



City of Sunnyvale

Agenda Item

24-0910

Agenda Date: 9/23/2024

REPORT TO PLANNING COMMISSION

SUBJECT

Proposed Project:

Introduce an Ordinance and adopt a Resolution to:

Amend Sunnyvale Municipal Code Chapter 19.36 (El Camino Specific Plan District) and Adopt an Ordinance to Implement Housing Element Program H17: El Camino Real Specific Plan (ECRSP) Commercial Requirement for Affordable Housing Developments and Adopt a Resolution to Establish and Adopt Program H-17 for Modified Commercial Requirements in Mixed-Use Development in the El Camino Real Specific Plan.

Location: El Camino Specific Plan Area (APNs: Various)

File #: PLNG-2024-0581

Zoning: ECR-Various

Environmental Review: Non-discretionary project (Public Resources Code Section 21080(b)(1), CEQA Guidelines Sections 15268, 15357)

Project Planner: Shaunn Mendrin, (408) 730-7431, smendrin@sunnyvale.ca.gov

BACKGROUND

The El Camino Real Specific Plan (ECRSP) was adopted by the City Council in December 2023. The ECRSP includes several sites intended to redevelop from commercial/retail use to mixed use housing and commercial/retail. The ECRSP and implementing zoning code prescribe the minimum amount of retail required for mixed use developments.

The Housing Element of the General Plan was certified by the State Housing and Community Development Department in March 2024. The Housing Element includes a program to reduce, eliminate, or otherwise modify the commercial requirement on sites zoned for mixed use in the ECRSP to facilitate the development of 100% affordable housing development. This program was planned for completion by the end of 2023.

EXISTING POLICY

General Plan Goals and Policies: A complete list of goals and policies from the Land Use and Transportation (LUTE) Chapter and other elements of the General Plan that pertain to the proposed amendment are in Full List of Relevant Goals, Policies and Programs in Attachment 4.

ECRSP Vision Statement, Guiding Principles, Goals, and Policies: A complete list of the vision statement, guiding principles, goals, and policies from the ECRSP that pertain to the proposed project are also in Attachment 4. The ECRSP includes General Land Use Policies that apply to mixed-use and retail, including the following language:

Mixed-Use and Retail Policies

- LU-P15 Ensure continued opportunities for a diverse range of retail and service uses in the

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ECRSP Area, even as the character, mix of land uses, and transit opportunities along El Camino Real change over time.

- LU-P16 Target no net loss of commercial square footage when parcels are redeveloped with new buildings and uses.

4.4.1 Minimum Ground Floor Active Use Area There are multiple benefits to having a built environment characterized by ground floor with active and transparent building frontages and a diversity of ground floor land uses occurring in the same building or development. Ground floor active uses can accomplish the following:

- *Accommodate a greater diversity of activities and land uses.*
- *Encourage people to spend more time at the street level, connected to the life going on outside.*
- *Contribute to a sense of community and security, with more windows looking onto the street, and direct access resulting in more frequent comings and goings.*
- *Enhance the pedestrian experience by making walking more interesting and making multi-tasking possible.*

In order to achieve these objectives, and in addition to the provision of a portion of the ground floor with commercial uses, the ECRSP establishes a requirement for a portion of the ground floor area in mixed-use developments to be set aside for active use areas, as defined in the Zoning Code. Minimum standards are also established in the Zoning Code.

Specific **Housing Element Goals and Policies** are noted below for reference and included in the Attachment 4.

HOUSING ELEMENT OF THE GENERAL PLAN

GOAL H-1 PROVISION OF ADEQUATE HOUSING SITES - Provide adequate sites for the development of new housing through appropriate land use and zoning to address the diverse needs of Sunnyvale's residents and workforce.

- Policy H-1.1 Adequate Housing Sites. Provide adequate sites for housing development that responds to diverse community needs in terms of density, tenure, unit size, accessibility, location, and cost.
- Policy H-1.2 Infill Development Near Transit and Employment Centers. Facilitate new residential infill development near transit and employment and activity centers, such as El Camino Real corridor, Lawrence Station, Downtown Sunnyvale, the Village Centers, and Moffett Park, through incentives and streamlining development consistent with specific plans.
- Policy H-1.3 Additional Affordable Housing Opportunities in High Resource Areas. Accommodate additional high density residential development (greater than 30 dwelling units/acre) in areas of high resource with access to transit, education, and employment, such as the Village Centers, to increase opportunities for new affordable housing in high resource areas.

