

ORDINANCE NO. 2885-08

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, 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.

(e) 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. Live/work units may be counted towards up to 50% of the minimum 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 November 18, 2008, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on December 2, 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