

## **DRAFT MITIGATED NEGATIVE DECLARATION**

The following proposed project has been reviewed, pursuant to the provisions of Resolution No. 3231, as amended, of the City Council of the City of Fremont for the purpose of determining the likelihood of a significant adverse environmental impact occurring as a result of project completion.

**NAME OF PROJECT:** Connolly Center

**PROJECT NO.:** PLN2015-00275

**DESCRIPTION OF PROJECT:** The proposed project includes a General Plan Amendment (from Commercial – General to Medium-Density Residential (14.6 to 29.9 units per net acre)), a Rezoning (from TC-T(I) Town Center Transitional District (Irvington) to R-3-18 Multifamily Residence District, Vesting Tentative Tract Map #8261, Preliminary Grading Plan, Private Street, Design Review, and Conditional Use Permit (to allow live/work units) for the demolition of existing structures and construction of approximately 56 attached townhouse residential units and 11 attached live/work units on an approximately 3.73 acre site at 40744 Fremont Blvd (APN 525-701-18-7) and 40733 Chapel Way (APN 525-701-15-18) in the Irvington Community Plan Area.

**LOCATION OF PROJECT:** 40744 Fremont Boulevard and 40733 Chapel Way, City of Fremont, Alameda County, APNs: 525-701-18-7 and 525-701-15-18

**GEOGRAPHIC LOCATION WITHIN CITY:** Irvington Community Plan Area

**NAME OF AUTHORIZED AGENT OF APPLICANT:** Warmington Residential CA, Inc. (Attn: Don Babbitt, Phone: (925) 866-6700, E-mail: don.babbitt@WarmingtonGroup.com

**MAILING ADDRESS OF APPLICANT/AGENT:** 2400 Camino Ramon, Suite 234, San Ramon, CA 94583

**TYPE OF ENTITLEMENT(S) SOUGHT:** General Plan Amendment, Rezoning, Tentative Tract Map (No. 8261), Preliminary Grading Plan, Private Street, Design Review, and Conditional Use Permit.

**EXPLANATION OF REASONS FOR THE FINDING:** A finding is proposed that this project will not have a significant effect on the environment. The project is an infill development that is consistent with General Plan policies. Furthermore, the project includes specific mitigation measures which address potentially-significant impacts to air quality from dust generation during construction, to biological resources (migratory and nesting birds), to cultural resources during grading activities or site disturbance, from release of hazardous materials during demolition, and from noise during construction and from adjacent transportation sources.

**Public Hearing:** A public hearing before the City's Planning Commission to consider the project is tentatively scheduled for December 10, 2015 at 7 p.m. All Planning Commission meetings are held in the City Council Chambers located at 3300 Capitol Avenue, Fremont, CA 94538. All environmental documents are available for review by the public at the Planning Division office located at 39550 Liberty Street, Fremont, CA 94538 and online at: <http://www.fremont.gov/430/Environmental-Review>.

Any comments as to whether the Draft Mitigated Negative Declaration should become final or whether an EIR should be prepared for the project must be submitted within 20 days of the posting of this Draft Mitigated Negative Declaration. **The comment period begins November 13, 2015 and ends December 3, 2015.**

If this Draft Mitigated Negative Declaration becomes final by any approval agency other than the City Council, any person who wishes to protest such final action must do so within ten days of the date it becomes final by the filing of a written protest with the City Clerk and by payment of the required protest fee. If this Draft Mitigated Negative

Declaration becomes final by City Council action, any person who disagrees with Council action may seek judicial review.

Posted within the Development Services Center on November 13, 2015.

Notice of Determination to be sent to:

- |                                     |   |                                     |               |
|-------------------------------------|---|-------------------------------------|---------------|
| <input checked="" type="checkbox"/> | Posting of Notice                       | <input checked="" type="checkbox"/> | County Clerk  |
| <input checked="" type="checkbox"/> | Mailed to owners of contiguous property | <input type="checkbox"/>            | Clearinghouse |
| <input type="checkbox"/>            | Publish notice                          |                                     |               |

IF THERE ARE ANY QUESTIONS OR COMMENTS, PLEASE CONTACT:

Bill Roth	Associate Planner	510-494-4450
NAME	TITLE	PHONE NUMBER

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**Mitigation and Monitoring Plan (MMP) – Connolly Center (PLN2015-00275)**

<b>Impact</b>	<b>Mitigation Measure</b>	<b>Implementation</b>	<b>Monitoring Responsibility</b>	<b>Status / Timing</b>
<p>Air quality management/ air pollution control</p>	<p><b>MM Air-1:</b> The following best management practices shall be included in a dust control plan to limit fugitive dust emissions and noted on the grading and construction plans along with the contact information for a designated crew member responsible for the on-site implementation of the dust control plan:</p> <ol style="list-style-type: none"> <li>1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered twice per day.</li> <li>2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>3. 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.</li> <li>4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.</li> <li>5. 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.</li> <li>6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points.</li> <li>7. 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.</li> <li>8. Post a publicly visible sign with the telephone number and person to contact at the City of Fremont regarding dust complaints. 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.</li> </ol>	<p>Developer/Contractor</p>	<p>City of Fremont Planning and Building Divisions</p>	<p>Prior to issuance of a grading and/or building permit, and during site development work.</p> <p>Dust control plan to be included in construction plans. Measures shall be implemented during all grading and construction activities.</p>

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Biological Resources	<p><b>MM Bio-1: Pre-Construction Surveys.</b> If project-related activities are scheduled to occur during the nesting season (February 1 through August 31 for protected raptors and migratory birds), a focused survey of the work area for active nests of such birds shall be conducted by a qualified biologist within 15 days prior to the beginning of any project-related activities. If a lapse in the project related work of 15 days or longer occurs during the nesting season, another focused survey shall be required before project work can be reinitiated. If an active nest is found, the permittee (applicant or developer) shall establish a buffer area that surrounds the nest location. The width of the buffer shall be determined by the survey biologist and shall be dependent on the location of the nest and the affected species. No project-related work or activities shall be permitted within the buffer area until the biologist has determined the nest is no longer active. The final determination shall be made by the City of Fremont Planning Manager upon receipt of the biologist's recommendation.</p>	<p>Developer/Contractor with consultation from qualified wildlife biologist .</p> <p>Biologist to provide written statement with the results of the survey to the satisfaction of the City of Fremont Planning Division</p>	City of Fremont Planning Division	Within the fifteen days before construction begins.

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Cultural Resources	<p><b>MM Cult-1.1: <u>Preconstruction Testing.</u></b></p> <p>Because there is a high potential for Native American archaeological cultural resources and a moderate potential for historic-period archaeological cultural resources in the project site, a limited program of presence/absence backhoe “pot holing” (one day duration) shall be conducted by an archaeologist after the removal of existing buildings to identify any archaeological deposits that may be present on the project site. The investigation shall be done in sampling locations in selected areas within the project site to anticipated maximum depth of excavation. A report of findings shall be prepared to document the results of the survey and presence/absence excavations. The report shall be submitted to the Alameda County and the Northwest Information Center. Impacts to archaeological deposits shall be avoided by project activities. If such deposits cannot be avoided, they shall be evaluated for their California Register eligibility, under the direction of a qualified professional archaeologist, to determine if they qualify as a historical resource under CEQA. If the deposit is not eligible, a determination shall be made as to whether it qualifies as a “unique archaeological resource” under CEQA. If the deposit is neither a historical nor unique archaeological resource, avoidance is not necessary. If the deposit is eligible for the California Register, or is a unique archaeological resource, it shall be avoided by project actions that may result in impacts, or such impacts must be mitigated. Mitigation may consist of, but is not limited to, recording the resource; recovery and analysis of archaeological deposits; preparation of a report of findings; and accessioning recovered archaeological materials at an appropriate curation facility. Public educational outreach may also be appropriate.</p>	<p>Developer/Contractor</p> <p>Archaeologist</p>	<p>City of Fremont Building and Environmental Services Divisions</p>	<p>During site development work</p>

