



## Legislation Details (With Text)

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**Title:** 10:45 AM - Consider an appeal filed by Councilmember Caprioglio, appealing the Planning Commission's action to approve Vesting Tentative Tract Map No. 6033, Conditional Use Permit No. C-13-092 and related environmental findings, by Jeffrey T. Roberts of Granville Homes, Inc., for property located on the northeast corner of North Fowler and East Clinton Avenues (Council District 4) (Continued - Time and date to be determined)  
**Sponsors:** Paul Caprioglio  
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**Attachments:** 1. Supplement 1

Date	Ver.	Action By	Action	Result
7/17/2014	1	City Council	continued	

## REPORT TO THE CITY COUNCIL

**July 17, 2014**

**FROM:** JENNIFER K. CLARK, Director  
Development and Resource Management Department

**BY:** MIKE SANCHEZ, Assistant Director  
Development Services Division  
  
SOPHIA PAGOULATOS, Supervising Planner  
WILL TACKETT, Supervising Planner  
Development Services Division

## SUBJECT

**10:45 AM** - Consider an appeal filed by Councilmember Caprioglio, appealing the Planning Commission's action to approve Vesting Tentative Tract Map No. 6033, Conditional Use Permit No. C-13-092 and related environmental findings, by Jeffrey T. Roberts of Granville Homes, Inc., for property located on the northeast corner of North Fowler and East Clinton Avenues **(Council District 4) (Continued - Time and date to be determined)**

## RECOMMENDATION

Staff recommends the City Council take the following action:

1. ADOPT the Mitigated Negative Declaration for the Conditional Use Permit No. C-13-092 and Vesting Tentative Tract Map No. T-6033 prepared for Environmental Assessment No. A-11-003, R-11-003, C-13-092, T6033 dated March 21, 2014.
2. ADOPT RESOLUTION denying appeal and approving Conditional Use Permit Application No. C-13-092; and
3. ADOPT RESOLUTION denying appeal and approving Vesting Tentative Tract Map No. 6033/UGM.

## EXECUTIVE SUMMARY

Jeffrey T. Roberts, on behalf of Granville Homes, Inc., has filed Vesting Tentative Tract Map No. 6033/UGM and Conditional Use Permit Application No. C-13-092 pertaining to approximately 31.87 acres of property located on the northeast corner of North Fowler and East Clinton Avenues. Vesting Tentative Tract Map No. 6033/UGM proposes to subdivide the property into a 169-unit single family residential subdivision. Conditional Use Permit No. C-13-092 proposes a development with public streets and modified property development standards for all of the proposed lots.

This project was considered by the Fresno City Planning Commission at its regular meeting on April 16, 2014. The conditions of approval at that time allowed for modified property development standards including lot size, lot coverage and yard (setback) requirements. Thirty five lots were proposed with 7-foot garage setbacks, however the conditions of approval required a minimum of 18-foot garage setbacks for all lots, consistent with the Fresno Municipal Code (FMC). Specifically, the FMC requires a minimum garage setback of 20 feet which can be reduced to 18 feet dependent upon the style of garage door. The Planning Commission approved staff's recommendation, which required an 18-foot garage setback on all public streets for this project. The option was also provided to make the streets private, thus allowing garage setbacks of less than 18 feet, however this option was not chosen by the applicant.

On June 19, 2014, an appeal of the Commission's decision regarding the subject applications was filed by Councilmember Caprioglio. In response to the appeal, the Planning Commission's action is set aside and a City Council public hearing is scheduled and noticed in accordance with the Sections 12-401-B and 12-401-C-2 of the FMC. Staff recommends denial of the appeal and approval of the project consistent with the Planning Commission action on April 16, 2014. Staff also supports approval of garage setbacks less than 18 feet on private streets governed by a homeowner's association.

## BACKGROUND

### Project Information

#### PROJECT:

A 169-lot, single family residential subdivision to be developed at a density of 5.3 dwelling units per acre. The project proposes modified property development standards on all lots and public streets

on an approximately 31.87 net acre portion of the subject property

**APPLICANT:**

Jeffrey T. Roberts on behalf of Granville Homes, Inc.

