



Legislation Details (With Text)

**File #:** ID19-1556    **Version:** 1    **Name:** DARM  
**Type:** Action Item    **Status:** Agenda Ready  
**File created:** 4/10/2019    **In control:** Planning Commission  
**On agenda:** 4/17/2019    **Final action:** 4/17/2019  
**Title:** Consideration of Vesting Tentative Tract Map No. 6191/UGM, Conditional Use Permit Application No. P18-01235 and related Environmental Assessment No. T-6191/P18-01235, for property located on East Fancher Creek Drive, west of North Armstrong Avenue (north and south side of Fancher Creek Drive) (Council District 5)

1. ADOPT the Mitigated Negative Declaration as prepared for Environmental Assessment No. T-6191/P18-01235 dated March 22, 2019.
2. ADOPT findings pursuant to Government Code Section 65863(b)(2) that there is substantial evidence in the record that remaining sites identified in the Housing Element can accommodate the City of Fresno's share of the Regional Housing Needs Assessment (RHNA).
3. APPROVE Conditional Use Permit No. P18-01235 subject to compliance with the Conditions of Approval dated April 17, 2019.
4. APPROVE Vesting Tentative Tract Map No. T-6191/UGM subject to compliance with the Conditions of Approval dated April 17, 2019.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Vesting Tentative Tract Map No. 6191/UGM Jan 4, 2019, 2. Exhibit A-1 - Entry Plan Typical lot plan Jan 4, 2019, 3. Exhibit A-2 - Site Plan Jan 4, 2019, 4. Exhibit A-3 - Elevations Jan 4, 2019, 5. Exhibit A-4 - Sample Signage and Landscaping at gated entryway, 6. Exhibit A-5 - Conceptual Open Space, 7. Exhibit B - Application for Subject Project, 8. Exhibit C - 2018 Aerial Photograph of Site, 9. Exhibit D - Fresno General Planned Land Use Map, 10. Exhibit E - Sign in sheet for Voluntary neighborhood Meeting on March 12 2019, 11. Exhibit F - Fresno Municipal Code Findings, 12. Exhibit G - Housing Element Findings, 13. Exhibit H - Noticing Vicinity Map, 14. Exhibit I - Conditions of Approval T-6191/ UGM April 17, 2019, 15. Exhibit J - Conditions of Approval for CUP P18-01235 April 17 2019, 16. Exhibit K - Comments and Requirements from Responsible Agencies, 17. Exhibit L - Environmental Assessment T-6191 P18-01235 Mitigated Negative Declaration March 22 2019

Date	Ver.	Action By	Action	Result
4/17/2019	1	Planning Commission	approved	Pass

**REPORT TO THE PLANNING COMMISSION**

**April 17, 2019**

**FROM:** MIKE SANCHEZ, Assistant Director

Development Services Division

**THROUGH:** WILL TACKETT, Supervising Planner  
Development Services Division

**BY:** ISRAEL TREJO, Planner  
Development Services Division

**SUBJECT**

Consideration of Vesting Tentative Tract Map No. 6191/UGM, Conditional Use Permit Application No. P18-01235 and related Environmental Assessment No. T-6191/P18-01235, for property located on East Fancher Creek Drive, west of North Armstrong Avenue (north and south side of Fancher Creek Drive)  
(Council District 5)

1. **ADOPT** the Mitigated Negative Declaration as prepared for Environmental Assessment No. T-6191/P18-01235 dated March 22, 2019.
2. **ADOPT** findings pursuant to Government Code Section 65863(b)(2) that there is substantial evidence in the record that remaining sites identified in the Housing Element can accommodate the City of Fresno's share of the Regional Housing Needs Assessment (RHNA).
3. **APPROVE** Conditional Use Permit No. P18-01235 subject to compliance with the Conditions of Approval dated April 17, 2019.
4. **APPROVE** Vesting Tentative Tract Map No. T-6191/UGM subject to compliance with the Conditions of Approval dated April 17, 2019.