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Cultural Resources	<p><b>MM Cult-1.2:</b> <u>Accidental Discovery.</u></p> <p>If deposits of prehistoric or historic-period archaeological materials are encountered during project activities, all work within 50 feet of the discovery shall be redirected and a qualified archaeologist shall be contacted to assess the situation, consult with agencies as appropriate, and make recommendations regarding the treatment of the discovery. The project proponent shall also be notified. Project personnel shall not collect or move any archaeological materials or human remains and associated materials.</p> <p>Impacts to archaeological deposits shall be avoided by project activities. If such deposits cannot be avoided, they shall be evaluated for their California Register eligibility, under the direction of a qualified professional archaeologist, to determine if they qualify as a historical resource under CEQA. If the deposit is not eligible, a determination shall be made as to whether it qualifies as a “unique archaeological resource” under CEQA. If the deposit is neither a historical nor unique archaeological resource, avoidance is not necessary. If the deposit is eligible for the California Register, or is a unique archaeological resource, it shall be avoided by project actions that may result in impacts, or such impacts must be mitigated. Mitigation may consist of, but is not limited to, recording the resource; recovery and analysis of archaeological deposits; preparation of a report of findings; and accessioning recovered archaeological materials at an appropriate curation facility. Public educational outreach may also be appropriate.</p> <p>Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results of the investigation, and provide recommendations for the treatment of the archaeological materials discovered. The report should be submitted to the client and the Northwest Information Center.</p> <p>Prehistoric materials can include flaked-stone tools (e.g., projectile points, knives, choppers) or obsidian, chert, basalt, or quartzite tool-making debris; bone tools; culturally darkened soil (i.e., midden soil often containing heat-affected rock, ash and charcoal, shellfish remains, faunal bones, and cultural materials); and stone milling equipment (e.g., mortars, pestles, handstones). Prehistoric sites often contain human remains. Historical materials can include wood, stone, concrete, or adobe footings, walls, and other structural remains; debris-filled wells or privies; and deposits of wood, glass, ceramics, metal, and other refuse.</p> <p style="text-align: center;">Mitigation Monitoring Plan (PLN2015-00275) – Page 4</p> <p><b>MM Cult-1.3:</b></p>	Developer/Contractor	City of Fremont Building and Environmental Services Divisions	During site development work

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Cultural Resources	<p><b>MM Cult-1.3:</b> <u>Human Remains.</u></p> <p>If human remains are encountered during project activities, work within 50 feet of the discovery shall be redirected and the Alameda County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation and consult with agencies as appropriate. The project proponent shall also be notified. Project personnel shall not collect or move any human remains and associated materials. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results, and provide recommendations for the treatment of the human remains and any associated cultural materials, as appropriate and in coordination with the recommendations of the MLD. The report shall be submitted to Alameda County and the Northwest Information Center.</p>	Developer/Contractor	City of Fremont Building and Environmental Services Divisions	During site development work
	<p><b>MM Cult-1.4:</b> <u>Discovery of Paleontological Resources.</u></p> <p>In the event of the discovery of Paleontological resources during construction or demolition, there shall be no further excavation or disturbance of the site within a 50 foot radius of the location of such discovery until it can be evaluated by a qualified archeologist or paleontologist. Work shall not continue until the archeologist 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. All feasible recommendations of the paleontologist shall be implemented. Mitigation may include, but not limited to, in-field documentation and recovery of specimens, laboratory analysis, preparation of a report detailing the methods and findings of the investigation, and curation at an appropriate paleontological collection facility.</p>	Developer/Contractor	City of Fremont Building and Environmental Services Divisions	During site development work







Impact	Mitigation Measure	Implementation	Monitoring Responsibility	Status / Timing
Noise	<p><b>MM Noise-3 (Temporary Construction Noise) continued-</b></p> <ol style="list-style-type: none"> <li>7. Construct solid plywood fences around construction sites adjacent to operational business, residences or noise-sensitive land uses.</li> <li>8. Erect, if necessary, a temporary noise control blanket barrier along building facades facing construction sites. This mitigation will only be necessary if conflicts occur which are irresolvable by proper scheduling.</li> <li>9. Route construction-related traffic along major roadways and as far as feasible from sensitive receptors.</li> <li>10. Businesses, residences or noise-sensitive land uses adjacent to construction sites shall be notified of the construction schedule in writing. A "construction liaison" that would be responsible for responding to any local complaints about construction noise shall be designated. The liaison would determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the liaison at the construction site.</li> </ol>	Developer/Contractor	City of Fremont Building Division	During project design and construction