**LOCATION:**

Located on the northeast corner of North Fowler and East Clinton Avenues (**Council District 4, Councilmember Caprioglio**)

**SITE SIZE:**

Approximately 31.87 acres

**ZONING:**

Existing- R-1/UGM/cz (*Single Family Residential/Urban Growth Management/conditions of zoning*) for portion of APN 310-041-38 and C-1/UGM/cz (*Neighborhood Shopping Center/Urban Growth Management/conditions of zoning*) for APN 310-041-39

Proposed- No change

**PLAN DESIGNATION AND CONSISTENCY:**

The proposed 169-lot single family residential subdivision is consistent with the 2025 Fresno General Plan and McLane Community Plan designation of the site for medium density residential planned land uses pursuant to Section 12-304

<[http://library.municode.com/HTML/14478/level3/MUCOFR\\_CH12LAUSPLZO\\_ART3GECOAPZO.](http://library.municode.com/HTML/14478/level3/MUCOFR_CH12LAUSPLZO_ART3GECOAPZO.-B-23)  
-B-23 of the FMC

**ENVIRONMENTAL FINDING:**

Mitigated Negative Declaration dated March 21, 2014

**PLAN COMMITTEE RECOMMENDATION:**

The District 4 Plan Implementation Committee recommended approval of the applications on April 14, 2014.

**STAFF RECOMMENDATION:**

Deny appeal and approve the vesting tentative tract map and conditional use permit applications subject to compliance with the Conditions of Approval for T-6033/UGM and for C-13-092 dated April 16, 2014

Fresno City Planning Commission Action

This project was considered by the Fresno City Planning Commission at its regular meeting on April 16, 2014. The conditions of approval at that time allowed for modified property development standards including 15-foot rear yards (standard rear yard is 20 feet), 3-foot interior side yards (standard is 5 feet), and 8-foot street side yards (standard is 10 feet). Thirty five lots were proposed with 7-foot garage and building front setbacks, however the conditions of approval required a minimum of 18-foot garage setbacks.

The Fresno Municipal Code requires a minimum garage setback of 20 feet which can be reduced to 18 feet dependent upon the style of garage door. Staff recommends an 18-foot setback on all public streets for this project but is supportive of garage setbacks of less than 18 feet on private streets governed by a homeowners association. The homeowners

association would be responsible for liability and enforcement on private streets.

After a complete hearing on April 16, 2014, the Commission recommended approval of the subject applications and the conditions of approval proposed by staff, requiring a minimum 18 foot setback from garage to back of sidewalk on public streets. The applicant did not object to the 18-foot garage setback at the Planning Commission hearing.

#### Analysis of Appeal

The applicant is proposing to develop single-family residences with reduced yards and, specifically, on thirty-five lots, a minimum of 7 foot front yards, 3 foot side yards and 10 foot rear yards. The typical yards within the R-1 (*Single Family Residential District*) zone district are a 15 foot front yard, 5 foot side yard and 20 foot rear yard. The Fresno Municipal Code requires a minimum garage setback of 20 feet which can be reduced to 18 feet dependent upon the style of garage door. Staff recommends an 18-foot garage setback on all public streets for this project but is supportive of garage setbacks of less than 18 feet on private streets governed by a homeowners association. The homeowners association would be responsible for liability and enforcement on private streets.

The applicant has provided a conditional use permit exhibit (Exhibit A-2) which depicts six typical lots showing lot dimensions, minimum yard setbacks and potential house placement. Of the six typical lots, only one shows garages with an 18 foot setback to sidewalk, while the remaining five show garages with a 7'-8' setback to sidewalk. Below, the five typical lots with a proposed 7'-8' setback from garage to sidewalk are shown. The rear yard setbacks for the housing product proposed are currently at 25', 24', 20' and 14'. Should the applicant be required to provide an 18 foot setback from garage to sidewalk, it will necessitate moving the houses 10 feet to the rear, which will result in rear yard setbacks of 15', 14', 10' and 4', respectively, if the applicant elects to use the same floor plans (these are the same floor plans and lot sizes approved for T-6045, Copper River and it would seem appropriate to use different products for different subdivisions). Redesigning the floor plans would allow accommodation of an 18-foot garage setback and conservation of more rear yard space if that were the goal.