**EXECUTIVE SUMMARY**

Harbor & Associates, on behalf of BN 5499 LP, has filed Vesting Tentative Tract Map No. 6191/UGM and Conditional Use Permit No. P18-01235, pertaining to approximately 14.47 acres of property located on East Fancher Creek Drive, west of North Armstrong Avenue (north and south side of East Fancher Creek Drive). Vesting Tentative Tract Map No. 6191/UGM is a proposal to subdivide the property into a 125 lot single-family residential subdivision. Conditional Use Permit No. P18-01235 proposes a gated development with private streets and modified property development standards for 111 of the 125 lots. The remaining 14 lots are proposed on public streets and are located on the south side of East Fancher Creek Drive. The subject property is located within the Fresno General Plan and the Roosevelt Community Plan, both plans designate the subject site for Medium Low (3.50 to 6.00 dwelling units per acre) and Medium Density Residential (5.00 to 12.00 dwelling units per acre) planned land uses. Vesting Tentative Tract Map No. 6191/UGM proposes a 125 lot single-family residential subdivision on approximately 14.47 acres at an overall density of 11.46 dwelling units per acre. Thus, the subject applications are consistent with the noted planned land uses and zoning approved for the project site and will implement the goals, objectives, and policies of the Roosevelt Community Plan and the Fresno General Plan.

**ENVIRONMENTAL FINDING**

An environmental assessment initial study was prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. This process included

the distribution of requests for comment from other responsible or affected agencies and interested organizations.

Preparation of the environmental assessment necessitated a thorough review of the proposed project and relevant environmental issues and considered previously prepared environmental and technical studies pertinent to the Roosevelt Community Plan area, including the Fresno General Plan Master Environmental Impact Report (MEIR SCH No. 2012111015). These environmental and technical studies have examined projected sewage generation rates of planned urban uses, the capacity of existing sanitary sewer collection and treatment facilities, and optimum alternatives for increasing capacities; groundwater aquifer resource conditions; water supply production and distribution system capacities; traffic carrying capacity of the planned major street system; and, student generation projections and school facility site location identification.

The proposed project has been determined to be a subsequent project that is not fully within the scope of the MEIR SCH No. 2012111015 as provided by the CEQA, as codified in the Public Resources Code (PRC) Section 21157.1(d) and the CEQA Guidelines Section 15177(c). Therefore, the Development and Resource Management Department proposes to adopt a Mitigated Negative Declaration for the proposed project, which is tiered off the Fresno General Plan Master Environmental Impact Report (MEIR No. 2012111015)

It has been further determined that all applicable mitigation measures of SCH No. 2012111015 have been applied to the project, together with project specific mitigation measures, as necessary to assure that the project will not cause significant adverse cumulative impacts, growth inducing impacts and irreversible significant effects beyond those identified by SCH No. 2012111015 as provided by CEQA Section 15178(a). In addition, pursuant to Public Resources Code, Section 21157.6(b)(1), staff has determined that no substantial changes have occurred with respect to the circumstances under which the MEIR was certified and that no new information, which was not known and could not have been known at the time that the MEIR was certified as complete, has become available. Therefore, it has been determined based upon the evidence in the record that the project will not have a significant impact on the environment and that the filing of a mitigated negative declaration is appropriate in accordance with the provisions of CEQA Section 21157.5(a)(2) and CEQA Guidelines Section 15178(b)(1) and (2).

Based upon the attached environmental assessment and applicable mitigation measures, staff has determined that there is no evidence in the record that the project may have a significant effect on the environment and has prepared a Mitigated Negative Declaration for this project. A public notice of the attached Mitigated Negative Declaration for Environmental Assessment Application No. T-6191/P18-01235 was published in the Fresno Bee on March 22, 2019, with no comments received to date.

