requirements.

Staff is not recommending in favor of the increased lot coverage since other mixed use developments in the City have been able to be developed without this allowance. In addition, staff believes the increase in lot coverage will encourage stand alone, above ground parking structures and may negatively impact landscaping requirements.

The introduction of a Mixed Use Combining District for the City is an opportunity to establish an enhanced land use pattern of development not currently permitted in all zoning districts. As land use trends are moving towards more compact urban type developments in the Bay Area, the mixing of uses is being seen as a smart way to address the needs of additional housing units, retail sales, jobs, neighborhood character, walkability, and the greening of new development projects. In addition, mixed use projects can be highly successful ventures, as can be seen through the popularity of the Cherry

Orchard development, the City's first major example of mixed use. Staff believes that if sufficient opportunities are provided to developers, the City will realize projects that will achieve mutually beneficial goals.

While a new Mixed Use District is not the final resolution for addressing competing goals of the City, staff believes it is a significant step in the right direction toward creating a smarter growth pattern.

Reviewed by:

Hanson Hom
Director of Community Development

Reviewed by: Trudi Ryan, Planning Officer
Prepared by: Steve Lynch, Project Planner

Approved by:

Amy Chan
City Manager

Attachments

- A. Draft Ordinance
- B. Map of Surrounding Transit Facilities
- C. Planning Commission Minutes from October 13, 2008.

ORDINANCE NO. _____-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE ADDING SECTION 19.26.220 (MIXED USE COMBINING DISTRICT) AND SECTION 19.26.230 (LIVE/WORK UNITS) TO CHAPTER 26 (COMBINING DISTRICTS) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO MIXED USE COMBINING DISTRICTS

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

SECTION 1. SECTION 19.26.220 ADDED. Section 19.26.220 (Mixed Use Combining District) is hereby added to Chapter 26 (Combining Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code to read as follows:

19.26.220. Mixed Use Combining District (MU).

(a) **Definition of Mixed Use Development.** Mixed use development shall mean a development consisting of one or more lots developed as a cohesive project and designed with a blend of various compatible uses such as commercial, office, and residential.

(b) **Mixed Use Combining District Created -- Purpose.** There is hereby created a combining district to be known as MU mixed use combining district, which may be combined with the R-3, R-4, and R-5 residential zoning districts. The mixed use combining district is intended to modify the site development regulations of the R-3, R-4, and R-5 residential zoning districts, to require the development of commercial/office uses on appropriately situated residential sites. Mixed use developments should only be considered if they are located adjacent (within ½ mile) to a major expressway, arterial street, or public transit stop (VTA Light Rail or Cal Train).

(c) **Mixed Use District Intent.** The purpose of this section is to encourage and promote well planned, suitable and appropriate mixed use developments with residential and commercial/office components within appropriate areas of the city. The focus is to: allow a more balanced mix of uses in a mixed use development, provide for the diverse needs of the residents of the City, allow development flexibility without sacrificing the existing image and character of the surrounding neighborhood, encourage efficient land use by facilitating compact, high intensity development and minimizing the amount of land needed for building area, reduce neighborhood vehicle trips, and facilitate development that supports public transit where applicable. A mixed use development should be safe, comfortable and attractive to pedestrians, patrons and residents.

(d) **Mixed Use Combining District.** The mixed use combining district may be established at the discretion of the city council to overlay the R-3, R-4, and R-5 zoning districts in accord with Chapters 19.92 and 19.98. Where the

combining district is in effect, the regulations established by this section shall apply instead of the comparable regulations set forth in this title.

(c) **Mixed Use Permit Required.** No use shall be established or changed, or any building or structure constructed or altered, upon property in any zoning district with which a MU mixed use district is combined unless either a special development permit is first issued by the director of community development, the planning commission or the city council in accordance with procedures set forth in Chapter 19.90.

(f) **Mixed Use Permit - Uses to comply.** Following issuance of a permit:

(1) No use shall be established or changed, or any building or structure constructed or altered, upon property in any zoning district with which a MU mixed use district is combined except in strict conformity with the permit and any conditions or requirements attached; and

(2) No use shall be established or changed, or any building or structure constructed or altered, in a manner which would not comply with the regulations of the zoning district with which the MU mixed use district is combined except for the modifications authorized by the permit, unless all development on the property covered by the permits is in strict conformity with the permit issued and all conditions or requirements attached.

