

## ZONING COMMITTEE STAFF REPORT

**FILE NAME:** Syed Mahmood

**FILE #** 17-073-754

**APPLICANT:** Syed Mahmood

**HEARING DATE:** September 14, 2017

**TYPE OF APPLICATION:** Nonconforming Use Permit - Change

**LOCATION:** 937 3rd St E, NW corner at Forest

**PIN & LEGAL DESCRIPTION:** 332922230071, Lot 13, Block 89 of Adam Gotzian's Sub. of Block 89, Lyman Dayton Addition

**PLANNING DISTRICT:** 4

**PRESENT ZONING:** RT1

**ZONING CODE REFERENCE:** §62.109(c); §65.535

**STAFF REPORT DATE:** September 7, 2017

**BY:** Bill Dermody

**DATE RECEIVED:** August 25, 2017

**60-DAY DEADLINE FOR ACTION:** October 24, 2017

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- A. **PURPOSE:** Change of nonconforming use from bar to tobacco products shop.
- B. **PARCEL SIZE:** 3,920 sq. ft.
- C. **EXISTING LAND USE:** Bar/Cocktail Lounge
- D. **SURROUNDING LAND USE:**  
The southeast corner of the intersection contains a multifamily residential building. Other surrounding properties in all directions are a mix of single-family and duplex residential uses.
- E. **ZONING CODE CITATION:** §62.109(c) authorizes the planning commission to allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location upon making certain findings (see Section I below). §65.535 defines a tobacco products shop, including the provision that it derives more than 90 percent of its gross revenue from tobacco-related products.
- F. **PARKING:** Based on the building size of 2,720 square feet, Zoning Code §63.207 requires a minimum of 18 parking spaces for the existing bar use. The proposed tobacco use would require a minimum of 7 spaces. Though the site's parking lot is not striped, there appears to be room for approximately 7 spaces. Per §63.204, the parking provision is sufficient because the new use does not require more parking spaces than the previous use, which had a legally nonconforming parking provision.
- G. **HISTORY/DISCUSSION:** The site has contained a bar for decades, reportedly since the 1880s. According to Ramsey County records, the building dates from 1900. The site was rezoned to RT1 Two-Family Residential District in 1975 as part of a citywide rezoning, which made the bar use legally nonconforming.
- H. **DISTRICT COUNCIL RECOMMENDATION:** As of this writing, the District 4 Council has not provided a recommendation.
- I. **FINDINGS:**
1. The application requests a change of nonconforming use to permit a tobacco shop use. The applicant plans to have the business open seven days a week from 9:00 a.m. to 9:00 p.m., with two full-time employees and one part-time employee.
  2. Section 62.109(c) states: *The planning commission may allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location if the commission makes the following findings:*
    - a. *The proposed use is equally appropriate or more appropriate to the neighborhood than the existing nonconforming use. This finding is met. A tobacco products shop is first allowed*

in the BC Community Business District, while a bar is first allowed in the less restrictive T2 Traditional Neighborhood District.

- b. *The traffic generated by the proposed use is similar to that generated by the existing nonconforming use.* This finding is met. A tobacco products shop is anticipated to generate less traffic than a bar, as exemplified by its lesser parking requirement.
- c. *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is met. The use will need to abide by City and State licensing requirements for tobacco sales, including those intended to protect public health and general welfare. The Zoning Code ordinarily (when not a nonconforming use permit situation) requires a tobacco products shop to be located no closer than  $\frac{1}{4}$  mile from another such shop; the nearest known tobacco products shop is located about 4,000 feet to the northwest.
- d. *The use is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan and District 4 Plan Summary contain no provisions specific to tobacco products shops. The District 4 Plan Summary, in Strategy C3, calls for the reuse, instead of demolition, of existing commercial buildings, such as is proposed.

J. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the change of nonconforming use from bar to tobacco products shop.



