

Planning Commission

September 28, 2017

- Proposal:** PALMIA AT MISSION FALLS - 47201 Mission Falls Court - PLN2017-00297 - To consider a Rezoning from Preliminary Planned District P-2014-45 to Precise Planned District P-2017-297 to allow the construction of a four-story, 171-unit market-rate apartment project for seniors on a vacant 4.4-acre parcel located in the Warm Springs Community Plan Area, and to consider a finding that no further environmental review is required pursuant to the requirements of the California Environmental Quality Act (CEQA) as a Mitigated Negative Declaration was previously prepared and adopted for the Parc 55 project (PLN2014-00045), which adequately addressed the potential impacts of the proposed project.
- Recommendation:** Recommend approval to City Council, based on findings and subject to conditions.
- Location:** 47201 Mission Falls Court in the Warm Springs Community Plan Area; APN: 519-1691-007-00
- Area:** 4.4 acres
- People:** Citation Homes (Jim Sullivan-agent), Applicant/Property Owner
Humphreys & Partners Architects, L.P. (Vince Chupka), Project Architect
Carlson, Barbee & Gibson (Terry Reeves), Project Civil Engineer
Steve Kowalski, Staff Planner, 510-494-4532, skowalski@fremont.gov
- General Plan:** Urban Residential (30-70 units per net acre)
- Zoning:** Existing: Preliminary Planned District P-2014-45
Proposed: Precise Planned District P-2017-297

EXECUTIVE SUMMARY

The applicant proposes a Rezoning of a vacant 4.4-acre parcel in the Warm Springs Community Plan area from Preliminary Planned District P-2014-45 to Precise Planned District P-2017-297 to allow the construction of a new four-story, 171-unit market-rate apartment project for seniors. The subject site is part of the 23.5-acre Parc 55 Preliminary Planned District (PD) that was approved for up to 497 age-restricted senior housing units by the City Council on March 1, 2016 (PLN2014-00045). A Mitigated Negative Declaration, attached hereto as Exhibit "A," was also adopted by the City Council for the Parc 55 project on the same date which adequately addressed the potential impacts of the proposed project. Staff is recommending that the Planning Commission recommend that the City Council find that no further environmental review is required pursuant to the requirements of the California Environmental Quality Act (CEQA) and introduce an ordinance approving the proposed Rezoning as shown on Exhibit "B" and adopting the Precise Planned District for the project as shown in Exhibit "C" and accompanying land use and development provisions set forth in Exhibit "D," based on the findings and subject to the conditions contained in Exhibit "E."

BACKGROUND AND PREVIOUS ACTIONS

On March 1, 2016, the City Council approved a General Plan Amendment to change the land use designation for a 23.5-acre site comprised of five contiguous parcels from Tech Industrial to Urban Residential (30-70 units per net acre), Medium Density Residential (14.6-29.9 units per net acre), and Public Facility, a Rezoning of the same site from I-R Restricted Industrial to a Preliminary Planned District (P-2014-45) and R-3-50 Multifamily Residential, and a Development Agreement to allow the development of an age-restricted master-planned community containing up to 497 units for seniors aged 55 years and older, and including an approximately 15,000-square-foot public senior community center.

As part of the Development Agreement, the developer, East Warren Park, LLC, agreed to donate 2.25 acres of the overall 23.5-acre project site to Eden Housing for an affordable housing project exclusively for lower income senior households. Four out of the five parcels (including the subject parcel) were rezoned to Preliminary Planned District P-2014-45, while the 2.25-acre site was rezoned to R-3-50 (Multifamily Residential). Eden Housing subsequently obtained approval of a Discretionary Design Review Permit and a Request for Concessions and Modified Parking Standards under the Density Bonus and Affordable Housing Incentives Ordinance from the Planning Commission for a four-story, 90-unit affordable senior apartment project known as "Mission Court" on February 9, 2017 (PLN2016-00357). The Mission Court project has already obtained building permits and is currently under construction.

The project site consists of a single 4.4-acre parcel, which was formerly part of a larger 6.77-acre parcel located at 47201 Mission Falls Court. On November 9, 2016, the Planning Manager approved a Lot Line Adjustment (PLN2017-00072) which created the 4.4-acre project site from the original, larger parcel, along with a 1.5-acre site for the future public senior community center between the project site and the Eden Housing site. The applicant is proposing to rezone the site to Precise Planned District P-2017-297 at this time in order to enable it to move forward as a separate component from the remainder of the Parc 55 Preliminary PD (including the public senior community center) that is not yet ready to be rezoned to a Precise PD.

PROCEDURE FOR TONIGHT'S HEARING

The Planning Commission is charged with making a recommendation to the City Council regarding the following:

- (a) A finding that no further environmental review is required pursuant to the requirements of the CEQA, as a Mitigated Negative Declaration (Exhibit "A") was previously prepared and adopted for the Parc 55 project (PLN2014-00045) which adequately addressed the potential impacts of the proposed project;
- (b) Introducing an ordinance rezoning the subject parcel from Preliminary Planned District P-2014-45 to Precise Planned District P-2017-297 as shown on Exhibit "B," based on the project's conformance to the findings prescribed by Fremont Municipal Code (FMC) Section 18.225.050; and
- (c) Approving the Precise Planned District as shown in Exhibit "C," and the accompanying land use and development provisions set forth in Exhibit "D," based on the findings prescribed in FMC Section 18.110.070 and subject to the conditions in Exhibit "E."

PROJECT DESCRIPTION

The applicant proposes the construction of a new four-story, 171-unit rental apartment project on a vacant 4.4-acre parcel located at 47201 Mission Falls Court in the Warm Springs Community Plan area. The project site was part of the Parc 55 Preliminary PD which was approved by the Planning Commission and City Council in early 2016, and is currently zoned P-2014-45 and designated Urban Residential (30-70 units per net acre) in the General Plan. Because the site is currently zoned as a Preliminary PD, the applicant must rezone it to a Precise PD in order to obtain approval of the specific plans for the project.

The proposed four-story building would contain 34 one-bedroom units, 40 units with one-bedroom plus a den, 17 two-bedroom units, and 80 units with two-bedrooms plus den. The units would range in size from 759 to 1,139 square feet. The project would provide 86 parking spaces for residents and another 141 spaces for both residents and guests, for a total of 227 spaces. In addition to vehicular parking, 88 secured (long-term) bicycle parking spaces would be provided within the building and 22 bicycle rack (short-term) spaces would be provided on-site outside the main building entrance. Other proposed features include two separate lobbies at the front and rear of the building, a 5,000-square-foot two-story clubhouse complete with a leasing office, community activity room, gym, fitness classroom, computer room and theater. A large recreation area with swimming pool, outdoor living room and kitchen, and community garden would be provided behind the building adjacent to the clubhouse. Each unit would have an assigned personal storage space located within the building. The building would have a maximum height of 50 feet, and a 203,676-square-foot footprint resulting in an overall lot coverage of 26 percent. The proposed density of the project is 38.9 units per acre.

Off-site improvements would include the removal of all existing curbs, gutters, and driveways along Mission Falls Court and the construction of a new five-foot wide sidewalk with six-foot wide planter strip with street trees to comply with the City's current standard for a residential collector street. In addition, two new driveways would be constructed along Mission Falls Court: one at the southern end of the site and one at the northern end. Vehicle gates would be provided inside the driveways for security purposes; the gates would remain open during normal daytime business hours and be closed at night.