(g) **Mixed Use Combining District - Site Design.** Mixed use development should be designed with the following regards to site design:

(1) The uses may be located in the same building or in separate buildings. Projects where the uses are combined in a vertical configuration (within a building) are encouraged.

(2) Underground parking for the mixed use development is encouraged.

(3) Driveways, deliveries, and waste management for the commercial/office component should be separated to the extent practicable from the residential uses on site.

(h) **Mixed Use Combining District - Provisions.** For sites where the mixed use combining district is applied, the following development regulations shall apply in lieu of the otherwise applicable site development regulations:

(1) **Minimum Lot Size.** The minimum project and lot size shall be two acres.

(2) Allowances may be granted and possibly subject to additional environmental review:

(i) Allowance for an increase in height of 10 feet above the base zoning maximum;

(ii) Allowance for an increase in the number of stories of one story above the base zoning maximum;

(3) **Commercial/Office Uses Permitted.** Uses permitted in the C-1 (Neighborhood Commercial) Zoning District can be considered for the commercial/office component, but uses otherwise permitted as a matter of right may not be approved with this zoning.

(4) **Live/work Units.** Live/work units are allowed in mixed use development projects. A live/work unit is defined as a single unit (e.g. studio, loft, or one bedroom) consisting of both a commercial/office and a residential

component that is occupied by the same resident. The live/work unit shall be the primary dwelling of the occupant. A mixed use development should not consist exclusively of live/work units.

(5) **Commercial/Office Requirement.** The site shall include a commercial/office component equal to a minimum of 10% of the lot area (Floor Area Ratio) and up to a maximum of 25% of the lot area. 50% of the floor plan of the non-residential component of the live/work unit may be counted towards the minimum or maximum commercial/office standard.

(6) **Parking.** Parking shall be required for each commercial/office and residential use in accordance with Sunnyvale Municipal Code section 19.46. In accordance with Section 19.46, shared parking can be considered.

(7) **Consistency with underlying zoning.** The addition of the MU mixed use combining district shall not operate to reduce or eliminate any requirements established by the underlying district regulations or other requirements unless otherwise approved as a deviation through a Special Development Permit (19.90).

SECTION 2. SECTION 19.26.230 ADDED. Section 19.26.230 (Live/Work Units) is hereby added to Chapter 26 (Combining Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code to read as follows:

19.26.230. Live/Work Units.

(a) **Definition.** A live/work unit is defined as a single unit (e.g. studio, loft, or one bedroom) consisting of both a commercial/office and a residential component that is occupied by the same resident. The live/work unit shall be the primary dwelling of the occupant.

(b) **Applicability.** Live/work units are allowed in Mixed Use (MU) combining districts.

(c) **Provisions.**

(1) The commercial component of live/work units are intended for use by the following occupations: accountants; architects; artists and artisans; attorneys, computer software and multimedia related professionals; consultants; engineers; fashion, graphic, interior and other designers; hair stylists; home-based office workers, insurance, real estate and travel agents; one-on-one instructors; photographers, and similar occupations;

(2) In addition to the permitted uses above, the Community Development Director may authorize other uses using reasonable discretion, as long as such other uses are not otherwise precluded by law;

(3) The residential and the commercial space must be occupied by the same tenant, and no portion of the live/work unit may be rented or sold separately;

(4) Residential areas are permitted above the commercial component, to the side or in back of the business component, provided that there is internal access between the residential and commercial space;

(5) The commercial component as designated on the floor plan approved through the special development permit shall remain commercial and cannot be converted to residential use;

(6) The residential component as designated on the floor plan approved through the special development permit shall remain residential and cannot be converted to commercial use;

(7) The commercial component shall be restricted to the unit and shall not be conducted in the yard, garage or any accessory structure;

(8) The commercial component shall not detract from, or otherwise be a nuisance to, the residential character or appearance of the dwelling units;

(9) Signage intended to promote on-site commercial uses shall be restricted to two (2) square foot signs permanently affixed to door or wall of the business component;

(10) Signage shall be developed in accordance with a master sign plan for the overall development site;

(11) All advertising for on-site commercial uses shall clearly state "by appointment only" if the live/work address is used;