**NONCONFORMING USE PERMIT APPLICATION**  
 Department of Planning and Economic Development  
 Zoning Section  
 1400 City Hall Annex  
 25 West Fourth Street  
 Saint Paul, MN 55102-1634  
 (651) 266-6589

Zoning Office Use Only  
 File #: 17-073754  
 Fee: 735<sup>00</sup>  
 Tentative Hearing Date:  
9-14-17

PD=4

# 33292223 0071

**APPLICANT**

Name Syed I. Mahmood Email [REDACTED]  
 Address 17315 50th ave N  
 City Plymouth St. MN Zip 55446 Daytime Phone [REDACTED]  
 Name of Owner (if different) John Weber  
 Contact Person (if different) \_\_\_\_\_ Phone \_\_\_\_\_

**PROPERTY LOCATION**

Address/Location 937 3rd st E St Paul MN  
 Legal Description Lot 13 Blk 89  
 Current Zoning Commercial  
 (attach additional sheet if necessary)

RECEIVED  
 AUG 24 2017  
 BY: \_\_\_\_\_

**TYPE OF PERMIT:** Application is hereby made for a Nonconforming Use Permit under provisions of Chapter 62, Section 109 of the Zoning Code:

The permit is for:  Establishment of legal nonconforming use status for use in existence at least 10 years (para. a)  
 Change of nonconforming use (para. c)  
 Expansion or relocation of nonconforming use (para. d)  
 Reestablishment of a nonconforming use vacant for more than one year (para. e)

**SUPPORTING INFORMATION:** Supply the information that is applicable to your type of permit.

Present/Past Use Bar  
 Proposed Use Convenience Store -- groceries/tobacco

8-24-17

Attach additional sheets if necessary

Attachments as required  Site Plan  Consent Petition  Affidavit

Applicant's Signature [Signature] Date 8/22/17 City Agent pdd

## Dubruiel, Paul (CI-StPaul)

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**From:** Syed Mahmood <[REDACTED]>  
**Sent:** Sunday, August 27, 2017 8:02 PM  
**To:** Dubruiel, Paul (CI-StPaul)  
**Subject:** Re: 938 3rd Street East FW: Message from "PE-14COPIER"

We would like to convert the building from a bar to a tobacco store. The store will be open seven days a week from 9 AM to 9 PM. The business will employ two full time and one part time employees. We expect to get about 50 customers a day in the beginning. In the long term we expect to get about 100 -125 customers a day. I believe we have space for about 10 cars.

Please let me know if you need anything else.

Thanks

Syed Mahmood  
[REDACTED]

On Thursday, August 24, 2017, 11:38:15 AM CDT, Dubruiel, Paul (CI-StPaul) <[paul.dubruiel@ci.stpaul.mn.us](mailto:paul.dubruiel@ci.stpaul.mn.us)> wrote:

8-24-17

Re: 937 E. 3rd Street (Chg. of NCUP)

Mr. Mahmood

I have attached the "Findings" that the Planning Commission will need to make with your application.

A short description of your business plan would be helpful as well.

Please included hours of operation, days of the week and number of employees etc.

I should receive your follow up information by Monday, August 28th.

Thank you for your time in this matter.

### Paul Dubruiel

#### *Planning Tech for Zoning*

Planning & Economic Development

1400 CHA 25 W. 4th St.

Saint Paul, MN 55102

P: (651) 266-6583

F: (651) 266-6549

[paul.dubruiel@ci.stpaul.mn.us](mailto:paul.dubruiel@ci.stpaul.mn.us)



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City in America



From: Lou Ann Norquist [mailto:[lanorquist1@gmail.com](mailto:lanorquist1@gmail.com)]

Sent: Wednesday, August 30, 2017 10:40 AM

To: Dubruiel, Paul (Cl-StPaul)

Subject: 937 E. 3rd Street

Hi Paul,

I have said many times that our neighborhood needs to return to the days of neighborhood corner shops that people can walk to.

However, if someone from Plymouth wants to have a tobacco shop 2 blocks from my house, I will say, "No, thank you!"