PROJECT ANALYSIS

General Plan Conformance

The project site is designated Urban Residential (30-70 units per net acre) in the Land Use Element of the General Plan. Parcels having this land use designation are intended to be developed with the highest residential densities allowed in the City and are generally located near the City Center and existing and planned BART stations, or along major thoroughfares having transit service and within walking distance of major shopping centers. Development on these lands would typically consist of mid- and high-rise residential development or mixed-use developments containing non-residential uses on the ground floor and residential uses on upper floors, typically containing four or more floors and having densities from 30 to 70 units per acre. The proposed project features a net density of 38.9 units per acre and, as such, would be consistent with the site's land use designation. The project would also be consistent with the following General Plan goals, policies, and implementation measures:

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.*

LAND USE POLICY 2-3.8: Location of Higher Density Housing – *Generally locate 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.*

COMMUNITY CHARACTER POLICY 4-2.1: Complete Neighborhoods - *Encourage walkable, connected neighborhoods with multiple land uses and housing types, rather than self-contained residential subdivisions with a single housing type. Neighborhoods should accommodate safe walking and bicycling to daily necessities, services, and transit lines.*

COMMUNITY CHARACTER POLICY 4-3.9: Multi-Family Residential Areas – *Design new multi-family housing in a way that creates attractive, quality living environments for a variety of household types and contributes to the overall visual quality of Fremont.*

COMMUNITY CHARACTER POLICY 4-3.11: Well-Designed Sites – *Ensure that sites are designed in context and relationship to surrounding uses and landscapes; and that they include pedestrian connections with clear definitions of building locations, parking lots, landscaped areas and other features included on the site. Ensure the street-to-building relationship is in context with the scale, setback, form and height of adjacent buildings.*

COMMUNITY CHARACTER POLICY 4-3.12: Parking Lot Location – *Ensure that parking lots are not the prominent feature of a building as seen from its street-facing elevation, particularly in strategically urban areas. Parking lots should be located to the side and/or rear of buildings rather than in the front. In other areas, if parking is appropriate in front of a building, ensure that it is screened by landscaping.*

Analysis: The proposal features a new senior rental housing development at a density of 38.9 units per acre in the Warm Springs Priority Development Area (PDA) within walking distance of a major thoroughfare that is well-served by both public transportation and a wide variety of nearby shopping opportunities and personal services. The project would also make efficient use of an infill site that is currently vacant by developing it with a multifamily apartment building that is similar in height to and located closely in line with the nearby Eden Housing apartment project currently under construction two parcels to the north, the planned public senior community center that will be built next-door to the north, and the three-story townhomes that are currently being planned for the adjacent lot to the south as part of the remainder of the Parc 55 project. Furthermore, the project would feature a pedestrian-friendly design which would help to activate the street and make for a safer environment for pedestrians by providing new sidewalks along the project’s Mission Falls Court frontage where none currently exist and locating the proposed building close to the sidewalk with residential units and their balconies facing the public realm on all four floors,

while concealing parking around the sides and rear of the building. Finally, the project would offer residents a high quality of life by offering several desirable amenities on-site, including a swimming pool with hot tub, an outdoor living area with kitchen and dining/lounge furniture, a clubhouse with fitness rooms, community room, computer room and theater, and a community garden where residents can grow their own produce.

HOUSING ELEMENT GOAL 3: Encourage the Development of Affordable and Market-Rate Housing in Order to Meet the City's Assigned Share of the Regional Housing Need.

HOUSING ELEMENT POLICY 3.03: Encourage the development of a diverse housing stock that provides a range of housing types (including family and larger-sized units) and affordability levels throughout the community.

HOUSING ELEMENT GOAL 4: Ensure that all persons have equal access to housing.

Analysis: The proposed development would be consistent with the above-listed Housing Element goals and policies in that it would provide a high-density, multi-family rental housing project specifically for seniors that would be located close not only to transit services (the area is currently served by three local AC Transit bus routes and a short drive from the Warm Springs/South Fremont BART Station), but also to several shopping centers that offer most everyday necessities and services such as groceries, drugs, banks, personal services and restaurants. It would also integrate a senior housing rental project into a larger senior community offering market-rate ownership and affordable housing that will also feature a public senior community center directly next-door, thereby providing an option to, and a rare opportunity for seniors who do not wish to own homes but who prefer to live in proximity to other seniors here in Fremont.

SAFETY POLICY 10-8.1: Site Development Acceptable Noise Environment - A noise environment which meets acceptable standards as defined by the State of California Building Code and local policies contained herein.

SAFETY IMPLEMENTATION MEASURE 10-8.1.A: Noise Standards - New development projects shall meet acceptable exterior noise level standards. The "normally acceptable" noise standards for new land uses established in Land Use Compatibility for Community Exterior Noise Environments shown in Table 10-4 shall be used as modified by the following:

- 1. The goal for maximum acceptable noise levels in residential areas is an Ldn of 60 dB(A). This level shall guide the design of future development, and is a goal for the reduction of noise in existing development. A 60 Ldn goal will be applied where outdoor use is a major consideration (e.g., backyards in single family developments and recreation areas in multifamily projects). The outdoor standard will not normally be applied to small decks associated with apartments and condominiums, but these will be evaluated on a case-by-case basis. When the City determines that providing an outdoor Ldn of 60 dB(A) or lower cannot be achieved after the application of appropriate mitigations an Ldn of 65 dB(A) may be permitted at the discretion of the City Council.*
- 2. Indoor noise level shall not exceed an Ldn of 45 dB(A) in new housing units. A noise insulation study, conforming to the methodology of the*

State Building Code, shall be prepared for all new housing, hotels, and motels exposed to an exterior Ldn of 60 dB(A) or greater and submitted to the building department prior to issuance of a permit.

- 3. Railroad noise sources may create instances when the outdoor noise exposure criterion can exceed 65 Ldn up to 70 Ldn for future development, recognizing that train noise is characterized by relatively few loud events. Railroad noise influence shall be evaluated independent of other noise sources. Indoor noise level shall not exceed an Ldn of 45 dB(A) in new housing units. Typical maximum instantaneous noise level in bedrooms at night should not exceed 50 dB(A). Typical maximum instantaneous noise levels in other rooms and bedrooms during the daytime should not exceed 55 dB(A). The typical maximum noise level is the maximum level that is exceeded during 30 percent of the measured pass-bys, based on the measurement of at least 10 events during the daytime and the nighttime.*

Analysis: In order to ensure compliance with the noise standards prescribed by the Safety Element of the General Plan, a noise study must be prepared for all new residential development exposed to an exterior Ldn of 60 dB(A) or greater in accordance with the California Building Code's methodology prior to the issuance of a building permit. The proposed residential units would be exposed to noise from two major sources that would exceed this Ldn: freight/passenger trains and BART trains travelling along the railroad and BART tracks directly west of the site. A noise/vibration study was completed for the Parc 55 project by an acoustical consultant, Illingworth & Rodkin, Inc., in December 2014. Estimated future noise levels at the project site fell into the normally acceptable, conditionally acceptable, and unacceptable ranges without mitigation. The study included specific recommendations in the form of mitigation measures to reduce interior noise levels within the proposed units to acceptable levels, including using special sound-proofing construction methods and sound-rated construction materials for most of the exterior walls and window/door systems of those units facing the railroad/BART right-of-way. Furthermore, the analysis prescribed the provision of air conditioning for all of the units to enable the occupants to keep their windows closed during warm weather in order to limit the amount of exterior noise transmitted into each unit. These noise-reducing mitigation measures have been incorporated as conditions of approval for this project and are included in Exhibit "E."

Zoning Regulations

The project site is currently zoned Preliminary Planned District P-2014-45, which was the Preliminary PD established for the Parc 55 senior residential housing community by the City Council on March 1, 2016. The applicant is proposing to rezone the site to Precise Planned District P-2017-297 to enable it to move forward as a separate component from the remainder of the Parc 55 Preliminary PD that is not yet ready to be rezoned as a Precise PD. In accordance with FMC Section 18.110.080, a rezoning is the entitlement required to change the zoning of a property from a Preliminary PD to a Precise PD, and both the Planning Commission and City Council must make findings in support of such a rezoning. An analysis of the required findings is provided in the "Findings for Approval" section, below.

Affordable Housing Ordinance: As one of the terms of the Parc 55 Development Agreement, East Warren Park, LLC donated 2.25 acres of the overall 23.5-acre project site to Eden Housing for a 90-unit affordable rental housing project exclusively for lower income senior households. This project, known as Mission Court, is currently under construction. According to Section 6.4 of the Development Agreement, the donation of the land for the Mission

Court project fulfilled the affordable housing obligation for the entire Parc 55 project. As such, the proposed project is not subject to the Affordable Housing Ordinance.