## **BACKGROUND / ANALYSIS**

Harbor & Associates, on behalf of BN 5499 LP, has filed Vesting Tentative Tract Map No. 6191/UGM and Conditional Use Permit No. P18-01235, pertaining to approximately 14.47 acres of property located on East Fancher Creek Drive, west of North Armstrong Avenue (north and south side of East Fancher Creek Drive). Vesting Tentative Tract Map No. 6191/UGM is a proposal to subdivide the property into a 125 lot single-family residential subdivision. Conditional Use Permit No. P18-01235 proposes a gated development with private streets and modified property development standards for 111 of the 125 lots. The remaining 14 lots are proposed on public streets and are located on the

south side of East Fancher Creek Drive. The subject property is located within the Fresno General Plan and the Roosevelt Community Plan, both plans designate the subject site for Medium Low (3.50 to 6.00 dwelling units per acre) and Medium Density Residential (5.00 to 12.00 dwelling units per acre) planned land uses. Lots 1-111 are proposed on proposed on approximately 11.13 acres at a density of 9.97 dwelling units per acre which is within the allowed Medium Density Residential (5.00 to 12.00 dwelling units per acre) designation. Lots 112-125 are proposed on approximately 3.00 acres at a density of 4.66 dwelling units per acre which is within the allowed Medium Low Density Residential (3.50 to 6.00 dwelling units per acre) designation. Vesting Tentative Tract Map No. 6191/UGM proposes a 125 lot single-family residential subdivision on approximately 14.47 acres at an overall density of 11.46 dwelling units per acre. Thus, the subject applications are consistent with the noted planned land uses and zoning approved for the project site and will implement the goals, objectives, and policies of the Roosevelt Community Plan and the Fresno General Plan.

### **Conditional Use Permit Application (CUP)**

It should be noted that an adjacent subdivision, Vesting Tentative Tract Map No. 6130/UGM, and related Conditional Use Permit Application No. C-16-052, were recommended for approval by the Planning Commission on November 2, 2016. Said subdivision is connected to the subject project via an 8' pedestrian paseo and both subdivisions are being developed by the same developer. The development standards, i.e. setbacks, wall height, building height/elevations etc. are virtually the same for both projects with the subject project essentially being a continuation of Vesting Tentative Tract Map No. 6130/UGM.

In addition to submitting a vesting tentative tract map, the applicant has submitted Conditional Use Permit Application No. P18-01235. Pursuant to Chapter 15, Article 59 of the FMC, a CUP is required in order to create a planned development. It is noted that only lots 1-111 are included within the Planned Development portion of the project.

No modifications, including setbacks, lot size, etc. are proposed for the lots located on the south side of East Fancher Creek Drive (lots 112-125) and which are zoned RS-4 (Single-Family Residential, Medium Low Density). Lots 112-125 shall comply with the development standards of the RS-4 zone district.

The applicant is proposing a product which will feature two story houses. The two story houses will measure a maximum of 26'-6" in height. The proposed height is within the 35' maximum in the RS-5 zone district.

As part of the CUP, an applicant may request a modification of development standards. Conditional Use Permit No. P18-01235 proposes modified property development standards, including reduced lot sizes and setbacks.

### **Reduced Yard Setbacks and Lot Size for lots on Private Streets (lots 1-111)**

#### Reduced Lot Size

The smallest proposed lots measure 35' x 60' and contain 2,100 sq. ft. The standard minimum lot size in the RS-5 (*Single-Family Residential, Medium Density*) zone district is 4000 sq. ft.

#### Reduced Front and Rear Yard Setbacks

The applicant is proposing 5' front yard setbacks. The standard minimum front yard setback in the RS-5 (*Single-Family Residential, Medium Density*) zone district is 13'.

The applicant is proposing 8' rear yard setbacks for a majority of the lots. The standard minimum rear yard setback in the RS-5 (*Single-Family Residential, Medium Density*) zone district is 10'.

It is noted that the proposed lots, adjacent to the existing single family residential development to the west of the site (lots 1-25), are not proposing a reduction of the rear yard setback. Rather, the applicant is proposing to provide a 20' setback to living space at this location. This is greater than what the FMC requires, which is 10'. Additionally, the lots abutting the light industrial zoned property to the east will have a minimum 10' setback to living space.