As an FYI, these are other businesses I do not want on 3rd Street E. and Forest:

A used car dealership

A pawn shop

A check cashing business

A brothel

A cell phone store

A puppy mill

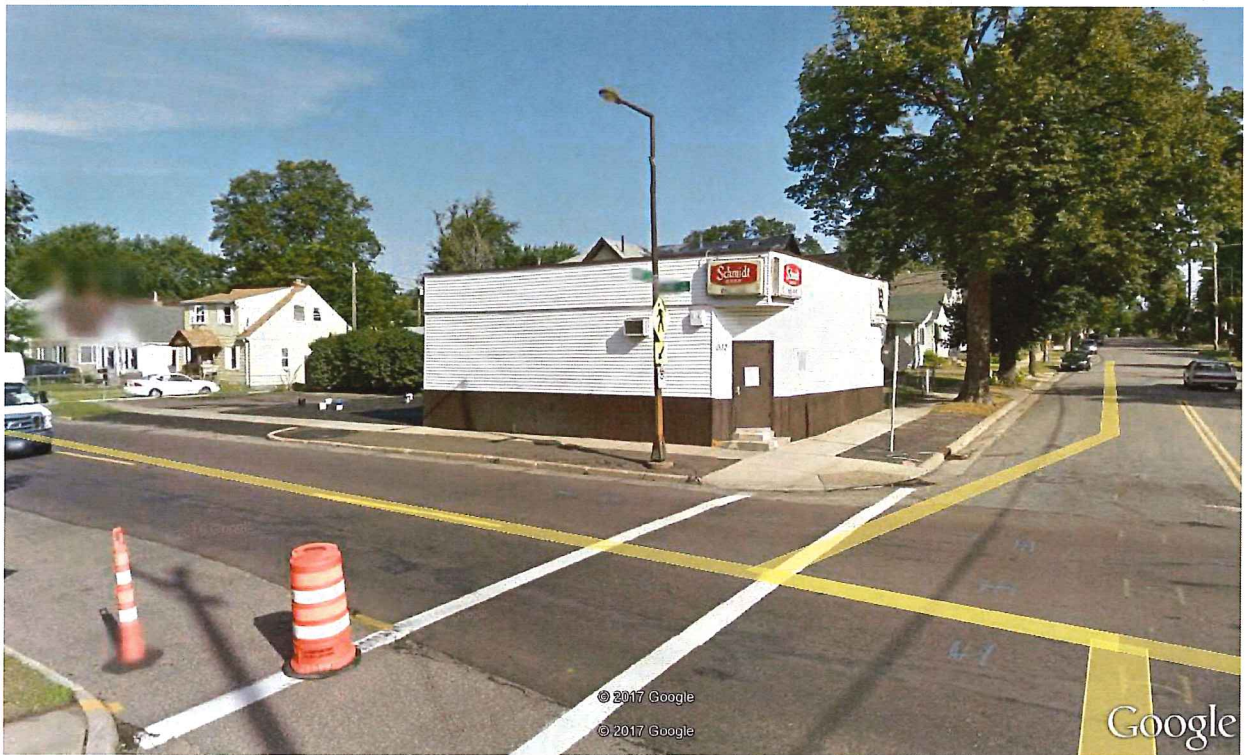
Thank you and kind regards,

Lou Ann Norquist