Pursuant to the conditions of approval for this project, which reference section 12-207.5.E.1 of the FMC regarding setbacks for a garage, staff has required a minimum 18 foot setback from garage to back of sidewalk, for the following reasons:

- To provide enough room for a vehicle to park in the driveway without blocking the sidewalk in violation of the California Building Code and Americans with Disabilities Act (ADA); vehicles parked on the sidewalk would force pedestrians to walk in the street.
- To provide adequate visibility to the driver in order to avoid a conflict with a pedestrian using the sidewalk.
- In order to make the findings required for a Conditional Use Permit and a Tentative Map
  - Conditional Use Permit Finding #3: The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located.
  - Tentative Map Finding #4: The proposed subdivision design and improvements are not likely to cause serious public health and safety problems, because the conditions of approval have shown and will insure that the subdivision conforms with city health and safety standards.

Below are the arguments of the applicant as to why this appeal should be considered, along with staff responses:

1. There is a long history of approvals for shorter driveway lengths (less than 18 feet) as these are regularly used on private residential streets in the City of Fresno. It has been a common practice for over 20 years.

Response: Staff is supportive of garage setbacks of less than 18 feet on private streets, as a homeowners association would enforce any necessary parking provisions and assume liability for any accidents or injury that occurred on subdivision property. However on public streets, the city does not have the staff to enforce parking provisions on residential streets, nor does it wish to assume liability for potential accident or injury.

2. There are numerous examples in the City of Fresno of driveways shorter than 18' with access to public streets. These are typically found in established neighborhoods, yet some are located in newer, growing areas.

Response: no evidence (examples) have been submitted for staff evaluation

3. There is no documentation of health and safety concerns/accidents/etc. as a result of having shorter driveways in the City of Fresno. Additionally, shorter driveways, as allowed on private streets, are approved without any concern for any supposed health and safety risk.

Response: again, no evidence (examples) have been submitted for staff evaluation. However, it can be clearly demonstrated that garage setbacks of 7-8 feet do not allow the driver backing out of the garage any visibility to the sidewalk when backing out; thus the vehicle is already in the sidewalk before the driver can see the sidewalk area. Public Works standards include a visibility triangle for driveways, and garage setbacks of 7-8 feet violate this standard.

#### **Typical Lots Showing 7'- 8' setback from Garage to Sidewalk**

See attached exhibit

#### **Typical Lot Showing 18' setback from Garage to Sidewalk**

See attached exhibit

#### **Streets and Access Points**

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 April 10, 2014. 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.

#### **Notice of City Council Meeting**

The Development and Resource Management Department mailed notices of this City Council hearing to surrounding property owners within 500 feet of the subject property.

#### **Land Use Plan and Policies**

The subject site is designated for medium density residential planned land uses by the 2025 Fresno General Plan and the McLane Community Plan.

The objectives and policies of the 2025 Fresno General Plan encourage the development of master planned communities in an attempt to maximize the efficient use of the land. Policy C-8-g states: Support the planning and development of master planned/mixed use communities such as the Dominion Project.

Additionally, Objective C-10 states: Promote the development of more compact pedestrian friendly, single-family residential projects to aid in the conservation of resources such as land, energy, and materials.

#### **Conditional Use Permit Application Findings (Planned Development)**

Conditional Use Permit Application No. C-13-092 proposes the development of a 169-lot single family residential planned development. The planned development will provide modified property development standards. Based upon analysis of the conditional use permit application and subject to the applicant's compliance with the Conditions of Approval dated April 16, 2014, staff concludes that the following required findings of Section 12-405-A-2 of the Fresno Municipal Code can be made.