GOAL H-4: REMOVAL OF GOVERNMENTAL CONSTRAINTS - Minimize the impact of governmental constraints on the maintenance, improvement, and development of housing.

Housing Element Program: H17. El Camino Real Specific Plan Commercial Requirement. Implement a program to address the commercial requirement for 100 percent affordable housing

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developments in the El Camino Real Specific Plan (ECRSP) on sites zoned for mixed-use by providing a range of options including condominium style ownership to enable separate retail and housing ownership for vertical mixed use, horizontal mixed use options (retail in a separate building from the residential development) with or without a lot split, or a reduction in the minimum commercial requirement.

- **Objective:** Remove constraints to 100% affordable housing developments in high resource areas along El Camino Real to facilitate a minimum of two 100% affordable developments. Continue to require inclusionary units within market rate developments as well.
- **Policy(ies) Implements:** H-1.1, H-1.2, H-1.3
- **Timeframe:** Establish program for 100% affordable developments by December 2023
- **Responsible Department or Agency:** Community Development Department, Housing and Planning Divisions

ENVIRONMENTAL REVIEW

A Program-level EIR for the overall ECRSP (State Clearinghouse No. 2017102082) was certified by the City Council on June 20, 2022. The adoption of this ordinance does not require environmental review under the California Environmental Quality Act (CEQA) because it implements a state-mandated program and is therefore not a discretionary action subject to CEQA. (Public Resources Code Section 21080(b)(1), CEQA Guidelines Sections 15268, 15357.)

DISCUSSION

Staff has drafted a new program to modify the mixed-use requirements for new affordable housing developments within the ECRSP area as planned for in the Housing Element of the General Plan. The purpose of the program is to address the challenges of adequate affordable housing stock in the city limits and applicants' ability to secure adequate funding. The goal of the program, as stated in the Housing Element is to facilitate two affordable housing developments within the plan area.

The proposed amendment to Zoning Code Section 19.36.090 (Minimum Ground Floor Commercial Area in Mixed-Use Development) would add Footnote 3 to the table noting that there is the ability for reduced commercial requirements for housing developments with 50 percent or more of affordable units. A footnote is also proposed for Zoning Code Table 19.36.100B, Development Requirements for Mixed-Use Development, line D. Minimum Ground Floor Active Use Area. Both zoning code amendments refer to the program included in the Draft Resolution (see Attachment 2, Draft Ordinance and Attachment 3 Draft Resolution).

Staff has prepared a Draft Resolution creating a program that either eliminates or reduces the amount of commercial/retail development for sites with a higher than typical percent of affordable units. The affordable units must be affordable to lower income households and at least 25% of the units need to be affordable to Very Low income (or lower) households. The commercial requirements are based on:

- Percent of units affordable to lower income households
Three categories were selected. The first is that greater than 98% of the units are affordable (which are typically referred to as 100% affordable). The second tier is greater than 66% of the units are affordable and the third tier is over 50% and up to -66% of the units are affordable.
- Whether there is frontage on El Camino Real
There are very few sites without frontage on El Camino Real, however it is an additional challenge to provide retail on these sites.

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- Size of site
Considering larger sites are better suited to accommodate a free-standing commercial/retail building and an affordable housing development on the remainder of the property, this factor considers the size of the proposed development site.
- Active Ground Floor Uses
ECRSP Policy and zoning code requirements generally require active ground floor uses. Typically, with mixed-use projects, ground floor commercial space would provide these active areas. Providing allowances for reductions in the commercial requirement could result in inactive areas at the ground floor level. For these types of affordable projects, they would be required to provide gyms, bike rooms and leasing areas to face El Camino Real to maintain a certain level of activity on the ground floor. For sites not on El Camino Real, landscaped areas of 15 feet can provide a buffer and soften the pedestrian landscape.

The program features have been informed by a pending application that proposes over 66% of the units affordable to lower income households. Staff is recommending an amendment to the Zoning Code (Attachment 2) that will refer to a resolution adopted by City Council (Attachment 3) that creates the program and discusses the particulars of the program. A Resolution can be more quickly adjusted than the zoning code should it appear the program is not successfully attracting affordable housing projects within the ECRSP area. Alternatively, once the affordable housing projects under this program have been constructed, the program can be “tightened” by subsequent resolution of council to assure adequate retail is being provided for the community.