Design Analysis

Multifamily Design Guidelines: The proposed project has been reviewed for consistency with the City's Multifamily Design Guidelines as required under FMC Section 18.110.040. 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. Specifically, the project would be consistent with the following principles:

CONTEXT SENSITIVE DESIGN PRINCIPLE. New development that incorporates building design, types and orientation with site improvements and circulation in a manner that cohesively integrates into its existing and planned surroundings.

OPEN SPACE & LANDSCAPE PRINCIPLE. New development that supports a high quality of life with appropriate usable private and common open space, community amenities, retention of mature trees, new planting of large trees and accent plants, and varietal interest of colors and textures.

BUILDING DESIGN & ARCHITECTURE PRINCIPLE. New development that embodies high quality design elements and project identity through variation in building massing, articulation, heights, materials, styles, and creativity while complementing site planning for compatibility and privacy.

Specifically, the proposed plans provide for a strong street presence by locating the building a short distance from the adjacent public sidewalk along Mission Falls Court in order to continue the pedestrian-friendly development pattern that has already been established by the previously-approved Eden Housing project and that is intended to be continued across the adjacent public senior community center parcel directly to the north and the future townhomes planned for the adjacent lot directly to the south. Furthermore, the floor plan would further activate the street by orienting the outer units and their balconies toward the public realm. The proposed architecture is of high quality and provides significant visual interest through the incorporation of numerous variations in massing, plentiful articulation and transparent glazing, and a traditional mix of building materials that pay respect to the area's Spanish settlement roots dating back to the establishment of Mission San Jose. Finally, the plans feature several community amenities and useable common open space, both indoors and outdoors, which would enhance the quality of life for the project's residents, all of which would be located within a short distance from each unit.

Site Design: Per FMC Section 18.110.020(b), when rezoning a property to a PD, the development standards to be applied are those of the zoning district most similar in nature and function to the proposed PD. In this case, the applicable standards would be those of the R-3-50 (Multifamily Residence) District, since that is the district that allows for multifamily developments such as midrise rental apartment projects at the proposed density of 38.9 units per net acre. The following table shows how the project would conform to the applicable standards prescribed by FMC Section 18.90.050 for a new multifamily residential development in the R-3-50 zoning district:

Development Standard	Requirement	Proposed	Complies?
Allowable Net Density	35.1-50.0 units/acre	38.9 units/acre	Yes
Front Yard Setback	Min. 15 feet	Min. 10 feet	No
Rear Yard Setback	Min. 10 feet	Min. 125 feet	Yes
Interior Side Yard Setback	Min. 10 feet	78 feet (south side); 80 feet (north side)	Yes
Building Height	Max. 52 feet	Max. 50 feet	Yes
Maximum Lot Coverage	65%	29%	Yes
Common Useable Open Space (Size)	Min. 8,800 sq. ft.	33,000 sq. ft.	Yes
Private Open Space/Unit	Min. 60 sq. ft. balconies on upper floors; Min. 100 sq. ft. patios on ground floor	Some units have no balcony/patio; others have 44-326 sq. ft. private open spaces	No
Private Storage Space/Unit	Min. 100 cubic feet	100 cubic feet	Yes

As this table shows, the project would conform to all applicable R-3-50 zoning standards excepting the minimum front yard setback from Mission Falls Court and the minimum private open space per unit requirement. PD rezoning can be used for projects in instances when the proposed plans do not fully conform to the applicable development standards of the nearest zoning district, as in this case. For this reason, the applicant is proposing to rezone the site to a Precise PD rather than R-3-50.

The minimum front yard setback from the Mission Falls Court right-of-way line is required to be 15 feet in the R-3-50 zoning district. However, the applicant is only proposing 10 feet, or five feet less than the minimum requirement. According to the applicant, the reason for this is to provide ample space for the building and the proposed floor plans of the units within it, along with the generous outdoor amenities area behind the building and two separate rows of parking at the back of the site. Staff supports the proposed front yard setback reduction on the grounds that the plans would further activate the public realm along Mission Falls Court by locating the proposed building close to the sidewalk while concealing parking around the sides and rear of the building. Furthermore, the additional useable area resulting from the front yard setback reduction helps to provide space for ample parking for residents and guests, as well as several high-quality amenities being proposed behind the building, including a full-size swimming pool with hot tub, clubhouse with exercise rooms and a small movie theater, outdoor living area with kitchen, and a community garden where residents would be able to grow their own produce. Finally, the reduced setback would be consistent with, and continue the development pattern already established by, the Eden Housing project currently under construction two parcels to the north and the planned public senior community center that will be built next-door to the north as well as the future townhomes that are planned for the adjacent lot to the south.

The minimum private open space requirement per unit in new multifamily residential developments is 60-square-foot balconies for units located on upper floors and 100-square-foot patios for units located on the ground floor. The proposed plans include balconies and patios for most units that range in size from 44-326 square feet, but some units would have

no balconies or patios at all. In this case, staff supports the proposed exception on the grounds that the project includes an exceptional amount of outdoor amenities and gathering spaces on the site which would be available for use by all the residents, including a swimming pool with hot tub, outdoor living area with kitchen, and community garden, as well as two smaller interior courtyards with seating areas in the center of the building.

Vehicular/Bicycle Parking: The following table shows the degree to which the project would comply with the vehicular and bicycle parking requirements for a new senior multi-family residential project as prescribed by FMC Sections 18.183.030 and 18.183.135:

Land Use Category	Parking Standard	Spaces Required	Spaces Provided	Complies?
Senior Housing (Minimum Vehicular)	0.5 covered space per unit for residents; 0.5 uncovered space per unit for guests	86 covered spaces for residents; 86 uncovered spaces for guests	86 covered resident spaces; 141 guest spaces	Yes for residents and guests
Multifamily Residential (Minimum Bicycle)	2 long-term spaces plus additional 0.5 per unit; 4 short-term spaces plus additional 1 per 10 units	88 long-term spaces; 21 short-term spaces	88 long-term spaces; 22 short-term spaces	Yes for long-term; Yes for short-term

As the table shows, the project would meet or exceed the minimum vehicular, long-term, and short-term bicycle parking requirements for a 171-unit senior apartment development. The plans feature carports for the required covered parking, and photovoltaic panels that would help to power the apartment complex would be provided on the carport roofs.

Specialized Vehicle Parking: Pursuant to FMC Section 18.183.172, the project is also required to provide car share and electric vehicle parking on-site. As the table below shows, the plans call for two reserved car share spaces, as well as 24 electric vehicle spaces. As such, the project would meet or exceed the applicable minimum requirements for car share and EV parking.

Specialized Parking	Applicable Standard	Spaces Required	Spaces Provided	Degree of Compliance
Car Share Parking	2 car share spaces for projects having 100-199 dwelling units	2 spaces	2 spaces	Meets minimum requirement
Electric Vehicle Parking	Compliance with California Green Building Standards Code	17 spaces (10% of total provided)	24 spaces (including 1 accessible)	Exceeds minimum requirement

Circulation/Access: The project would be accessed via two driveways along Mission Falls Court, with the primary entrance leading to the main entrance and leasing office located at the southern end of the property and a secondary entrance at the northern end which would lead to the back side of the building. The two driveways would be connected with a loop-shaped drive aisle which would run around the back side of the building off of which all of the resident and guest parking would be located. Rolling gates would be provided inside both driveways, with the gates remaining open during normal business/daylight hours, and being closed for security purposes in the evenings. Intercom systems would be provided at each gate to enable guests to contact residents upon their arrival and enable residents to

remotely open the gates for their guests from their homes. Both the City's Fire Station serving the neighborhood and the garbage/recycling company would be provided with remote controls enabling them to enter the site when the gates are closed. Connections to the adjacent public senior community center to the north and Parc 55 property to the south would be provided for emergency vehicles in the two rear corners of the property, but these connections would be gated at all times.