### **Landscaping/Walls/Open Space**

The applicant is required to provide a 15' landscape setback along East Fancher Creek Drive. A sound wall or earth berm (or combination) with a minimum height of 6' above finished lot grade is required for sound attenuation purposes along East Fancher Creek Drive. A 7' high solid wall along the easterly property line, property line which abuts Light Industrial zoned property to the east, is also required in order to help provide additional privacy between the differing land uses.

Additionally, after the temporary EVA noted above is removed, the applicant is required to construct a 6' decorative wall in its place since it will be visible from the existing subdivision to the west.

The proposed planned development proposes an approximate 0.50 acre open space that will likely feature a jungle gym and grassy open space (Exhibit A-5).

### **Pedestrian/Bicycle Trail**

The applicant is required to construct a bicycle/pedestrian trail, on the south side of East Fancher Creek Drive, within the limits of the map. The trail will promote walking in and around the neighborhood and promote connectivity to the future Fancher Creek commercial development located at the intersection of Tulare Street and Clovis Avenue.

### **Streets and Access Points**

The proposed project is located within Traffic Impact Zone III, pursuant to Figure MT-4 of the Fresno General Plan. In accordance with Fresno General Plan Policy MT-2-I, a Traffic Impact Study (TIS) was prepared by JLB Traffic Engineering Group, Inc. dated April 11, 2018 and addendum dated October 1, 2018, to assess the impacts of the new development on existing and planned streets. This assessment evaluated the impacts of the project by analyzing two intersections in the vicinity of the project during the AM and PM peak hours.

The TIS evaluated the impacts of the project by analyzing the following 2 study intersections in the vicinity of the project during the AM and PM peak hours for four traffic analysis scenarios. These scenarios include: (1) Existing Traffic Conditions; (2) Existing plus Project Traffic Conditions; (3) Near Term plus Project Traffic Conditions; (4) Cumulative Year 2035 plus Project Traffic Conditions.

Study Intersections include: a) Fowler Avenue & Belmont Avenue and b) Armstrong Avenue &

Belmont Avenue.

In summary, based on the analyses included in the TIS, the intersection of Armstrong and Belmont Avenues is currently operating at level of service (LOS) E in the AM peak hour, which is below the TIZ III standard of LOS D. The intersection of Armstrong and Belmont Avenues is projected to operate at LOS F in the AM peak hour with the addition of the project. The intersection of Armstrong and Belmont Avenues is projected to satisfy the Traffic Signal Warrant 3 - Peak Hour during the AM peak hour with the addition of the project. As such, the project is required to install a traffic signal, with protected left-turn phasing, at the intersection of Armstrong and Belmont Avenues. It is noted that the intersection of Fowler and Belmont Avenues is currently signalized.

The Public Works Department, Traffic Engineering Division has reviewed the proposed project and potential traffic related impacts for the proposed applications and has determined that the streets adjacent to and near the subject site will be able to accommodate the quantity and kind of traffic which may be potentially generated subject to the requirements stipulated within the memoranda from the Traffic Engineering Division dated July 12, 2018 and February 28, 2019. These requirements generally include: (1) The provision of a minimum two points of vehicular access to major streets for any phase of the development; (2) Street improvements, (including, but not limited to, construction of concrete curbs, gutters, pavement, underground street lighting systems; and, (3) Payment of applicable impact fees (including, but not limited to, the Traffic Signal Mitigation Impact (TSMI) Fee, and the Fresno Major Street Impact (FMSI) Fee.

The proposed project has incorporated pedestrian elements leading from the interior of the subdivision to exterior sidewalks and trail to make non-vehicular travel easy and convenient for accessibility to facilities providing for alternative modes of transportation. The trail will promote walking in and around the neighborhood and promote connectivity to the future Fancher Creek commercial development located at the intersection of Tulare Street and Clovis Avenue.