Program H17 suggests providing a range of options including condominium style ownership to enable separate retail and housing ownership for vertical mixed use, horizontal mixed-use options (retail in a separate building from the residential development) with or without a lot split, or a reduction in the minimum commercial requirement. Condominium and horizontal mixed-use options are already available so were not included in the new program.

FISCAL IMPACT

Adoption of the recommended program to reduce or eliminate the requirement for commercial space on sites zoned for mixed use within the ECRSP area may reduce the amount of retail sales tax revenue the City receives. If 100% affordable projects were built on two different sites less than three acres it could result in up to 40,000 square feet less of commercial development. Sales tax revenue on El Camino ranges from \$30 to \$85 per square foot based on the particular use. A loss of 40,000 square feet of commercial space could result in \$1.2M up to \$3.4M less potential retail sales tax revenue per year.

PUBLIC CONTACT

Notice of the hearings was emailed to a list of commenters on the Housing Element and affordable housing developers. Staff has received no comments on the item. In addition, the notice of the Public Hearing was published in the *Sun* newspaper.

Public contact was made by posting the agenda on the City’s official-notice bulletin board at City Hall, at the Sunnyvale Public Library and in the Department of Public Safety Lobby. In addition, the agenda and report are available at the Sunnyvale Public Library, NOVA Workforce Services reception desk on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours) and on the City’s website.

ALTERNATIVES

Recommend to the City Council:

1. Take the following actions:
 - a. Find that the Action is Exempt from the California Environmental Quality Act subject to (CEQA) pursuant to Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15268 and 15357; and
 - b. Introduce an ordinance to amend Sunnyvale Municipal Code Section 19.36 relating to minimum commercial development for affordable housing developments developed in the El Camino Real Specific Plan mixed-use zoning districts.
 - c. Adopt a Resolution that establishes the program for modified commercial requirements in mixed-use development in the El Camino Real Specific Plan.
2. Alternative 1 with modifications.
3. Do not introduction an ordinance or adopt a resolution and provide direction to staff on alternative approaches.

STAFF RECOMMENDATION

Recommend to City Council Alternative 1: Take the following actions:

- a. Find that the Action is Exempt from the California Environmental Quality Act subject to (CEQA) pursuant to Public Resources Code Section 21080(b)(1) and CEQA Guidelines Section 15268 and 15357; and
- b. Introduce an ordinance to amend Sunnyvale Municipal Code Section 19.36.090 relating to minimum commercial development for affordable housing developments developed in the El Camino Real Specific Plan mixed-use zoning districts.
- c. Adopt a Resolution that establishes the program for modified commercial requirements in mixed-use development in the El Camino Real Specific Plan.

The recommended Ordinance and Resolution are consistent with the City’s Certified 2023-2031 Housing Element Goals (H-1 and H-4) and related policies to provide adequate housing near transit and in high resource areas of the City, and to remove governmental constraints on the development of housing. The Ordinance and Resolution implement Housing Program H17 to address the commercial requirement for affordable housing developments in the El Camino Real Specific Plan area. The new Program H17 also includes provisions for developments that include a high percentage of affordable housing units but may not be 100% affordable.

LEVINE ACT

The Levine Act (Gov. Code Section 84308) prohibits city officials from participating in certain decisions regarding licenses, permits, and other entitlements for use if the official has received a campaign contribution of more than \$250 from a party, participant, or agent of a party or participant in the previous 12 months. The Levine Act is intended to prevent financial influence on decisions that affect specific, identifiable persons or participants. For more information see the Fair Political Practices Commission website: www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html

A check or “Y” in the checklist below indicates that the action being considered falls under a Levine Act category or exemption:

SUBJECT TO THE LEVINE ACT

Land development entitlements

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- Other permit, license, or entitlement for use
 Contract or franchise

EXEMPT FROM THE LEVINE ACT

- Competitively bid contract
 Labor or personal employment contract
 General policy and legislative actions

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Reviewed by: Trudi Ryan, Director of Community Development
Reviewed by: Connie Verceles, Deputy City Manager
Approved by: Tim Kirby, City Manager

ATTACHMENTS

1. Reserved for Report to Council
2. Draft Ordinance
3. Draft Resolution
4. Full List of Relevant Goals, Policies and Programs