Three separate pedestrian connections would be provided from the property to the public sidewalk on Mission Falls Court: one leading from the secondary lobby facing Mission Falls Lane; one leading from the leasing office running alongside the main entry driveway; and one leading from the back side of the building running alongside the secondary driveway. The public sidewalk along Mission Falls Court will lead to a planned crosswalk at the intersection of Mission Falls Court and Mission Falls Lane that will be constructed by the Parc 55 developer as one of the terms of the Parc 55 Development Agreement. This will enable the project's residents to safely cross Mission Falls Court while walking across the street toward Warm Springs Boulevard.

Architecture: The proposed architectural style of the development is Spanish contemporary with long, straight lines, recessed windows, and low-pitched roofs which have been broken up by numerous rectangular projecting bays. The architecture features a variety of building materials, including coarse stucco, cultured stone siding, wood balcony posts and corbels, metal balcony railings, decorative metal grillwork and mosaic tile accents, and flat concrete tile roofing. The elevations have been provided with a significant amount of relief through the inclusion of projecting bays, varying roofline heights, turrets, recessed balconies and generous amounts of window trim and banding across all four elevations. The color scheme features primary colors in various earth tones of cream and tan and with dark brown and burnt red/orange accents. See page 1 of Exhibit "C" for a colored rendering of the front elevation of the building.

Landscaping/Open Space: The proposed landscape plan feature a large, outdoor recreation area directly behind the building, which would be generously appointed with outdoor furnishings and amenities, including an outdoor kitchen with dining tables, chairs and sun shades, a fireplace with moveable lounge furniture, and a community garden with several raised planter boxes for the exclusive use of the project's residents who wish to grow their own produce and herbs. Additionally a swimming pool and hot tub would be provided, along with numerous sun chairs and cabanas for shade. Decorative landscaping in the form of trees, shrubs and ground cover would be provided around all four sides of the building and the perimeter of the site, with particular emphasis placed along the main entrance to the complex and around the outdoor amenities area at the back of the building. For complete details, see Sheets L1 through L4 of Exhibit "C."

Most units would be provided with either one or two balconies or covered patios ranging in size from 44 square feet for the smallest floor plans to up to 326 square feet for those floor plans having two private outdoor spaces.

Street Right-of-way Dedication and Improvements: The applicant would be required to construct all new street improvements along the project's Mission Falls Court frontage. This would include the removal and replacement of all existing curbs, gutters and driveways and the construction of a new six-foot-wide planter strip and five-foot-wide sidewalk along the entire length of the property's street frontage. The applicant would also be required to construct accessible curb ramps across the two proposed driveways and at the planned crosswalk locations at the intersection of Mission Falls Court and Mission Falls Lane.

Grading/Drainage: The project site is currently vacant and slopes down and away from Mission Falls Court southwesterly to the adjacent BART/railroad rights-of-way that abut the property to the west. Existing elevations range from 51 feet above sea level at the southeast property corner along Mission Falls Court to 45 feet above sea level at the southwest property corner along the BART/railroad right-of-ways.

The proposed grading would follow the existing natural slope and collect runoff along the southwest side of the property that connects to an existing underground private storm drain system. The applicant's engineer estimates the total grading to be 500 cubic yards of cut and 9,200 cubic yards of fill resulting in 8,700 net cubic yards of import.

The storm drainage facility for this site is an existing privately maintained 27-inch storm drain system that runs north-south along the western boundary and ultimately connects to the Warren Avenue storm drain system. The applicant would remove the existing 27-inch storm drain along the project frontage only and relocate it to the east within the paved area of the parking lot and connect to the existing storm drain on both the upstream and downstream sides of the project. A private on-site storm drain system would connect to the relocated 27-inch storm drain pipe after treatment for water quality occurs on-site.

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. The proposed project would be required to comply with the MRP by incorporating source controls and treatment measures into the project design.

The applicant intends to meet the qualitative stormwater treatment requirements by constructing numerous at-grade bio-retention facilities in the western side of the parking lot. The stormwater treatment design would be integrated into the storm drain design for the project and be subject to City review and approval prior to building permit issuance.

As required by the Alameda Countywide NPDES Municipal Stormwater Permit, the applicant would be required to enter into a maintenance agreement for the long-term operation and maintenance of stormwater treatment measures. The agreement would require the ongoing maintenance of all designated treatment facilities. The applicant would also be required to integrate a pavement sweeping program to help prevent debris and other pollutants from entering storm drains.

FINDINGS FOR APPROVAL

Precise Planned District Rezoning Findings: Pursuant to FMC Section 18.225.050, in order to recommend approval of the Precise Planned District Rezoning to the City Council, the Planning Commission must make the following two findings:

1. The proposed Precise PD rezoning is consistent with the General Plan.

Analysis: The proposed rezoning and its precise plan would be consistent with the General Plan in that they would: (a) enable the development of a large, vacant lot located within a residential district in a Priority Development Area with a new high-density senior rental housing development that would be located within walking distance of a major thoroughfare that is well-served by both public transportation and a wide variety of nearby shopping opportunities and personal services; (b) respect the existing scale and form of adjacent properties by developing the site with a multifamily apartment building that is similar in height to and located closely in line

with the nearby Eden Housing project currently under construction two parcels to the north and the planned public senior community center that will be built next-door to the north as well as the future townhomes that are planned for the adjacent lot to the south; (c) provide connectivity through the construction of new safe and convenient sidewalks where none currently exist along a segment of a public street that will be the main thoroughfare of a large senior housing community (the Parc 55 development, including the Eden Housing affordable housing development currently under construction); and (d) feature a pedestrian-friendly design and offer residents a high quality of life by offering several desirable amenities on-site, including a swimming pool with hot tub, an outdoor living area with kitchen and dining/lounge furniture, a clubhouse with fitness rooms, community room, and computer room, and a community garden.

2. The proposed Precise PD rezoning furthers the public interest, convenience and general welfare of the city.

Analysis: The proposed rezoning to a Precise Planned District would further the public interest, convenience and general welfare of the City by: (a) leveraging existing infrastructure through the development of a vacant parcel within a Priority Development Area that is already served by all necessary infrastructure with a new, high-density residential project for seniors which would be located within walking distance of multiple bus transit lines and nearby retail shopping centers that offer everyday goods and services such as groceries, drugs, restaurants, banks, retail stores and personal services; (b) offering a rare rental housing opportunity specifically for senior individuals and households that would be located directly next-door to a planned public senior community center; and (c) providing connectivity through the construction of new safe and convenient sidewalks where none currently exist along a segment of a public street that will be the main thoroughfare of a large senior housing community (the Parc 55 development, including the Eden Housing affordable housing development currently under construction).

Planned District Findings: Pursuant to FMC Section 18.110.070, the following findings must be made by the Planning Commission and City Council in order to establish a new Planned District:

(a) The P district is consistent with the city's general plan and any applicable community or specific plan.

Analysis: The proposed PD would be consistent with the General Plan as specified in the Precise Planned District Rezoning findings above and enumerated in other areas of the staff report.

(b) The precise plan and supplementary documents incorporate and conform to the required standards of Section 18.110.020.

Analysis: The precise plan for the project incorporates and conforms to the required standards of FMC Section 18.110.020 in that the standards for area, coverage, density, yard requirements, parking and screening for the proposed P district use are governed by the standards of the R-3-50 (Multifamily Residence) zoning district, which is most similar in nature and function to the proposed P district use of multifamily senior apartment units, as determined by applicable ordinances and laws of the City.

(c) The uses proposed will not be detrimental to present and potential surrounding uses.

Analysis: The proposed senior multifamily residential use would not be detrimental to present and potential surrounding uses in that the project site and the surrounding properties have all been planned for similar uses that will cater to seniors, including for-ownership and low income senior housing and a future senior community center, so the use would not be incompatible with existing and future planned development in the immediate vicinity. Furthermore, the property would be owned and maintained by a rental property manager that would ensure that the buildings, landscaping, and other on-site improvements are maintained in a fully-functional and aesthetically-pleasing manner at all times. In addition, the project has been designed to minimize impacts on adjacent development through the provision of landscaped setbacks with trees and fences for privacy and buffering, and the building and all other proposed improvements would be designed and built in accordance with current applicable building and life safety codes.