#### *Bridge Construction and Temporary Emergency Vehicle Access (EVA)*

Conditions of approval from the Public Works Department require the applicant to construct a bridge on East Fancher Creek Drive over the adjacent canal. Until the bridge is constructed, the sole vehicular access point to the project site for residents is from East Fancher Creek Drive via Armstrong Avenue to the east. A temporary Emergency Vehicle Access (EVA) point is proposed from East Nevada Avenue, which will be in use until such time that the bridge is constructed across over the adjacent canal. The temporary access is proposed from East Nevada Avenue (public right-of-way), which is within an existing neighborhood to the west of the project site. The Fire Department has reviewed the temporary EVA and has conditioned it appropriately, including, requiring “No Parking” signs or painting of the curb red along the existing East Nevada Avenue right-of-way (opposite side of the street from the existing two houses); this would allow Fire trucks to access the project site in the event of an emergency and East Fancher Creek Drive, via Armstrong Avenue to the east, somehow becomes blocked prohibiting use by emergency vehicles. It is noted that the temporary EVA is for emergency vehicles only and will be locked. Residents of the subject project will not be allowed to use the EVA. Once the bridge is constructed, there will be two access points to the site, including, from Fancher Creek Drive to the east via North Armstrong Avenue, as well as the newly created access point from Fancher Creek Drive from the west, crossing the bridge. The bridge across Fancher Creek Drive is required to be constructed within 2 years of the finalization of the subdivision agreement, at which time the temporary EVA will be removed by the developer; this includes the removal of the “No Parking” signs or painting of the curb red along the existing East

Nevada Avenue right-of-way.

### Sewer

The City of Fresno currently does not own capacity in the Fowler Avenue Trunk Sewer line north of Tulare Avenue; however, the City has negotiated a temporary exchange and interim use of capacity owned by the City of Clovis in the Fowler Avenue Trunk Sewer. This exchange of capacity is conditioned upon Fresno replacing Clovis' capacity with capacity in future facilities agreeable to Clovis and at a cost yet to be determined. Sewer facilities are available to the site subject to the conditions listed in the memoranda dated February 22, 2019.

### Water

Water facilities are available to provide service to the site subject to implementation of the Fresno General Plan policies and the mitigation measures of the related Master Environmental Impact Report and subject to the conditions listed in the memoranda dated January 28, 2019.

### FMFCD

The Fresno Metropolitan Flood Control District (FMFCD) has indicated that this project will have permanent drainage service and can be accommodated by the district. The project applicant shall comply with the FMFCD requirements as detailed in its memorandum dated March 14, 2019.

### Neighborhood Meeting

The applicant held a voluntary neighborhood meeting to discuss the project on March 12, 2019, at Temperance Kutner Elementary School. Staff did not attend the meeting. The applicant indicated that the meeting was productive and noted that some of the items discussed include the following:

- The applicant plans to build a similar entry sign for the subject project (Exhibit A-4) with a matching gate as was constructed for T-6130, which was recently approved and is under construction by the same applicant.
- The same elevations will be used for the subject application as were used in for T-6130.
- The subject application proposes an approximate 0.50 acre open space that will likely feature a jungle gym and grassy open space (Exhibit A-5).

The sign in sheet of attendees is attached as Exhibit E.

## **LAND USE PLANS AND POLICIES**

As proposed, the project would be consistent with the Fresno General Plan goals and objectives related to residential land use and the urban form:

Goal No. 7 of the Fresno General Plan encourages the City to provide for a diversity of districts, neighborhoods, housing types (including affordable housing), residential densities, job opportunities, recreation, open space, and educational venues that appeal to a broad range of people throughout the City.

Goal No. 8 of the Fresno General Plan encourages the development of Complete Neighborhoods and districts with an efficient and diverse mix of residential densities, building types, and affordability which are designed to be healthy, attractive, and centered by schools, parks, and public and commercial services to provide a sense of place and that provide as many services as possible within walking distance.

These Goals contribute to the establishment of a comprehensive city-wide land use planning strategy to meet economic development objectives, achieve efficient and equitable use of resources and infrastructure, and create an attractive living environment in accordance with Objective LU-1 of the Fresno General Plan.