(12) The total number of occupations at one address is not limited, except the cumulative impact of all such commercial uses shall not exceed the limits set forth in this section for a live/work unit;

(13) The external access for the commercial component shall be oriented to the street and should have at least one external entrance/exit separate from the living space. The entrance to the business component shall be located on the ground level. Access to the commercial component of each live/work unit shall be clearly separate from the common walkways or entrances to the other residential units within the development, or other residential units in adjacent developments;

(14) The commercial use shall not generate vehicular traffic, in excess of normal residential traffic, which will interfere with residential traffic circulation or shall not cause more than three vehicles including vehicles used by customers, vendors, or delivery services to visit the premises per day;

(15) The live/work unit shall be required to provide parking in accordance with Sunnyvale Municipal Code section 19.46;

(16) No more than one employee (excluding residents of the dwelling unit) shall work or report to work on the premises, and the employment of any persons who do not reside in the live/work unit shall comply with all applicable Building Code requirements;

(17) The commercial use shall not generate external noise, odor, glare, vibration or electrical interference detectable to the normal sensory perception by adjacent neighbors;

(18) No explosive, toxic, combustible or flammable materials in excess of what would be allowed incidental to normal residential use shall be stored or used on the premises.

(d) Prohibited Commercial Uses in Live/Work Units:

(1) Any use not permitted in R-3, R-4 or R-5 zones, as specified in Table 19.18.030;

(2) The retail sale of food and/or beverages with customers arriving on-site. This does not include online (internet) sales, mail order, or off-site catering preparation;

(3) Entertainment, drinking, and public eating establishments;

- (4) Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale;
- (5) Businesses that involves the use of prescription drugs.
- (6) Adult-oriented businesses, astrology palmistry, massage, head shops, and similar uses;
- (7) Sales, repair or maintenance of vehicles, including automobiles, boats, motorcycles, aircraft, trucks, or recreational vehicles;
- (8) Trade or Private Schools. This excludes private instruction of up to two (2) students at any one time (e.g., music lessons, tutoring).

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. CEQA -- Environmental Impact Report was prepared for the Mixed Use Combining District (MU) zoning designation, state clearinghouse #2007042068. Individual project applications will be evaluated for individualized environmental analysis and review.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication of a notice once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2008, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2008, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

Date of Attestation:
(SEAL)

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney

PLANNING COMMISSION MINUTES OF OCTOBER 13, 2008

2006-0712 – Trumark Companies [Applicant] Ray Street Office, LLC. [Owner]: Application for related proposals on a 6.63 acre site located at **1275 and 1287 Lawrence Station Road** (near Elko Drive) in an M-S (Industrial & Service) Zoning District. (APNs: 110-15-045, 110-15-044) GC, SL

- **Resolution to Certify the Environmental Impact Report**
- **Introduction of an Ordinance** to Amend Title 19 of the Sunnyvale Municipal Code (Zoning) to create a Mixed Use Zoning Combining District (MU), which may be combined with the R-3, R-4, and R-5 Residential Zoning Districts.
- **General Plan Amendment** to change the land use designation from Industrial to Very High Density Residential,
- **Rezone** the site from M-S (Industrial & Service) to R-5/MU (High Density Residential and Office/Mixed Use),
- **Special Development Permit** to allow development of 338 condominium units and 16,000 square feet of commercial space,
- **Vesting Tentative Map** for condominium purposes.

Steve Lynch, Senior Planner, presented the staff report and explained that this is the second of three related reports tonight that will be presented regarding this development. He said this portion of the presentation is for the Planning Commission to consider a recommendation to City Council regarding the introduction of an ordinance to amend Title 19 of the Sunnyvale Municipal Code to create a Mixed Use Zoning Combining District (MU), which may be combined with the R-3, R-4 and R-5 Residential Zoning Districts. He said staff is recommending that the MU Zoning District be combined with the R-3, R-4 and R-5 Zoning Districts, and further discussed details of the staff recommendation listed in the report. He summarized that staff is recommending the Commission recommend to City Council to approve the new MU Combining District, which is a way to establish an enhanced land use pattern for the City.