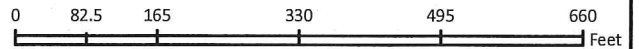
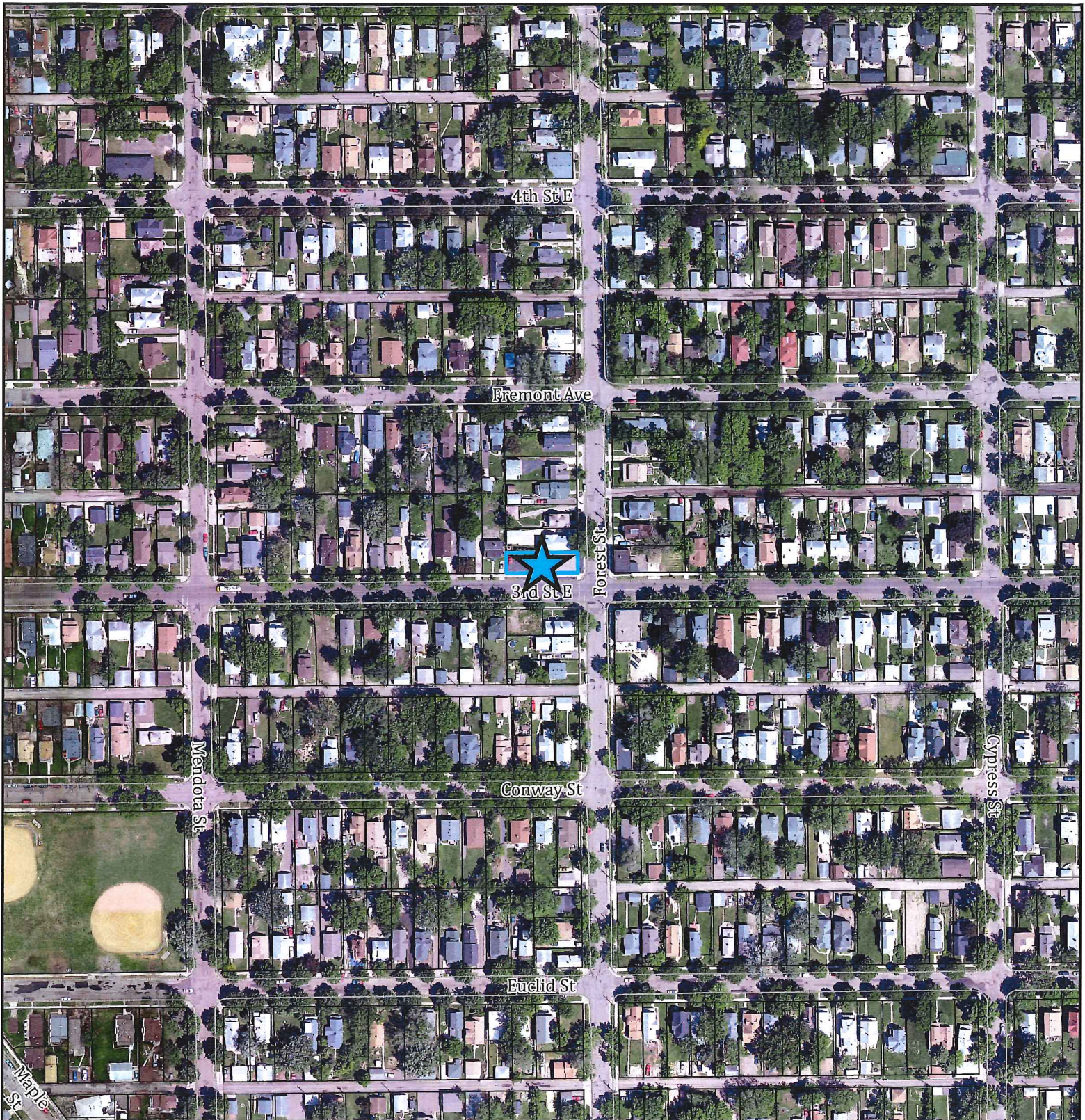
507 Arcade Street (two doors south of 3rd)



Subject site is the NW corner of the intersection of 3<sup>rd</sup> Street E. at Forest St.: a building at the corner with a parking lot behind to the west



