

# Planning Commission

## July 27, 2017

- Proposal:** MAPLE COMMONS MIXED-USE DEVELOPMENT - Maple Street - PLN2016-00397 - To consider a Conditional Use Permit, Discretionary Design Review Permit and Modification of Zoning Standards to allow the construction of a new mixed-use development including 2,820 square feet of commercial space and 11 apartment units with an interior side yard setback reduction from 10 feet to 5.5 feet located in the Centerville Community Plan, and to consider a categorical exemption from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332, In-Fill Development Projects.
- Recommendation:** Approve, based on findings and subject to conditions
- Location:** Unaddressed site on the northeast side of Maple Street between Thornton Avenue and Bonde Way in the Centerville Community Plan Area; APNs: 501-0499-0-74-00 and 501-0499-073-00
- Area:** 13,408 square feet (0.31 acres)
- People:** Kurt Herald, Hereld and Ayres Architects, LLC, Architect  
Murthy Sama, Applicant and Property Owner  
David Wage, Staff Planner, (510) 494-4447, dwage@fremont.gov
- General Plan:** Town Center Commercial
- Zoning:** TC-P (Town Center Pedestrian), Transit Oriented Development (TOD) Overlay

### **EXECUTIVE SUMMARY**

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The applicant requests approval of a Condition Use Permit, Discretionary Design Review Permit and Modification of Zoning Standards to allow the construction of a three-story mixed-use development on a vacant 0.31-acre property. The project would include 2,820 square feet of ground floor commercial space and 11 apartment units on the second and third floors. Staff recommends that the Planning Commission approve the proposed project as shown in Exhibit "A," based on the findings and subject to the conditions contained in Exhibit "B," attached.

### **BACKGROUND AND PREVIOUS ACTIONS**

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The subject site consists of two adjacent parcels (approximately 5,118 and 8,514 square feet) that have never been developed. There is a 20 foot-wide asphalt driveway on the east edge of the site that travels the length of the parcel. The site was previously used to park vehicles associated with the adjacent former Cloverdale Creamery (37085 Fremont Boulevard). There are four apricot trees and a corrugated tin shed structure on the northwestern parcel. The shed was previously part of a larger shed structure on the adjacent creamery parcel to the north; however, it was cut into two and shortened by three feet along the property line between the two properties.

*Surrounding Uses*

The site is adjacent to commercial buildings to the north that were formerly occupied by Cloverdale Creamery and are currently occupied by a pet supply and grooming business. Maple Street and single-family homes are located to the south, a parking lot and two-story commercial building to the east, and a single-family home to the west. The project frontage along Maple Street is approximately 89.7 feet in length. Maple Street is a local street with two vehicle travel lanes, and on-street parking. The project frontage along Maple Street is not currently improved with curb, gutter and sidewalk.

#### *Evolution of Plan Development*

During several iterations of project review, staff and the applicant worked to ensure the proposed project addresses considerations that include but are not limited to: 1) a site and building design meeting the standards of the TC-P zoning district and TOD Overlay; 2) redesigning the site to improve neighborhood compatibility by reducing the height of the front of the building to a single-story, locating the massing at the rear of the site, and locating the building closer to east property line, which would be further away from the home on the lot to the west; 3) reducing the number of residential units from 15 to 11 and increasing the number of on-site parking spaces; and 4) a site and building design meeting Fire Department access requirements on a relatively narrow project site.

### **PROCEDURE FOR TONIGHT'S HEARING**

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The Planning Commission is charged with the following:

1. Consider a finding that the proposed project is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332, Infill Development Projects.
2. Consider approval of a Conditional Use Permit, Discretionary Design Review Permit and Modification of Zoning Standards, based on findings specified in Sections 18.45.040(d), 18.230.060, 18.235.060 and 18.250.070(d) of the Fremont Municipal Code (FMC), to permit the development of a mixed-use project including 2,820 square feet of commercial space and 11 apartment units with an interior side yard setback reduction from 10 feet to 5.5 feet.

### **PROJECT DESCRIPTION**

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The applicant requests approval of a Conditional Use Permit and Discretionary Design Review Permit to allow development of a three-story mixed-use building that would total 18,156 square feet. A Modification of Zoning Standards is also requested to allow a reduction in the side yard setback along the west property line from 10 feet to 5.5 feet. Approximately 2,820 square feet of commercial floor area is proposed on the ground floor and 11 apartment units on the second and third floors. The project would include two one-bedroom and nine two-bedroom units. A total of 17 vehicle parking spaces would be provided on-site. Five of the spaces would be open parking in front of the ground floor commercial space. The remaining 12 spaces (one of which would be ADA accessible) would be located in a garage on the ground floor of the building towards the rear of the site. A roof top terrace is proposed that would provide a total 1,086 square feet of common open space. The proposed project would have a density of 35.5 units per acre and a floor area ratio (FAR) of 1.34.