Comm. Klein commented that one of the allowances being made in the proposed amendment is for 10 additional feet in height. He asked if any consideration was made for setbacks and asked what would be the height increases for the different residential zoning districts. Mr. Lynch said that depending on the zone, the heights would be about 35 feet and up. Comm. Klein asked with the height increase was an increase in setbacks considered? Mr. Lynch said that could be a possibility commenting the issue of height becomes an architectural issue, and is relative to the neighborhood that the development is in. Comm. Klein discussed with staff that the new zoning has little to do with

the project in front of the Commission and that a new zone would be set for the City. Mr. Lynch said that this zone would be set to accommodate the Trumark development, is also meant to apply to many zones in the City, and is anticipated as a City-wide MU Zoning District.

Trudi Ryan, Planning Officer, emphasized that the point of the MU Combining District is to require the development of Commercial on a Residential site as opposed to allowing Commercial to be considered. She said the key features that the Commission should look at are, what is the right amount of retail to require, and should the MU Zoning District have some incentives or qualifiers such as height, setbacks, lot coverage, etc. Ms. Ryan said that the project coming up in the next public hearing can inform the Commission's decision. She said staff's recommendation does not line up with what the applicant is proposing.

Comm. Klein said the only past project that he recalls that would have come close to being considered mixed use, would be the Tasman/Fair Oaks Project. He asked staff what was the percentage of Commercial for that project. Mr. Lynch said the Tasman/Fair Oaks Project was 14% Commercial and 86% Residential in terms of square footage. Ms. Ryan said that particular site was zoned Commercial, C-2, and that the ability to add Residential is enabled by the C-2 Zoning District. She said the MU Zoning District would enable Residential to add Commercial. Comm. Klein discussed with staff what future developers might have to consider when rezoning for mixed use. Ms. Ryan said that it would depend on the setting and what the goals for the site are.

Comm. Hungerford confirmed with staff that what the Commission would be recommending to Council is to create a new zoning classification. He said the primary use would allow a developer to request a rezoning of an R-3, R-4, or R-5 zone to an MU Combining District. Ms. Ryan said that the City also might decide that it is appropriate to require that a site be MU and have both types of land uses available for the site.

Vice Chair Chang asked about the live/work units and the 50% of the square footage that would be added to the Commercial requirements and asked if the numbers of this project meet the 10% Commercial requirement. Mr. Lynch said that the project as proposed does not meet the 10% requirement. Ms. Ryan added that another factor in considering the MU Combining District is that the Commission would need to determine whether the 50% (staff recommendation) or 100% (applicant's request) of live/work units' square footage should be counted towards the Commercial requirements.

Chair Rowe opened the public hearing.

Garrett Hinds, Director of Architecture with Trumark Companies and a certified planner, said he would like to address two specific items that he is requesting the Commission consider for modification. He discussed the coverage and said that it is clear to him that open space is important to the City of Sunnyvale. He said open space requirements do not need to be compromised if an increase in building coverage is allowed and what can be compromised is the amount of asphalt. He said Trumark meets Sunnyvale's open space guidelines and was intentionally designed to minimize the coverage area for parking by stacking parking and stacking residences. He said residents would be able to live and park on the same level as their home. He said this would reduce the dependence on elevators and hide the parking structure in the center of the project out of public view. He said this site is in the Flood Zone which is a site constraint as the Municipal Code encourages underground parking. He said they chose not to build underground parking due to the Flood Zone and are being penalized by not meeting the letter of the law yet believe they exceed the intent of the law. He said they would like flexibility on this issue regarding this MU Combining District. He said they would like the Commission to recommend to Council to allow flexibility to include building coverage over 40% so long as it does not negatively affect and or reduce the amount of quality landscape coverage and instead allow increases in building coverage by reducing on-grade parking or driveway coverage when necessary due to site constraints. He said the second item he would like to address is the live/work discussion on credit for live/work area and explained their position on this issue and reasons for designing the project the way it is proposed. He said he is not arguing with the 10% Commercial requirement, but said the staff is only counting 50% of the live/work square footage towards the 10% Commercial requirement due to staff's belief that only 1/2 of the units will be used for office space. He said with this scenario he would have to replace half of the live/work units with retail to meet the Commercial requirement. He said it is a shame that an ideal opportunity to implement a live/work neighborhood is being punished due to the perception that the rules would be broken and are difficult to enforce. He said he is confident that a full-time, on-site management team and the tenants will be able to enforce the lease restrictions so the City does not need to be involved. Mr. Hinds distributed a handout with a sample live/work lease restriction. He said another option might be to increase the percentage of live/work office area that counts towards the non-residential area from 50% to 75%. He asked that the Commission allow at least 75% or all of the live/work office area to count toward the MU District's 10% minimum lot area requirement if lease or deed restrictions are placed on the live/work units restricting residential uses.