(d) The project provides suitable and adequate connections and capacity for both circulation and infrastructure to surrounding properties.

Analysis: The project would provide suitable and adequate connections and capacity for circulation and infrastructure to the adjacent properties in that it would provide two separate driveways along Mission Falls Court at opposite ends of the site which would be connected with a loop-shaped drive aisle off of which all of the on-site parking would be located and which would provide connections and access easements to the adjacent public senior community center to the north and Parc 55 property to the south for emergency vehicles and BART/VTA maintenance vehicles (so that they can maintain their adjacent track beds directly behind the site) in the two rear corners of the property. Furthermore, the proposed plans would include three separate pedestrian connections leading out to the public sidewalk along Mission Falls Court which would provide quick and convenient connections for the project's residents to the adjacent senior community center, the other Parc 55 and Eden Housing properties, and Warm Springs Boulevard and the commercial development and transit services available along it.

(e) Existing or proposed utility services are adequate for the development.

Analysis: Existing or proposed utility services are adequate for the development in that there are existing water, sewer, and storm drain systems serving the property within Mission Falls Court, all of which have been confirmed by their respective service providers as being capable of accommodating the proposed apartment project, and no additional off-site easements need be secured or extensions constructed in order to connect the project to these systems.

(f) Any exception or modification from standard ordinance requirements will encourage a desirable living environment and is warranted by the design and amenities incorporated in the precise plan or provided to the community at large.

Analysis: The applicant is requesting exceptions from the standards governing new development in the R-3-50 zoning district for the minimum front yard setback along Mission Falls Court and the minimum private open space required for each unit.

Allowing the proposed reduction in the minimum front yard setback is warranted in this case in that the plans would further activate the public realm along Mission Falls Court by locating the proposed building close to the sidewalk while concealing parking around the sides and rear of the building. The proposed setback reduction would also be consistent with, and continue the development pattern already established by, the Eden Housing project currently under construction two parcels to the north and the planned public senior community center and senior townhomes that are planned for the adjacent properties to the north and south, respectively. Furthermore, the additional useable area resulting from the setback reduction would help to provide space for ample parking and several high-quality amenities being proposed behind the building, including a full-size swimming pool with hot tub, clubhouse with exercise rooms and a small movie theater, outdoor living area with kitchen, and a community garden where residents will be able to grow their own produce. Finally, allowing the proposed reduction in private open space is warranted in that most units would still have at least one private balcony or patio, and the project includes an exceptional amount of outdoor amenities and gathering spaces on the site which would be available for use by all the residents, including a swimming pool with hot tub, outdoor living area with kitchen, and community garden, as well as two smaller interior courtyards with seating areas in the center of the building.

(g) The project substantially conforms to the Multifamily Design Guidelines.

Analysis: The project substantially conforms to the Multifamily Design Guidelines in that it has been designed to integrate cohesively with both approved and planned adjacent development in a manner that minimize its impacts on the surrounding properties through the provision of compatible and generous setbacks and perimeter landscaping, it features numerous, attractive community amenities that enhance the convenience, social interaction and overall quality of life of its residents, and it features architecture that possesses high quality elements, significant articulation, and a variety of colors and materials that add visual interest to the project when viewed from the adjacent public right-of-way or the neighboring properties.

CITY FEES

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 impact fees would be calculated and paid at the fee rates in effect at the time of building permit issuance.

ENVIRONMENTAL REVIEW

Pursuant to the requirements of CEQA, a Mitigated Negative Declaration (MND) was previously adopted for the Parc 55 Project (PLN2014-00045) approved by the City Council on March 1, 2016, which addressed the potential impacts of the proposed project and, therefore, no further environmental review is required. The MND for the Parc 55 Project prescribed mitigation measures to reduce impacts to: (1) air quality through the generation of dust during demolition and construction activities; (2) protected bird species through the removal of the existing trees and other vegetation that may contain nests; (3) cultural resources through the accidental unearthing of unidentified archaeological or paleontological resources; and (4) future residents of the project who would be exposed to significant noise levels from rail and vehicular traffic along the adjacent railroad and Bay Area Rapid Transit (BART) tracks, and West Warren Avenue and Warm Springs Boulevard. Upon reviewing the

MND, staff found that there are no substantial changes proposed to the project that would require substantial revisions of the MND; no substantial changes have occurred with respect to the circumstance under which the project is undertaken; and no new information of substantial importance has been identified which was not known at the time that the previous MND was adopted. Therefore, staff recommends use of the previously adopted MND pursuant to CEQA Guidelines Section 15162. The applicable mitigation measures set forth in the MND have been incorporated as conditions of approval for this project.

PUBLIC NOTICE AND COMMENT

Public hearing notification is applicable for the entitlement being requested. A total of 67 hearing notices were mailed to the owners and occupants of all property located within 400 feet of the project site on September 15, 2017. A Public Hearing Notice was also published in *The Tri-City Voice* on September 12, 2017.

RECOMMENDATION

1. Hold public hearing; and

Recommend that the City Council:

2. Find that the Mitigated Negative Declaration previously adopted for the Parc 55 Project by the City Council on March 1, 2016, as shown in Exhibit "A" adequately addresses the potential impacts of the proposed project and, therefore, no further environmental review is required, and find that this action reflects the independent judgment of the City of Fremont;
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, Safety and Community Character Elements as well as the Housing Element of the General Plan, as enumerated in the staff report;
4. Find Precise Planned District P-2017-297 as per Exhibit "C" fulfills the applicable requirements set forth in the Fremont Municipal Code;
5. Introduce an ordinance approving a Rezoning of the subject parcel from Preliminary Planned District P-2014-45 to Precise Planned District P-2017-297 as shown on Exhibit "B," based on the findings set forth in Exhibit "E;"
6. Approve Precise Planned District P-2017-297 as shown in Exhibit "C," and the accompanying land use and development provisions set forth in Exhibit "D," based upon the findings and subject to the conditions of approval set forth in Exhibit "E;" and
7. Direct staff to prepare and the City Clerk to publish a summary of the ordinance.

ENCLOSURES

- Exhibit A - Parc 55 Prelim PD Draft Mitigated Negative Declaration
- Exhibit B - Rezoning Exhibit
- Exhibit C - Proposed Plans Part 1 of 2
- Exhibit C - Proposed Plans Part 2 of 2
- Exhibit D - PD Land Use & Development Provisions

- Exhibit E - Findings & Conditions of Approval
- Informational #1 - Project Site Information

Exhibit "E"
Findings and Conditions of Approval
PLN2017-00297 – Palmia @ Mission Falls Precise Planned District Rezoning
47201 Mission Falls Court
As Adopted by the City Council on November 21, 2017

FINDINGS

Rezoning Findings:

- 1. The proposed Precise PD rezoning is consistent with the General Plan** in that it would: (a) enable the development of a large, vacant lot located within a residential district in a Priority Development Area with a new high-density senior rental housing development that would be located within walking distance of a major thoroughfare that is well-served by both public transportation and a wide variety of nearby shopping opportunities and personal services; (b) respect the existing scale and form of adjacent properties by developing the site with a multifamily apartment building that is similar in height to and located closely in line with the nearby Eden Housing project currently under construction two parcels to the north and the planned public senior community center that will be built next-door to the north as well as the future townhomes that are planned for the adjacent lot to the south; (c) provide connectivity through the construction of new safe and convenient sidewalks where none currently exist along a segment of a public street that will be the main thoroughfare of a large senior housing community (the Parc 55 development, including the Eden Housing affordable housing project currently under construction); and (d) feature a pedestrian-friendly design and offer residents a high quality of life by offering several desirable amenities on site, including a swimming pool with hot tub, an outdoor living area with kitchen and dining/lounge furniture, a clubhouse with fitness rooms, community room, and computer room, and a community garden.