There are four apricot trees located on-site that are proposed to be removed. Because they are fruit trees, they are exempt from the City's Tree Preservation Ordinance pursuant to FMC Section 18.215.050. A total of four new trees would be planted, including one street

tree.

## **PROJECT ANALYSIS**

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### **General Plan Conformance**

The subject property has General Plan land use designation of Town Center Commercial. Town centers on the General Plan Land Use Map correspond to the original business districts in the City, including Centerville. The town centers are intended to be pedestrian oriented with an attractive and distinct identity that creates a main street ambiance. The Town Center Commercial land use designation applies to local services, retail, eating and drinking establishments, civic facilities, housing and mixed-use development. The following General Plan goals and policies are applicable to the project:

**LAND USE POLICY 2-1.11: Infill Emphasis** – *Focus new development on underutilized or "skipped over" sites that are already served by infrastructure and public streets. Strongly discourage, and where appropriate prohibit, the conversion of open space or underdeveloped land on the fringes of Fremont to urban uses.*

**LAND USE GOAL 2-2: Directing Change** – *Growth and development that is orderly and efficient, leverages public investment, ensures the continued availability of infrastructure and public services, reduces adverse impacts on adjacent properties, and protects the natural environment.*

**LAND USE POLICY 2-3.4: Infill Development** – *Support infill development on vacant and underutilized land in Fremont's neighborhoods, particularly where there are vacant lots or parcels that create "gaps" in the urban fabric and disrupt the continuity of a neighborhood. Such development should respect the scale and form of surrounding properties.*

Analysis: The project site is located within an existing developed area and would further the City's General Plan policies that emphasize infill development. The proposed project would provide new housing opportunities and commercial space on an underutilized infill site where existing utilities and infrastructure adequately support such development. The neighborhood includes a mixture of residential and commercial uses on the north side of Maple Street and single-family homes on the south side of Maple Street. The proposed project design would be compatible with the character of the surrounding neighborhood with a plan that provides proper orientation and placement of the buildings.

**LAND USE POLICY 2-3.1 Neighborhood Diversity** – *Sustain a diverse array of neighborhoods in Fremont, ranging from semi-rural hillside neighborhoods to dense urban neighborhoods that are oriented around transit stations. The positive elements that define each neighborhood should be protected and enhanced in the future.*

Analysis: The project site is located in a commercially zoned block located between Fremont Boulevard and Maple Street with a variety of retail, office and residential uses. Single-family homes are located on the opposite side of Maple Street. The proposed development would feature stepped design with a one-story element fronting on Maple Street, increasing to three-stories towards the middle of the building and extending to the rear to the site. The proposed design, architecture and scale of the project would be compatible with the eclectic nature of the existing neighborhood.

**LAND USE POLICY 2-1.7 Becoming a More Transit-Oriented City** – *Plan for*

*Fremont’s transition to a community that includes a mix of established lower-density neighborhoods and new higher-density mixed-use neighborhoods with access to high-quality transit. Transit-oriented development (TOD) – or the placement of higher density uses around transit facilities – should be recognized as the key strategy for accommodating Fremont’s growth the next 25 years.*

**LAND USE POLICY 2-3.8 Location of Higher Density Housing** – *Generally new higher density housing in Priority Development Areas and the TOD Overlay where there is good access to transit, proximity to local-serving commercial uses, and proximity to collector or arterial streets. Conversely, the City should discourage the use of developable sites with these attributes for new low employee intensity or low value land uses.*

**Analysis:** The project would locate high density residential and commercial development in a TOD area with convenient access to the Centerville Train Station and Altamont Commuter Express routes, and neighborhood commercial uses.