Similarly, supporting Objective LU-2 of the General Plan calls for infill development that includes a range of housing types, building forms, and land uses to meet the needs of both current and future residents.

Likewise, Objective LU-5 of the General Plan calls for a diverse housing stock that will support balanced urban growth, and make efficient use of resources and public facilities.

Therefore it is staff's opinion that the proposed project is consistent with respective general and community plan objectives and policies and will not conflict with any applicable land use plan, policy or regulation of the City of Fresno.

#### Fresno County Airport Land Use Compatibility Plan

This project is exempt from review by the Airport Land Use Commission, since it is a vesting project and was accepted for processing on June 1, 2018, which is before December 3, 2018, which is the effective date of the recently adopted Fresno County Airport Land Use Compatibility Plan.

### **FRESNO MUNICIPAL CODE FINDINGS**

Based upon analysis of the applications, staff concludes that the required findings contained within Sections 15-5905 (Planned Development), 15-5306 (Conditional Use Permit Findings) and 15-3309 (Vesting Tentative Tract Map Findings) of the Fresno Municipal Code can be made. These findings are attached as Exhibit F.

### **HOUSING ELEMENT FINDINGS**

State law requires that when a jurisdiction permits development on a Housing Element Site at less than the established minimum residential capacity, the following findings must be made at the time of approval: (a) the reduction is consistent with the adopted general plan and (b) the remaining sites identified in the Housing Element are adequate to accommodate the City of Fresno's share of the Regional Housing Needs Allocation (RHNA). These findings are attached as Exhibit G.

### **GROUNDINGS FOR DENIAL OF TENTATIVE MAP**

The Subdivision Map Act (California Government Code §§ 66410, *et seq.*) provides that approval of a proposed subdivision map shall be denied if any of the following findings are made.

1. That the proposed map is not consistent with applicable general and specific plans as specified in

Section 65451 of the SMA.

2. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access of or use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

Staff has reviewed the proposed vesting tentative tract map and has determined that none of the findings above apply to the project and, therefore, has recommended approval subject to the conditions of approval.

### **Council District Plan Implementation Committee**

The Council District 5 Plan Implementation Committee recommended approval of the project on August 13, 2018, by a vote of 2 to 0.

### **Notice of Planning Commission Hearing**

The Development and Resource Management Department mailed notices of this Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property (see attached Noticing Vicinity Map - Exhibit H).

### **CONCLUSION / RECOMMENDATION**

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan and the Roosevelt Community Plan; its compatibility with surrounding existing or proposed uses; and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that Vesting Tentative Tract Map No. 6191/UGM and Conditional Use Permit No. P18-01235 are appropriate for the project site.

Attachments:

Exhibit A: Vesting Tentative Tract Map No. 6191/UGM January 4, 2019  
Exhibit A-1: Entry Plan/Typical Lot Plan January 4, 2019  
Exhibit A-2: Site plan dated January 4, 2019  
Exhibit A-3: Elevations dated January 4, 2019  
Exhibit A-4: Sample Signage and Landscaping at gated entryway  
Exhibit A-5: Conceptual Open Space area  
Exhibit B: Application for Subject Project  
Exhibit C: 2018 Aerial Photograph of Site  
Exhibit D: Fresno General Plan Planned Land Use Map  
Exhibit E: Sign-in sheet for Voluntary Neighborhood Meeting on March 12, 2019  
Exhibit F: Fresno Municipal Code Findings  
Exhibit G: Housing Element Findings  
Exhibit H: Noticing Vicinity Map (1000 feet)  
Exhibit I: Conditions of Approval T- 6191/UGM April 17, 2019  
Exhibit J: Conditions of Approval for CUP No. P18-01235 April 17, 2019  
Exhibit K: Comments and Requirements from Responsible Agencies  
Exhibit L: Environmental Assessment No. T-6191/P18-01235, Mitigated Negative Declaration, March 22, 2019