- 2. The proposed Precise PD rezoning furthers the public interest, convenience and general welfare of the city** by: (a) leveraging existing infrastructure through the development of a vacant parcel within a Priority Development Area that is already served by all necessary infrastructure with a new, high-density residential project for seniors which would be located within walking distance of multiple bus transit lines and a major shopping district that offers everyday goods and services such as groceries, drugs, restaurants, banks, retail stores and personal services; (b) offering a rare rental housing opportunity specifically for senior individuals and households that would be located directly next-door to a planned public senior community center; and (c) providing connectivity through the construction of new safe and convenient sidewalks where none currently exist along a segment of a public street that will be the main thoroughfare of a large senior housing community.

Planned District Findings:

- a. The P district is consistent with the city's general plan and any applicable community or specific plan** in that it would: (a) enable the development of a large, vacant lot located within a residential district in a Priority Development Area with a new high-density senior rental housing development that would be located within walking distance of a major thoroughfare that is well-served by both public transportation and a wide variety of nearby shopping opportunities and personal services; (b) respect the existing scale and form of adjacent properties by developing the site with a multifamily apartment building that is similar in height to and located closely in line with the nearby Eden Housing project currently under construction two parcels to the north and the

planned public senior community center that will be built next-door to the north as well as the future townhomes that are planned for the adjacent lot to the south; (c) provide connectivity through the construction of new safe and convenient sidewalks where none currently exist along a segment of a public street that will be the main thoroughfare of a large senior housing community (the Parc 55 development, including the Eden Housing affordable housing development currently under construction); and (d) feature a pedestrian-friendly design and offer residents a high quality of life by offering several desirable amenities on site, including a swimming pool with hot tub, an outdoor living area with kitchen and dining/lounge furniture, a clubhouse with fitness rooms, community room, and computer room, and a community garden.

- b. The precise plan and supplementary documents incorporate and conform to the required standards of Section 18.110.020** in that the standards for area, coverage, density, yard requirements, parking and screening for the proposed P district use are governed by the standards of the R-3-50 (Multifamily Residence) zoning district, which is most similar in nature and function to the proposed P district use of multifamily senior apartment units, as determined by applicable ordinances and laws of the City.
- c. The uses proposed will not be detrimental to present and potential surrounding uses** in that the project site and the surrounding properties have all been planned for similar uses that will cater to seniors, including for-ownership and low income senior housing and a future senior community center, so the use would not be incompatible with existing and future planned development in the immediate vicinity. Furthermore, the property would be owned and maintained by a rental property manager that would ensure that the buildings, landscaping, and other on-site improvements are maintained in a fully-functional and aesthetically-pleasing manner at all times. In addition, the project has been designed to minimize impacts on adjacent development through the provision of landscaped setbacks with trees and fences for privacy and buffering, and the building and all other proposed improvements would be designed and built in accordance with current applicable building and life safety codes.
- d. The project provides suitable and adequate connections and capacity for both circulation and infrastructure to surrounding properties** in that it would provide two separate driveways along Mission Falls Court at opposite ends of the site which would be connected with a loop-shaped drive aisle off of which all of the on-site parking would be located and which would provide connections and access easements to the adjacent public senior community center to the north and Parc 55 property to the south for emergency vehicles and BART/VTA maintenance vehicles (so that they can maintain their adjacent track beds directly behind the site) in the two rear corners of the property. Furthermore, the proposed plans would include three separate pedestrian connections leading out to the public sidewalk along Mission Falls Court which would provide quick and convenient connections for the project's residents to the adjacent senior community center, the other Parc 55 and Eden Housing properties, and Warm Springs Boulevard and the commercial development and transit services available along it.
- e. Existing or proposed utility services are adequate for the development** in that there are existing water, sewer, and storm drain systems serving the property within Mission Falls Court, all of which have been confirmed by their respective service providers as being capable of accommodating the proposed apartment development, and no additional off-site easements need be secured or extensions constructed in order to connect the project to these systems.

- f. The proposed exceptions to the minimum front yard setback and minimum private open space requirement for each unit will encourage a desirable living environment and are warranted by the design and amenities incorporated in the precise plan or provided to the community at large** in that the plans would help to further activate the public realm along Mission Falls Court by locating the proposed building close to the sidewalk while concealing parking around the sides and rear of the building. The proposed setback reduction would also be consistent with, and continue the development pattern already established by, the Eden Housing project currently under construction two parcels to the north and the planned public senior community center and senior townhomes that are planned for the adjacent properties to the north and south, respectively. Furthermore, the additional useable area resulting from the setback reduction would help to provide space for ample parking and several high-quality amenities behind the building, including a full-size swimming pool with hot tub, clubhouse with exercise rooms and a small movie theater, outdoor living area with kitchen, and a community garden where residents would be able to grow their own produce. In addition, most units would still have at least one private balcony or patio, and the project includes an exceptional amount of outdoor amenities and gathering spaces on the site which would be available for use by all the residents, including a swimming pool with hot tub, outdoor living area with kitchen, and community garden, as well as two smaller interior courtyards with seating areas in the center of the building. Finally, allowing some units to have no balconies or patios would enable the floor plans of those units to be slightly larger, thus making them more desirable for those tenants who have no need or desire for an individual private open space.
- g. The project substantially conforms to the Multifamily Design Guidelines** in that it has been designed to integrate cohesively with both approved and planned adjacent development in a manner that minimize its impacts on the surrounding properties through the provision of compatible and generous setbacks and perimeter landscaping, it features numerous, attractive community amenities that enhance the convenience, social interaction and overall quality of life of its residents, and it features architecture that possesses high quality elements, significant articulation, and a variety of colors and materials that add visual interest to the project when viewed from the adjacent public right-of-way or the neighboring properties.

CONDITIONS OF APPROVAL

General Conditions:

- 1. Conformance to Approved Plans.** The project shall substantially conform to Exhibit "C" (Precise Planned District Project Plans) and all conditions of approval set forth herein.
- 2. Building Permit Approvals.** The applicant shall submit final plans to the Community Development Department for building permit review and approval to ensure conformance with the conditions herein, as well as with all relevant codes, policies, and other requirements of the Fremont Municipal Code and California Building Code, California Fire Code and any other applicable state/federal regulations.
- 3. Post-Approval Modifications.** Minor modifications may be made to the project subject to review and approval by the Planning Manager if such modifications are in keeping with the intent of the original approval. However, the Planning Manager may refer any modifications to the Planning Commission or City Council if he/she feels the request is of such a nature that it warrants consideration by the Commission or Council.

4. **Development Impact Fees.** The project shall be subject to Citywide Development Impact Fees. These include fees for park facilities, park dedication in-lieu, fire protection services/facilities, capital facilities, and traffic facilities.
5. **Mitigation Measure AIR-1.** Prior to issuance of a grading and/or building permit, whichever occurs first, the following best management practices shall be included in a dust control plan to limit particulate matter (fugitive dust emissions) and noted on construction plans with the contact information for a designated crewmember who will oversee on-site implementation of the plan:
 - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered twice per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
 - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - f. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - g. A publicly visible sign with the telephone number and person to contact at the City of Fremont regarding dust complaints shall be posted. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
6. **Mitigation Measure AIR-2.** Plans submitted for grading and building permits shall stipulate a maximum idling time of all diesel-powered construction equipment of two minutes. The applicant shall include this restriction in all construction contracts for the project.
7. **Mitigation Measure CULT-1.** If any archaeological or paleontological resources or human remains are encountered during grading or site disturbance activities, then all work shall cease within a 200-foot radius of the discovery until it can be evaluated by a qualified archaeologist or paleontologist. Work shall not continue until the archaeologist or paleontologist conducts sufficient research and data collection to make a determination as to the significance of the resource. If the resource is determined to be significant and mitigation is required, the first priority shall be avoidance and preservation of the resource. If avoidance is not feasible, an alternative archaeological or paleontological management plan shall be prepared that may include excavation. If human remains are discovered, the Alameda County Coroner's office shall be notified as required by state law. All excavation and monitoring activities shall be conducted in accordance with the prevailing professional standards, as outlined in the CEQA Guidelines and by the California Office of Historic Preservation.
8. **Mitigation Measure NOI-1.** Plans submitted for building permits shall include the following measures to allow the project to meet the established noise criteria prescribed by the Noise Subsection of the Safety Element of the General Plan:

- All project residential units shall be equipped with forced-air mechanical ventilation to allow occupants the option of keeping windows closed to control noise.
 - Final building plans shall be reviewed by a qualified acoustical consultant to ensure that interior noise levels would be 45 dB(A) Ldn or less prior to issuance of building permits. Preliminary recommendations for exterior window and door Sound Transmission Class (STC) ratings are indicated in Table 7 of the Environmental Noise and Vibration Assessment prepared by Illingworth & Rodkin, Inc., dated December 19, 2014.
 - Maximum instantaneous noise levels (Lmax) shall be reduced to 50 dB(A) in bedrooms and 55 dB(A) in other habitable rooms. The design of mitigation at properties adjoining the railroad shall consider the best available methods. These treatments include, but are not limited to, sound-rated windows and doors, sound-rated wall construction, acoustical caulking, insulation, acoustical vents, etc. Large windows and doors should be oriented away from the railroad where possible.
 - A six-foot high masonry wall shall be provided along the western project boundary adjacent to the Union Pacific railroad/BART tracks. The sound wall shall be provided as shown in Appendix B of the Environmental Noise and Vibration Assessment prepared by Illingworth & Rodkin, Inc., dated December 19, 2014, and shall be free of cracks or gaps over its face and along its base and be constructed of materials having a minimum surface weight of 3 lbs/ft².
9. **Mitigation Measure NOI-2.** The following measures shall be adhered to in order to limit noise generated by construction activities in accordance with the Safety Element of the General Plan and the Municipal Code:
- Limit all noise-generating activities at the construction site or in areas adjacent to the construction site to the hours between 7:00 a.m. and 7:00 p.m. during weekdays and from 9:00 a.m. and 6:00 p.m. on Saturdays and Holidays. No construction shall occur on Sunday.
 - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - Prohibit all unnecessary idling of internal combustion engines.
 - Utilize "quiet" models of air compressors and other stationary noise sources where technology exists.
 - Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent residential land uses.
 - Acoustically shield adjacent sensitive uses from stationary equipment with temporary noise barriers or recycled demolition materials.
 - Locate staging areas and construction material storage areas as far away as possible from adjacent noise sensitive land uses.
 - The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
 - Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the

construction site and include it in the notice sent to neighbors regarding the construction schedule.

10. **Mitigation Measure UTI-1.** Plans submitted for building permits shall include the following water conservation measures to maximize water use efficiency throughout the project:
 - Ultra-High Efficiency Toilets: All units shall be supplied with toilets with 1.0 gallons per flush (gpf) or less.
 - Lavatory Faucets: All units shall be supplied with lavatory faucets that restrict flows to 1.0 gallons per minute (gpm).
 - Showerheads: All units shall be supplied with showerheads that restrict flows to 1.5 gpm.
 - Clothes Washers: All units shall be supplied with clothes washers that have a Water Factor less than 4.0 (3.99 and less).
 - Landscaping and Irrigation: All landscaping/landscape plans shall comply with updated WELO (effective December 2015).
11. **Indemnification.** The applicant shall defend, indemnify, and hold harmless the City or any of its boards, commissions, agents, officers, and employees (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the approval of the project. The City shall promptly notify the applicant of any such claim, action or proceeding and shall cooperate fully in the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith.

Conditions to be Satisfied Prior to Issuance of a Building Permit:

General Requirements

12. **Compliance with Current Applicable Codes/Ordinances.** The applicant shall meet all requirements of the currently adopted edition of the California Building, Fire and City of Fremont Municipal Codes in effect at the time of building permit application.

Public Safety Requirements

13. **Fire Access Roadways.** A Fire Department access roadway shall be provided to within 150 feet of all exterior portions of all buildings. Fire Department access roadways shall meet Fire Department standards for surface type (all weather); distance (not to exceed 150 feet in length without a turnaround or through circulation); weight loads (75,000 lb. minimum); turn radius (radii of 22.5 feet inside and 37.5 feet outside measured from the same point); grades (not to exceed 15%); and vertical clearance (13.5 feet minimum).
14. **Intersection Design.** All public intersections shall be designed and built to accommodate fire apparatus turning radii with a minimum of 22.5 feet inside and 37.5 feet outside.
15. **EVAEs.** An Emergency Vehicle Access Easement shall be provided before occupancy. A copy of the recorded easement shall be provided to the City at the Fire Department's request.
16. **Key Boxes.** The applicant shall have a key box (Knox brand) located outside of each gate

and provide keys to the Fire Department for access. Automatic gates shall be equipped with a Knox keyed over-ride switch and an approved infrared receiver.

17. **Fire Hydrants.** The applicant shall provide for approval a site plan/civil utility plan with the location of all public and on-site private fire hydrants. Fire hydrants shall be spaced at 300-foot intervals for multi-family buildings with the distance measured as the fire engine travels on all-weather surfaces.
18. **Fire Flow/Duration.** In accordance with the California Fire Code, Appendix B, fire flow and duration shall not be less than that specified in Table B105.1. A reduction in required fire flow of 50 percent, when approved, is allowed when the building is provided with an approved automatic sprinkler system.
19. **Architectural Projections.** Building projections shall not interfere with placement of Fire Department ground ladders. As measured in front of each projection, the base of Fire Department ground ladders will be placed approximately $\frac{1}{4}$ the height of the building. (Example: to ladder a 30-foot building the base of the ladder will be placed 7.5 feet from the building with the tip of the ladder touching the building.)
20. **Ladder Pads Locations.** Retention areas, slopes, grades or incompatible surfaces which are un-safe for the use of a ladder, tree trunks, shrubs, plants which are firmly constructed, such as boxwoods, and fencing shall not interfere with placement of Fire Department ground ladders. Ladder pad size shall be four feet by four feet.
21. **Fire Protection Systems.** All new structures will require fire protection. Automatic fire extinguishing systems, applicable fire alarm and monitoring system will be required. The design criteria for the aforementioned systems will be determined based on occupancy group, building design, and square footage.
22. **Standpipes.** Wet standpipes shall be provided and installed in accordance with NFPA 14, the California Building Code, and Fremont Municipal Code. Standpipes for this project shall be installed in stairways on the intermediate landings.
23. **Elevator Car Design.** All elevator cars shall be provided with a minimum clear distance of not less than 80 inches by 54 inches and with a 42-inch side-slide door.
24. **Emergency Response Radio Coverage.** All new buildings and structures must meet the requirements of the California Fire Code Chapter 5, Section 510 Emergency Responder Radio Coverage. Buildings that fail to support adequate two-way radio coverage and pose a risk to public safety workers shall install equipment as required by the Fire Code Official, such as Bi-Directional Amplification (BDA) and a building network of antennas to increase reception and transmission.
25. **Fire Command Center.** The provisions of California Fire Code Section 508 and local amendment to the California Fire Code in the Fremont Municipal Code shall be met for the design of the Fire Command Center (exception: remote elevator recall and elevator emergency stand by power selector switches in the fire command center shall not be required). The emergency voice alarm communication system including occupant notification shall comply with NFPA 72 and applicable City ordinances.
26. **Emergency Response Requirements.** The project shall require a digital plan submission to the GIS Department to aid the Fire Department in emergency response.