**Zoning Regulations**

The subject property is located in the TC-P (Town Center Pedestrian) zoning district. The TC-P zone is a commercial district that allows residential units as part of a mixed-use project. Mixed-use projects in the TOD Overlay require approval of a Conditional Use Permit. In addition, multifamily residential development within a mixed-use project is governed with respect to lot, siting, architecture and site design for portions of the development not located along the commercial street frontage, and with respect to private and common open space, by the R-3 (Multifamily Residential) zoning district most similar in nature to the residential portion of the mixed-use project. The following table illustrates how the proposed project would be consistent with both the TC-P and R-3-35 development standards.

| <b>Development Standard</b>  | <b>Town Center Pedestrian Zoning District Requirement and Other FMC Standards</b>  | <b>Proposed Project</b>           | <b>Complies Yes/No</b> |
|------------------------------|--|-----------------------------------|------------------------|
| Net Density (units per acre) | 30 (minimum)   | 33.3                              | Yes                    |
| Allowable Floor Area Ratio   | 2.5 (maximum)<br>1.25 (minimum)  | 1.34                              | Yes                    |
| Minimum Building Frontage    | At least 50 percent of the buildings street facing façade must be built to within five feet of the street property line(s) | 54 percent (48.5/89.71)           | Yes                    |
| Minimum Lot Width (feet)     | None   | 89.71 feet (following lot merger) | Yes                    |
| Minimum Front Yard           | None   | 0.5 feet                          | Yes                    |

| <b>Development Standard</b>  | <b>Town Center Pedestrian Zoning District Requirement and Other FMC Standards</b>  | <b>Proposed Project</b>                         | <b>Complies Yes/No</b>  |
|--|--|---|---|
| Minimum Interior Side Yard Width   | West - 10 feet, or less with approval of a modification of zoning standards <sup>1</sup><br>East - None  | West – 5.5 feet<br>East – 3 inches              | Yes, if the Planning Commission approves a modification of zoning standards |
| Minimum Rear Yard Depth  | None   | Varies 3 to 7 feet                              | Yes   |
| Minimum ground floor height for commercial space, floor to second floor  | 16 feet  | 16 feet   | Yes   |
| Commercial Component   | 50 percent of the floor area on the portion of the ground floor within 50 feet of the street frontage. The minimum depth of the commercial space shall be 50 feet. | 69.5 percent (33.75/48.5)<br><br>Depth >50 feet | Yes   |
| Lot Area Minimum (square feet)   | None   | 13,408 sf                                       | Yes   |
| Distance between parking or circulation areas and a public street right-of-way or private street easement (feet) | 15 feet  | 26 feet   | Yes   |
| Maximum Building Height (feet)   | 65 feet  | 41.6 feet                                       | Yes   |
| Common Open  | 500 sf for first five  | Required minimum –                              | Yes   |

<sup>1</sup> None, except 10 feet when adjacent to residentially developed property, provided that the approval authority may reduce the required yard, pursuant to requirements set forth in Chapter 18.250 (modifications of zoning standards), provided the approval authority determines that no significant impact on the adjacent residential use will occur.

| <b>Development Standard</b>      | <b>Town Center Pedestrian Zoning District Requirement and Other FMC Standards</b>            | <b>Proposed Project</b>  | <b>Complies Yes/No</b> |
|----------------------------------|--|--|------------------------|
| Space (square feet)              | units, 50 sf for each additional unit  | 800 sf<br><br>Proposed – 1,086 sf  |                        |
| Private Open Space (square feet) | Balconies, decks, porches<br>a. Minimum Area: 60 sf<br>b. Minimum Interior Dimension: 6 feet | Balconies, decks, porches<br>a. Minimum Area: 60 sf<br>b. Minimum Interior Dimension: 6 feet | Yes                    |
| Enclosed Storage Closet          | 100 cubic feet (cf) for each dwelling unit   | 100 cf minimum for each dwelling unit  | Yes                    |

As the table above shows, the project would conform to or exceed all minimum applicable TC-P, R-3-35 and TOD Overlay development standards, except the interior side yard setback on the west side of the property. There is no required interior side yard setback in the TC-P zoning district, except a 10-foot setback is required when a property is adjacent to any lot designated residential in the General Plan or residentially developed. Pursuant to footnote 4 in FMC Table 18.45.020, the setback may be reduced through a Modification of Zoning Standards when the adjacent residential property has parking or circulation adjacent to the lot line and the Planning Commission determines that no significant impact on the adjacent residential use would occur. The property to the west of the project site (37054 Maple Street) is developed with a single-family home; however, the property is zoned TC-P and could be redeveloped with a commercial or mixed-use project in the future. There is an approximately 10-foot-wide driveway located along the east property line of the adjacent property. The side yard setback along the west property line of the project site would vary between 40 feet and 5.5 feet. At the narrowest point towards the rear of the site, there would be a total separation of approximately 15 feet between the existing home and the proposed mixed-use building. In addition, the applicant redesigned the site to locate the majority of the proposed building closer to the east property line and away from the home to the west. As currently proposed, the majority of the building would be setback more than 30 feet from the west property line and more than 40 feet from the home. The setback at the rear half of the site is where the setback would be as close as 5.5 feet. The proposed design would locate the greatest area of building massing at the rear of the site and away from the existing home. In addition, a six-foot-tall wood fence would be construction along the property line. Three new 36-inch box thornless honey locust trees would be planted along the west property line, which would provide a screen between the proposed building and the adjacent residence. For these reasons, the reduced setback would not impact the adjacent residential property and staff supports the proposed reduced setback from 10 feet to 5.5 feet along the west property line.

