

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 ½ 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.