Public Works Requirements

27. Street Improvements.

- a. The applicant shall be responsible for removing and replacing all curbs, gutters and sidewalks damaged during construction of the project.
- b. The applicant shall remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
- c. The applicant shall construct a five-foot wide separated sidewalk along the Mission Falls Court frontage.
- d. The applicant shall close all unused driveway cuts.
- e. The proposed Type (E) driveway width shall be 26 feet.
- f. The applicant shall install accessible ramps along the project frontage at the intersection of Mission Falls Lane and Mission Falls Court.
- g. Dedication and improvement of the public streets shall be to the satisfaction of the Director of Public Works. Improvements shall include, but are not limited to the following: curb and gutter, sidewalk, asphalt pavement, streetlights, fire hydrants, street trees, water, sewer and storm drainage facilities, joint trench facilities, signing and striping, and accessible ramps.
- h. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the approved street improvement plans.
- i. The applicant shall be required to grind and overlay Mission Falls Court along the entire project frontage in accordance with the City of Fremont "Street Cutting Policy – Multiple Cuts within One Block."

28. **Encroachment Permit.** Prior to building permit issuance, the applicant shall apply for and obtain an encroachment permit from City of Fremont for all improvements within the City's right-of-way.

29. **Right-of-Way Dedication.** The applicant shall dedicate the right-of-way needed to accommodate the ultimate street configuration along the project frontage on Mission Falls Court to the satisfaction of the Director of Public Works.

30. **Public Service Easement.** The applicant shall dedicate a minimum six-foot wide public service easement on Mission Falls Court along the project frontage to the satisfaction of the Director of Public Works. Project entry and/or monument signs, bioretention areas, and walls shall not be located within this easement.

31. Storm Water Discharge and Erosion Control.

- a. **Coverage Under Statewide Construction General Permit:** Projects involving land disturbance of one acre or more are required to obtain coverage under the "Construction General Permit" (NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities). The applicant must file a Notice of Intent (NOI) to the State Water Resources Control Board (SWRCB), prepare and submit a Storm Water Pollution Prevention Plan (SWPPP), and obtain a Waste Discharge Identification number (WDID). A copy of the NOI must be submitted to the City's Project Engineer prior to issuance of development permits (including demolition, grading, and building permits).

- b. **Erosion and Sediment Control Plan:** The project plan set must include an Erosion and Sediment Control Plan (ESCP) sheet showing the Best Management Practices (BMPs) to be implemented to minimize pollutant discharges related to construction activity. The ESCP must show the development site at the stage of maximum land disturbance. A copy of the ESCP and/or SWPPP must be maintained on the project site at all times throughout the demolition/grading/construction process; the ESCP and/or SWPPP must be updated as necessary to show adequate BMPs appropriate for the current stage of the project.
32. **Stormwater Treatment and Flow Control Facilities.** The applicant shall implement post-construction measures to minimize stormwater pollutant discharges and increases in peak flows in accordance with the requirements of the Municipal Regional Permit (MRP). The Preliminary Stormwater Management Plan provided by the developer as part of Precise Planned District is approved in concept only; the Final Stormwater Management Plan must contain/address all elements of the Final Stormwater Management Plan Checklist (available at www.fremont.gov/swmp). The applicant shall submit engineered plans, details and calculations that demonstrate compliance with Provision C.3 of the MRP.
33. **Stormwater Treatment Measures Maintenance Agreement.** The applicant shall submit a Stormwater Treatment Measures Maintenance Agreement (also known as an O&M Agreement) for review and approval concurrent with the application for building permits. The template documents and instructions for completing the O&M Agreement may be found at <http://fremont.gov/stormwaterdevelopment>. Submittal of an approved and executed O&M Agreement is required prior to building permit issuance.
34. **Private Storm Drain Easement (PSDE).** The applicant shall quitclaim the existing 10-foot-wide PSDE within the boundaries of the project and replace it with a new relocated 10-foot-wide PSDE for the benefit of all upstream appurtenant parcels. Said grant of easement shall be recorded prior to issuance of final occupancy for the project.
35. **Hydraulics.** The applicant shall submit a hydrology map and hydraulic calculations prepared, stamped, and signed by a licensed California Civil Engineer using a design storm of 15-year recurrence interval for primary facilities and 10-year recurrence interval for secondary facilities in accordance with the Alameda County Public Works Agency Hydrology and Hydraulics Criteria to ensure adequate conveyance of storm run-off from the project site. Off-site construction of storm drainage facilities to mitigate projected flows may be required.
36. **Stormwater Management Plan.** Approval of the final Stormwater Management Plan shall be subject to City Engineer approval prior to building permit issuance. Approval is subject to the applicant providing the necessary plans, details, and calculations that demonstrate that the proposed stormwater treatment measures comply with the standards established with the most recent San Francisco Bay Regional Water Quality Control Board National Pollutant Discharge Elimination System (NPDES) Permit.

Landscaping Requirements

37. **Exterior Lighting.** All exterior lighting, other than public or private street lights, shall be diffused or concealed in order to prevent illumination of adjoining properties or the creation of objectionable off-site visual impacts.

38. **Tree Planting Areas.** All tree planting areas shall be a minimum of six feet in width and free of all utility structures and other built features, consistent with the spacing requirements defined in Landscape Standard Details (LSDs) 5 and 6.
39. **EV Charger Locations.** EV (electric vehicle) charging stations shall not encroach into the minimum four-foot wide accessible path of travel.
40. **Street Trees (Size).** All street trees shall be a minimum 24-inch box size with the final tree selection coordinated and approved by the City Landscape Architect. City of Fremont Standard Detail for street tree planting (LSD-1) shall be included in the plan set.
41. **Street Trees (Plans).** Stationing of street trees, irrigation water meters, and irrigation sleeves shall be included on the Plan and Profile sheets.
42. **Site Furnishings/Amenities.** All site furniture, amenities and fixtures shall be accessible and as shown on Sheets L1-L4 of Exhibit "C" or equivalent in design and quality, and shall be subject to review and approval by the Community Development Department.
43. **Utility Screening.** All above-ground utilities, including irrigation backflow preventers, irrigation controllers, fire service backflow preventers, cable or other service boxes, etc. shall be screened with a continuous evergreen (non-seasonal) hedge, minimum five-gallon size, three-foot minimum height. Fire backflow preventers shall be painted black or olive green.

Solid Waste/Recycling Requirements

44. **Solid Waste/Recycling Truck Access.** An automatic remote access system shall be provided for the garbage trucks. The automated system must be a separate system from the Fire Department Knox box.
45. **Trash Room Location.** Trash rooms shall be distributed throughout the complex so that no resident will have to travel more than 250 feet to reach a trash room.
46. **Trash Room/Enclosure Design.** Trash areas shall meet the requirements of the current California Building Code regarding accessibility to solid waste collection receptacles for persons with disabilities (CCR Title 24, Part 2).
47. **Gray Water from Trash Chute Hose-Down.** Maintenance staff shall remove gray water from the trash bin termination rooms and direct it away from the storm drain system. Refer to the Operations and Maintenance Best Management Practices for how to deal with polluted water.
48. **Dumpster Set-Out Area.** The slope from the trash room to the staging area shall not exceed a maximum of five percent. Bin staging areas shall have curbs on the sides of adjacent parking spaces to prevent the bins from rolling into parked cars, but the shorter sides of the staging area shall not have curbs.
49. **Storage of Large Refuse Items.** Plans shall show space inside the building for the storage of materials, such as racks, crates, boxes, cardboard, pallets, and other items that require storage space. The storage of any materials outside the building or in the trash rooms is prohibited.

Requirements to be Completed Prior to Request for Final Inspection

- 50. **Final Engineering Certification.** Upon completion of grading, the project engineer that prepared the final approved grading plan shall submit to the City a statement that the as-built grading conditions do not deviate from the approved plan by more than one foot of vertical elevation, subject to the review and approval of the Public Works Department prior to the issuance of occupancy permits for each structure.

- 51. **Final Landscaping Certification.** Upon completion of all landscape work, the project landscape architect shall submit a letter to the Public Works Department certifying that the on-site and streetscape landscaping have been constructed in conformance with the approved landscape and irrigation plan, subject to the review and approval of the City Landscape Architect.

END OF CONDITIONS

APPLICANT PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of approval. Any fee, dedication, reservation or other exaction is deemed imposed on the date of this approval. The applicant is hereby notified that the 90-day period in which the applicant may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date they are imposed. If the applicant fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the applicant shall be legally barred from later challenging such actions.