*Circulation /Access Analysis*

The project would have vehicular access from a new driveway on Maple Street. The anticipated trip generation for the project was estimated using standard rates published by the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 9<sup>th</sup> Edition, 2012.

The project is expected to result in an average of 193 daily trips, with approximately 24 trips during the a.m. peak hour and 20 trips during the p.m. peak hour. Since the project is estimated to generate less than 100 new peak hour trips, a Traffic Impact Analysis (TIA) was not required based on thresholds established in the Alameda County Congestion Management Program.

The project site is located within a TOD area with access to the Centerville Train Station and Altamont Commuter Express routes. In addition, there are bus stops on Fremont Boulevard and Thornton Avenue within a quarter mile of the project site that provide access to four bus routes (99, 210, 621 and 251). In accordance with the City’s TOD Ordinance, the project is required include at least one transportation demand management (TDM) measure to promote the use of alternatives to automobile travel, and reduce total vehicle trips and vehicle trips during peak hours through site design measures. In addition, the project is required to maintain participation in a TDM association supporting programs for enhanced transit ridership, biking, and walking, to the satisfaction of the Planning Manager or designee. This requirement is addressed as a condition of approval.

*Parking*

Pursuant to FMC Section 18.183.030 (Required Parking Spaces by Type of Use), the minimum parking requirement for the proposed mixed-use project is as follows:

| Development Standard                                       | Requirement   | Proposed Project   | Complies? |
|--|---|--|-----------|
| Vehicle Parking  | <p><b>Mixed-use multifamily residential</b></p> <ul style="list-style-type: none"> <li>• 11 covered spaces (minimum)</li> </ul> <p><b>Mixed-use commercial</b></p> <ul style="list-style-type: none"> <li>• 6 spaces (minimum)</li> </ul> <p><b><u>Requirement</u></b><br/> <i>Residential:</i><br/>                     Minimum - 1 covered per unit<br/>                     Maximum - 1 covered per unit<br/> <i>Retail:</i><br/>                     Minimum - 2 per 1,000 sf<br/>                     Maximum - 3 per 1,000 sf</p> | <ul style="list-style-type: none"> <li>• 11 standard covered spaces</li> <li>• 5 compact spaces</li> <li>• 1 ADA accessible space</li> </ul> | Yes       |
| Residential Bicycle Parking (units without private garage) | Long term = 2, plus 0.5 per unit<br>Short term = 4, plus 1 per 10 units   | 8 long term and 6 short term   | Yes       |

| Development Standard           | Requirement   | Proposed Project              | Complies? |
|--------------------------------|---|-------------------------------|-----------|
| Nonresidential Bicycle Parking | Long term = 1, plus 5 percent of required automobile parking for tenants or occupants<br>Short term = 4, plus 5 percent of required automobile parking for visitors | 2 long term and 10 short term | Yes       |
| EV Charging Stations           | <b>Commercial</b> (0-9 total spaces) – No space required<br><b>Multi-family</b> >17 units – 1 charging station  | 1 EV charging station         | Yes       |

As shown in the table above, the project would provide a total of 17 vehicle parking spaces, including 12 spaces that would be located in a covered garage and five spaces that would be located between the driveway and proposed building. In addition, 10 long term bicycle spaces and 16 short term bicycle spaces would be provided. The bicycle spaces would be considered equivalent to three vehicle parking spaces for a total of 20 parking spaces under the FMC. As required by the TOD Ordinance, the project would provide joint use (shared) parking between the commercial and residential uses to improve the functionality of available parking.

*Affordable Housing*

Pursuant to the City’s Affordable Housing Ordinance (AHO), the applicant has proposed payment of affordable housing fees rather than provide below market rate (BMR) units on-site. The AHO specifies that payment of fees is an acceptable alternative to providing BMR units on-site with the project. The final fee amount would be calculated based on the individual home square footages with the fee in effect at the time of issuance of building permits.