View looking northwest toward subject site



FILE NAME: Syed Mahmood

**Aerial**

APPLICATION TYPE: Change of NCUP

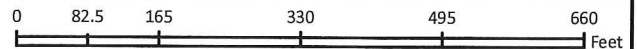
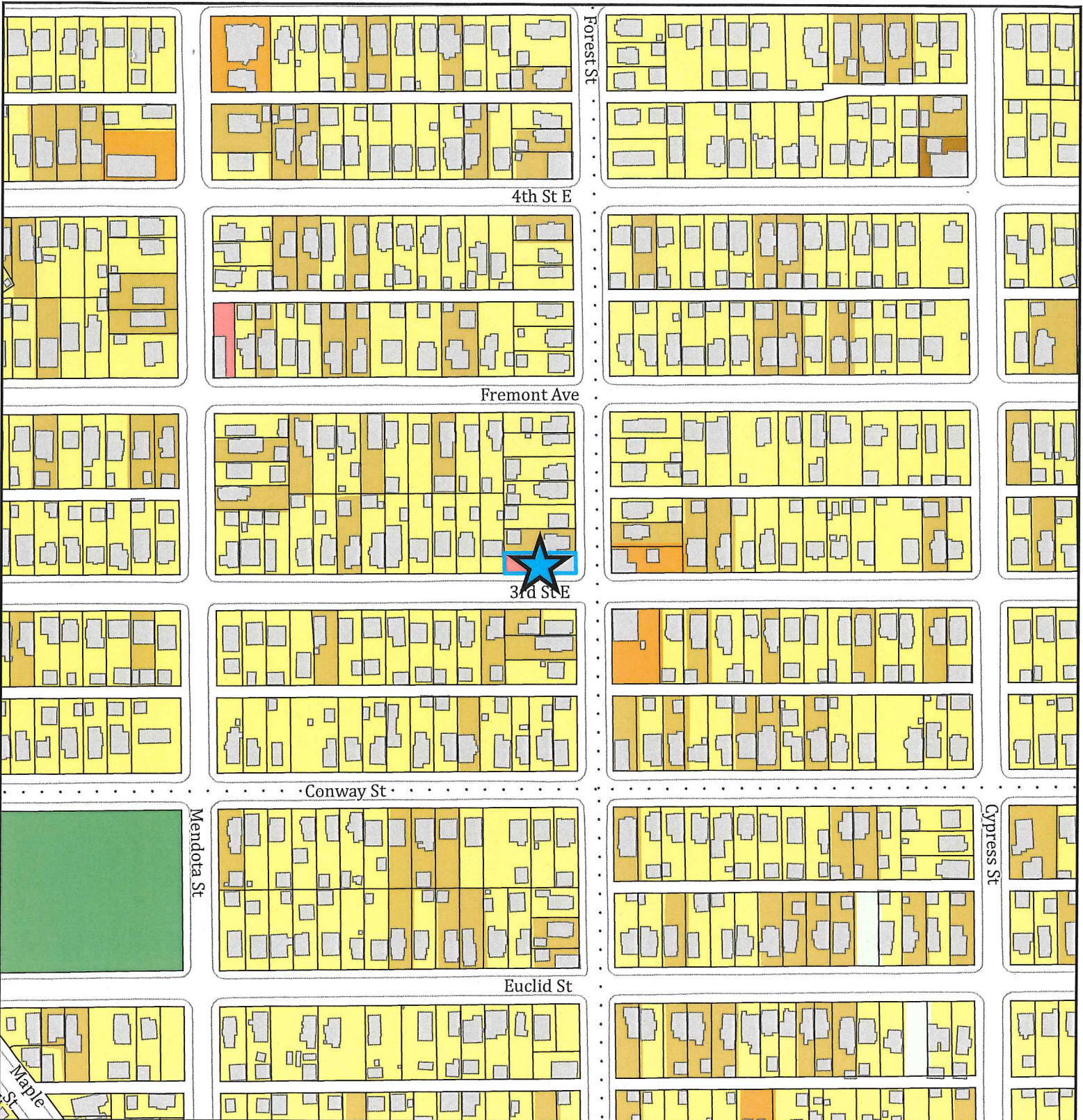
 Subject Parcels