Chair Rowe closed the public hearing.

Comm. McKenna said she is looking at the handout that Mr. Hinds provided and is trying to understand the difference between what staff is proposing and what the applicant is requesting regarding the building coverage. Ms. Ryan said that staff is not including an accommodation for lot coverage in the MU Combining District. Ms. Ryan said additional height accommodation could be considered, but not additional coverage. Ms. Ryan said the applicant is asking to include in the MU Combining District the ability to exceed the 40% coverage and have provided a finding for the circumstances when it might be appropriate to exceed the coverage. Ms. Ryan said if the Commission feels it is appropriate to allow the coverage to exceed 40% this language may be included. Ms. Ryan said if the Commission thinks that this issue needs to be handled on a case by case basis the Commission has the ability through the Special Development Permit (SDP) to grant exceptions to any of the zoning standards. Comm. McKenna said that her concern is about the coverage negatively affecting the open space as well as landscaping. Comm. McKenna confirmed with Ms. Ryan that if the Commission follows staff's recommendation that they have the flexibility through the SDP to grant exceptions. Ms. Ryan added that for this development the open space and landscaping were calculated independently and meet the requirements, but the building coverage on the site is above 40%.

Comm. Klein moved for Alternative 1 to introduce an ordinance (Attachment A) to amend Title 19 of the Sunnyvale Municipal Code (Zoning) to create a Mixed Use Combining District for the R-3, R-4, and R-5 Residential Zoning Districts with the following requirements:

1. **Minimum lot size shall be two acres; and**
2. **Commercial/office shall be 10% to 25% of the lot area (Floor Area Ratio); and**
3. **Allowance for an increase in height of 10 feet above the base zoning maximum; and**
4. **Allowance for an increase in the number of stories of one story above the base zoning maximum; and**
5. **Uses in the C-1 (Neighborhood Commercial) Zoning district can be considered ; and**
6. **Allow live/work units with attached SMC regulations; and**
7. **50% of the non-residential area of the live/work unit may be counted towards the minimum commercial requirement (10%), and**
8. **An SDP is required for any new Mixed Use Combining District project.**

Comm. McKenna seconded the motion.

Comm. Klein said that he is happy to see Sunnyvale developing definition of what mixed use is in the City. He said there has been discussion about an MU Zoning District for years and it is good to see this come to fruition. He said he understands the applicant's concerns with lot coverage, said that is difficult to enforce live/work contracts, and codify something for the entire City. He said that staff has provided enough tools for future developments to come to Sunnyvale and consider MU developments and he thinks what staff has proposed is very appropriate.

Comm. Sulser said he is very excited about the creation of this Zoning District. He said he would have been more generous on the incentives, said he wants to go on record stating that he does not think it inappropriate to add an exception for lot coverage, and would have liked to have seen this included in the motion.

Comm. Klein made a motion on 2008-0712 to recommend to City Council to introduce an ordinance (Attachment A) to amend Title 19 of the Sunnyvale Municipal Code (Zoning) to create a Mixed Use Combining District for the R-3, R-4, and R-5 Residential Zoning Districts with the following requirements: Minimum lot size shall be two acres; Commercial/office shall be 10% to 25% of the lot area (Floor Area Ratio); Allowance for an increase in height of 10 feet above the base zoning maximum; Allowance for an increase in the number of stories of one story above the base zoning maximum; Uses in the C-1 (Neighborhood Commercial) Zoning District can be considered; Allow live/work units with attached SMC regulations; 50% of the non-residential area of the live/work unit may be counted towards the minimum commercial requirement (10%); and an SDP is required for any new Mixed Use Combining District project. Comm. McKenna seconded. Motion carried unanimously, 7-0

APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at the November 18, 2008 City Council meeting.