**Design Analysis**

The proposed project has been reviewed for consistency with the City’s Multifamily Design Guidelines and Citywide Design Guidelines. Based on this review, staff has found that the project would meet many of the design objectives and principles that are provided in the guidelines to augment the basic requirements of the R-3 zoning district standards as further described below.

*Multifamily Design Guidelines*

The project would be consistent with the following principles of the Multifamily Design Guidelines:

CONTEXT SENSITIVE DESIGN PRINCIPLE. The proposed buildings and site improvements, and would create a cohesive community setting that would be

compatible with surrounding uses because the massing would be located in the rear of the site away from existing single family homes.

**SITE PLANNING & LAYOUT PRINCIPLE.** The proposed site layout would include common open space areas and pedestrian pathways that would enhance safety, convenience, and social interaction among residents.

**OPEN SPACE & LANDSCAPE PRINCIPLE.** The proposed project would provide usable private and common open space areas and amenities and include plantings that would provide a variety of colors and textures appropriate to the proposed project.

**BUILDING DESIGN & ARCHITECTURE PRINCIPLE.** The proposed building embodies quality design elements and materials and include articulated entryways and architectural elements to provide variation in building massing.

**SUSTAINABILITY PRINCIPLE.** The proposed building would conform to current building code requirements for energy efficiency.

#### *Citywide Design Guidelines*

The commercial portion of the project would substantially conform to the Commercial and Mixed-Use Site Planning section of the Citywide Design Guidelines as described below:

Design Rule 3.38R: Commercial space shall be located so as to provide continuity of the commercial presence along a street frontage within the context of surrounding development or anticipated future commercial development.

Design Rule 3.39R: Commercial space shall be oriented towards the street and major pedestrian or plaza areas.

Design Rule 3.41R: Provide built-in flexibility to allow conversion from one commercial use to another and to ensure that the commercial space adequate for retail is also adequate for a variety of other uses. Elements such as the following shall be incorporated into the design:

- Adequate ventilation and mechanical equipment to allow conversion to a variety of uses, such as a retail store or eating establishment.
- Minimum of 16 feet floor to ceiling heights on the ground floor.
- The depth of commercial tenant spaces should be predominantly 50 feet.

The commercial component of this mixed-use project would be located along the Maple Street frontage and oriented towards the street. The commercial space would be approximately 50 feet deep and would have a 16-foot tall ceiling height on the ground floor, which is intended to accommodate a variety of commercial uses.

#### *Site Planning*

The project site is approximately 90 feet wide and 150 feet deep totaling 13,408 square feet. The proposed "L" shaped building would be sited so that approximately 60 percent of the building would be within five feet of the front property line, which is consistent with minimum building frontage requirements of the TC-P zoning district. A 26-foot-wide driveway would be located along the west property line, which would provide access to open parking in front of the building and a parking garage at the rear of the building. To encourage neighborhood compatibility with the single-family homes across Maple Street, the

three story building would step down to one story within 20 feet of the front property line. The majority of the building would be three-stories tall, with varying roof heights that would reach a maximum height of 41 feet.

The front half of the first floor of the building would be occupied with 2,820 square feet of commercial floor area. The rear half of the first floor of the building would be a covered parking garage with 12 vehicle parking spaces and 10 bicycle parking spaces. The second and third floors would be occupied with a total of 11 units. Ten of the 11 units would be flats with the exception of Unit No. 4, which would occupy the second and third floors. A rooftop terrace would be provided on the northeast corner of the second floor to meet common open space requirements.

A new wood fence would be installed along the west property line to provide a separation between the existing residence and the proposed development. The fence would be four feet tall in the front yard and increase in height to six feet towards the middle and rear of the site. The trash enclosure would be situated on the west side of the building adjacent to the open parking and driveway.

#### *Context/Scale*

The area bounded Fremont Boulevard, Thornton Avenue, Maple Street and Baine Avenue is zoned TC-P. The adjacent lots that front on Fremont Boulevard are developed and occupied with commercial uses in single-story buildings. The surrounding lots located along Maple Street include a variety of uses and developments types that include: a one-story preschool building, a single-family home that has been converted into a commercial salon and a car wash. A two-story single-family home and a two-story professional office complex are immediately adjacent to the project site. On the opposite side of Maple Street there are single story single-family homes that were built in the 1950s located in an R-1-6 zoning district.