FILE #: 17-073754      DATE: 8/25/2017

PLANNING DISTRICT: 4

ZONING PANEL: 11





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**Land Use**

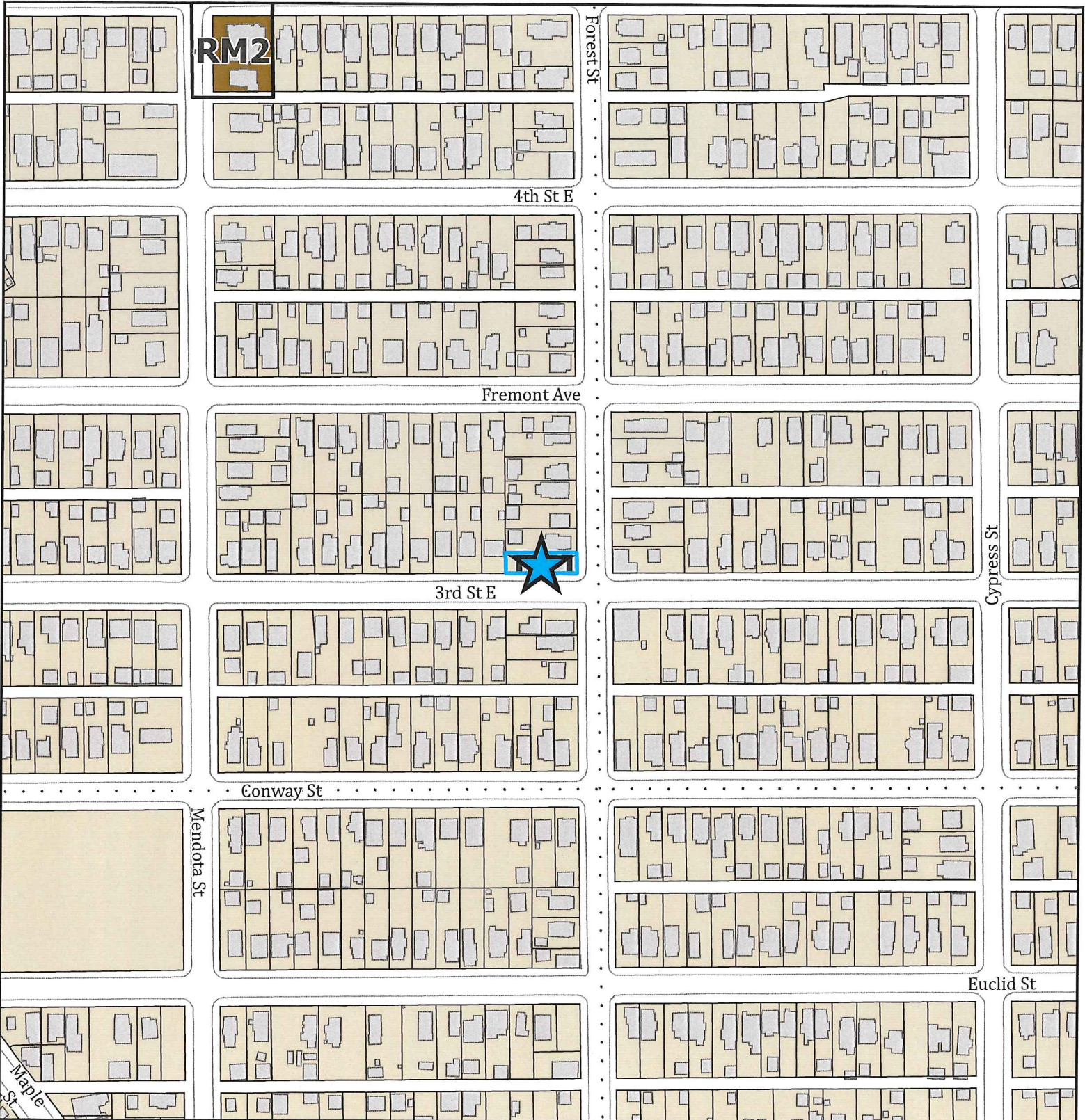
- Single Family Detached
- Single Family Attached
- Multifamily
- Retail and Other Commercial
- Mixed Use Residential
- Park, Recreational or Preserve
- Undeveloped

Subject Parcels

· · Section Lines











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- Zoning**
-  Subject Parcels
  -  Section Lines
  -  RT1 Two-Family
  -  RM2 Multiple-Family