#### *Architecture*

The proposed architectural style of the building is contemporary, with strong vertical elements, clean lines, and a mix of modern building finishes and materials. The buildings would feature modern materials including stucco, metal, and horizontal siding painted soft grey. The commercial façade at the front of the building would include an aluminum storefront system with dual glazed windows. Consistent with the Citywide Design Guidelines, the building would feature varied massing, vertically-proportioned fenestrations, a significant amount of articulation on all four elevations, visually-interesting roofline treatments, inviting storefronts at the street level with transparent window/door systems and canopies, and a strong architectural presence oriented toward the public realm on Maple Street.

#### *Landscape/Open Space*

The project site currently has four existing apricot trees on the western parcel that would be removed as part of the project. Three new 36-inch box thornless honey locust trees would be planted along the west property line, which would provide parking lot shade and a screen between the proposed building and the adjacent residence. One new 36-inch box Chinese pistache street tree would be planted in front of the project site. A variety of low water usage shrubs would be planted along the perimeter of the site in planting areas.

Each residence would have a balcony with at least 60 square feet of private open space. The project would also feature 1,086 square feet of common open space on a second floor terrace located in the northeast corner of the building. A portion of the terrace would be devoted to 100 cubic-foot storage closets and bike racks. The remaining open space would

exceed the required minimum open space requirements. The open space area would include concrete pavers, raised planter beds with four 15-gallon mayten trees and shrubs and outdoor furniture.

### ***Street Right-of-Way Improvements***

The project would be required to install complete street improvements along the Maple Street project frontage in accordance with the Street Rights-of-Way and Improvements Ordinance. The following are minimum street improvement requirements for this project:

- **Maple Street** is designated as a residential collector street with a right-of-way width of 60 feet and pavement width of 34 feet. Street improvements shall include, but are not limited to: installation of curb and gutter 12-foot wide monolithic sidewalk, asphalt pavement conforms, streetlights, fire hydrants, street trees with tree grates, signing and striping, sewer and storm drainage facilities and joint trench facilities to serve the development.

### ***Grading and Drainage***

The existing topography of the site is generally flat with a gentle slope towards Maple Street. Elevations range approximately between 51.50 feet above mean sea level (AMSL) at the northern end of the site to 50.50 feet AMSL at the southern end of the site adjacent to Maple Street. Project grading would be subject to review and approval by the City Engineer prior to building permit issuance.

The project site is tributary to Zone 5, Line F-5-1 watershed area under the authority of Alameda County Flood Control and Water Conservation District (ACFC&WCD). The proposed drainage system has been designed to collect and convey the runoff from the project site to the existing 30-inch storm drain on Maple Street owned and maintained by ACFC&WCD. The proposed drainage system would be subject to review and approval by the City Engineer and ACFC&WCD prior to building permit issuance.

### ***Urban Runoff Clean Water Program***

The Municipal Regional Stormwater NPDES Permit (MRP) requires all new and redevelopment projects to incorporate measures to prevent pollutants from being conveyed in stormwater runoff and into the public storm drain system. This project is required to comply with the MRP by incorporating Best Management Practices (BMPs) to achieve these requirements to the extent practicable.

## **FINDINGS FOR APPROVAL**

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In order to approve the Conditional Use Permit, Discretionary Design Review Permit and Modification of Zoning Standards, the project must be found consistent with the General Plan and Zoning Ordinance. Based on the above analysis, staff finds that the proposed project would be in conformance with the General Plan and Zoning Ordinance and recommends the following findings:

### ***Conditional Use Permit Findings***

Pursuant to FMC Section 18.230.060, the following findings must be made by the Planning Commission in order to approve a Conditional Use Permit for a mixed-use project:

- (a) The proposed use is consistent with the general plan and any applicable community or specific plan.

*Analysis:* The proposed mixed-use project would conform to the Fremont General Plan policies and goals as enumerated in this staff report.

- (b) The site is physically suitable for the type and density or intensity, as applicable, of the proposed use.

*Analysis:* The project site provides sufficient space to meet common and private open space requirements. Proposed parking would be sufficient for the residential and commercial components of the project and the location along Maple Street would provide adequate vehicular and pedestrian access to the site. In addition, the site is situated in close proximity to the Centerville Train Station, Altamont Commuter Express routes and AC Transit bus routes.

- (c) The design, location, size, and operating characteristics of the proposed use are compatible with development in the vicinity and in the zoning district.

*Analysis:* The uses immediately adjacent to the site are currently residential including a single family homes to the west and south. The project design and site layout would integrate into the existing neighborhood and create a human scale by reducing the height of the front of the building to a single story, locating the building massing at the rear of the site, which is compatible with surrounding residential and office uses on Maple Street and the commercial uses on Fremont Boulevard.

- (d) The proposed use would not be detrimental to the public health, safety, or welfare of persons or property in the vicinity or the zoning district in which the use would be located.

*Analysis:* The proposed project would not be detrimental to the public health, safety, or welfare in that the proposed project would be relatively small in scale and would provide residential uses compatible with the existing residential developments in the area while providing the commercial component to create a mixed-use project in a TOD Overlay.

### ***Discretionary Design Review Permit Findings***

Pursuant to FMC Section 18.235.060, the following findings must be made by the Planning Commission in order to approve a Discretionary Design Review Permit:

- (a) The proposed project is consistent with the general plan, any applicable community or specific plan, planning and zoning regulations, and any adopted design rules and guidelines.

*Analysis:* The proposed mixed-use project would conform to the Fremont General Plan policies and goals, and development standards of the TC-P zoning district and TOD Overlay as enumerated in the staff report. The project would also meet or exceed the design rules contained within the Multifamily Design Guidelines and the Citywide Design Guidelines including but not limited to site and building design, open space and landscape and context sensitive design.

- (b) The project's architectural, site, and landscape design will not unreasonably interfere with the use and enjoyment of adjacent development nor be detrimental to the public health, safety, or welfare.

*Analysis:* The area surrounding the project site along Fremont Boulevard and Maple Street are zoned TC-P and located within the TOD Overlay. The proposed project would not interfere with the use and enjoyment of adjacent developments, nor would it be detrimental to the public health, safety, or welfare in that the proposed project would be compatible in scale, would encourage neighborhood compatibility by including a single story element at the front of the building and locating building mass at the rear of the site away from the existing single-family homes across Maple Street. Furthermore, the project would provide residential uses compatible with the existing residential neighborhood, while providing the commercial component required by the TC-P zoning district and TOD Overlay.

- (c) Where HARB review is required, the proposed project is consistent with the applicable standards and findings required in Chapters 18.135 and 18.175.

*Analysis:* Not applicable.

### ***Mixed-Use Development Findings***

Pursuant to FMC Section 18.45.040(d) (Mixed-use development requirements), the following findings must be made prior to approving a mixed-use project:

- (a) The development's site layout, building(s), and land uses integrate into the existing community, the layout and buildings create an appropriate human scale and an efficiently functioning infrastructure, and the amenities serving the residents of the development function better as a whole than what could be provided in a non-mixed-use project.
- (b) The development complies with the General Plan and Citywide Design Guidelines with regard to pedestrian orientation, provision of open space, and appropriate provision of parking.

*Analysis:* The proposed project would locate residential and commercial development in a TOD area with convenient access to the Centerville Train Station, Altamont Commuter Express routes, AC Transit bus routes and surrounding neighborhood commercial uses. The project design and site layout would integrate into the existing neighborhood and create a human scale by reducing the height of the front of the building to a single story, locating the building massing at the rear of the site, which is compatible with surrounding residential and office uses on Maple Street and the commercial uses on Fremont Boulevard. The project would include 1,086 square feet of common open space on a second floor terrace located in the northeast corner of the building. The project would provide 26 total bicycle parking spaces for residential uses and non-residential uses in various locations around the site. Vehicle parking would be provided in a first floor garage at the rear of the site, which allows for the building to be oriented towards the street and encourage pedestrian activity. Pedestrian paths would be provided between the public right-of-way and the commercial space, parking areas and residential units.

### ***Modification of Zoning Standards Finding***

Pursuant to FMC Section 18.45.020 (note 4) and 18.250.070 (Modifications of Zoning Standards), the following findings must be made prior to allowing a modification to a side yard setback adjacent to a lot that is residentially developed:

- (a) The proposed modification is consistent with the general plan and any applicable community or specific plan.

*Analysis:* The proposed mixed-use project would conform to the Fremont General Plan policies and goals, and development standards of the TC-P zoning district and TOD Overlay as enumerated in the staff report. The reduced side yard setback would allow for a development intensity and density that is consistent with applicable General Plan land use policies and the TOD Overlay.

- (b) No significant impact on the adjacent residential use will occur.

*Analysis:* The site to the west of the project site (37054 Maple Street) is developed with a single-family home; however, the site is zoned TC-P and is within the TOD Overlay. As such, the site could be redeveloped with a commercial or mixed-use project in the future. There is an approximately 10-foot-wide driveway located on the eastern edge of the adjacent property. The side yard setback along the west property line would vary between approximately 40 feet and 5.5 feet. At the narrowest point there would be a total separation of approximately 15 feet between the existing home and the proposed mixed-use building. In addition, the applicant redesigned the site to locate the proposed building closer to the east property line on the project site and away from the home to the west. As currently proposed, the majority of the building would be setback more than 30 feet from the west property line and more than 40 feet from the home. The setback at the rear half of the lot is where the setback would be as close as 5.5 feet. The proposed design would locate the greatest area of building massing at the rear of the site and away from the existing home. In addition, a six-foot-tall wood fence would be construction along the property line. Three new 36-inch box thornless honey locust trees would be planted along the west property line, which would provide a screen between the proposed building and the adjacent residence. For these reasons, the project would not significantly impact the adjacent residential use to the west.

## **CITY FEES**

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This project would be subject to citywide Development Impact Fees. These would include fees for fire protection, capital facilities, traffic facilities, park facilities, and park dedication in-lieu. All applicable fees would be calculated and paid at the fee rates in effect at the time of building permit issuance. The applicant has indicated a preference to pay the Affordable Housing Fee rather than construct below market rate units. The applicant may elect to defer payment of the fees in accordance with the City's Impact Fee Deferral Program. The applicant may also elect to seek approval of a different affordable housing alternative if such proposal is requested and approved prior to issuance of the first building permit for the project.

## **ENVIRONMENTAL REVIEW**

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This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332, Infill Development Projects, which exempts in-fill development when the project would be consistent with the General Plan and Zoning Ordinance; proposed development would occur on a site no greater than five acres

substantially surrounded by urban uses; the site has no habitat value for endangered, rare or threatened species; approval would not result in significant effects relating to traffic, noise, air quality and water quality; and the site is adequately served by utilities and public services.

As documented in the staff report, the project would be consistent with the General Plan and Zoning Ordinance. The 0.31-acre site is surrounded on four sides with urban development, is denude of natural vegetation and does not provide habitat for endangered, rare or threatened species. Standard development requirements for resource protection contained in FMC Section 18.218.050(b) (Biology, Special-Status Species) would be included as conditions of approval and implemented with project development. These standard requirements would ensure that there would be no impacts to burrowing owls and nesting birds. The proposed project would generate less than 100 new peak hour trips, a threshold set by the Congestion Management Agency, and would not have significant effects relating to traffic. Likewise, given the small nature of the project and similar characteristics to surrounding urban development, the project would not have noise, air quality or water quality impacts. Hours of construction would be regulated per FMC Section 18.160.010 to address short-term noise during construction, the standard development requirements contained in FMC Section 18.218.050(a) (Air Quality) would be included as conditions of approval and implemented during project construction to address short-term air quality impacts. The project is below the BAAQMD screening threshold to require a more detailed analysis of air quality impacts. The project would implement the City's stormwater runoff requirements. Finally, there are existing utilities and public services available to serve the site, including but not limited to: water, sanitary sewer, storm water facilities, electricity, natural gas, roadways, and transit.

### **PUBLIC NOTICE AND COMMENT**

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Public hearing notification is applicable. Notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on July 14, 2017. A Public Hearing Notice was published by *The Tri-City Voice* on July 11, 2017.

The applicant held neighborhood meetings on May 19, 2016, and October 26, 2016. Neighbors raised concerns regarding the number of units relative to the number of on-site parking spaces, which resulted in changes to the plan discuss in the Background section of the staff report.

### **RECOMMENDATION**

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1. Hold public hearing.
2. Find the project is categorically exempted from the requirements of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15332, Infill Development Projects.
3. Find the project is in conformance with the relevant provisions contained in the City's General Plan, including the designated goals and polices set forth in the Land Use Element of the General Plan as enumerated in the staff report.
4. Approve the Conditional Use Permit, Discretionary Design Review Permit and Modification of Zoning Standards to allow development of a mixed-use project with a

reduced interior side yard setback as depicted in Exhibit "A," based on findings contained in FMC Sections 18.45.040(d), 18.230.060, 18.235.060 and 18.250.070(b), and subject to conditions of approval set forth in Exhibit "B."

**ENCLOSURES**

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- Exhibit A - Project Plans
- Exhibit B - Findings and Conditions
- Informational 1 - Applicant's Parking Statement
- Informational 2 - Project Site Information