1. All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and

shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,

Conditional Use Permit Application No. C-13-092 will comply with all applicable codes, including, landscaping, walls, etc., given that the special conditions of project approval will ensure that all conditions are met.

2. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,

The Public Works, Traffic Engineering Division reviewed the proposed project and assessed the adjacent streets to ensure that the proposal would not have significant impacts on traffic and the surrounding community.

3. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of the FMC.

The site is vacant and with the adoption of the 2025 Fresno General Plan, the city analyzed the impacts of converting vacant land into urban uses and determined that it is necessary to convert land within the sphere of influence in an attempt to provide housing, growth, employment opportunities, etc. The Development and Resource Management Department has determined that the proposed use will not be detrimental to the public welfare or be injurious to property or improvements in the area in which the property is located if developed in accordance with the various conditions/requirements established through the related vesting tentative tract map application review and conditional use permit application review processes.

#### Vesting Tentative Tract Map Findings

The Subdivision Map Act (California Government Code §§ 66400, *et seq.*) requires that a proposed subdivision not be approved unless the map, together with its design and improvements, is found to be consistent with the General Plan and any applicable specific plan (Finding No. 1 below).

State law further provides that the proposed subdivision map be denied if any one of the Finding Nos. 2 - 5 below is made in the negative. In addition, State law requires that a subdivision be found to provide for future passive and natural heating or cooling opportunities in the subdivision development (Finding No. 6 below).

1. The proposed subdivision map, together with its design and improvements, is consistent with the City's 2025 General Plan and the McLane Community Plan, because the plans designate the site for medium density residential planned land uses and the project design meets the density and zoning ordinance criteria for development.
2. This site is physically suitable for the proposed type and density of development, because conditions of approval will ensure adequate access and drainage on and off the site; and, that development shall occur in accordance with adopted standards, goals, objectives, and policies for development in the City of Fresno.
3. The proposed subdivision design and improvement is not likely to cause substantial and considerable damage to the natural environment, including fish, wildlife or their habitat, because the area is not known to contain any unique or endangered species and the urbanized nature of the area in which the site is located.
4. The proposed subdivision design and improvements are not likely to cause serious public health and safety problems, because the conditions of approval have shown and will insure that the subdivision conforms with city health and safety standards.
5. The proposed subdivision design will not conflict with public easements within or through the site, because conditions of approval will assure noninterference with any existing or proposed public easements.
6. The design of the subdivision provides, to the extent feasible, for future passive and natural heating or cooling opportunities in the subdivision, because of the appropriate use and placement of landscaping plant materials and because of the orientation of the proposed lots.

The subdivision map, based on the required findings for approval and subject to the recommended conditions of

approval, and the standards and policies of the 2025 Fresno General Plan and McLane Community Plan, complies with applicable zoning and subdivision requirements. Based upon the plans and information submitted by the applicant and the recommended conditions of project approval, staff has determined that these findings can be made.

## ENVIRONMENTAL FINDINGS

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 McLane Community Plan area, including the Master Environmental Impact Report (MEIR) No. 10130 for the 2025 Fresno General Plan (SCH#2001071097) and Mitigated Negative Declaration (MND) No. A-09-02 (SCH#2009051016). 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 amendment of the adopted 2025 Fresno General Plan has been determined to not be fully within the scope of MEIR No. 10130 as provided by the CEQA, as codified in the Public Resources Code (PRC) Section 21157.1(d) and the CEQA Guidelines Section 15177(c). It has been further determined that all applicable mitigation measures of MEIR No. 10130 and MND No. A-09-02 have been applied to the project, together with project specific mitigation measures necessary to assure that the project will not cause significant adverse cumulative impacts, growth inducing impacts and irreversible significant effects beyond those identified by MEIR No. 10130 or MND No. A-09-02 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 the list of identified 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 draft mitigated negative declaration for this project. A public notice of the attached mitigated negative declaration finding for Environmental Assessment Application No. A-11-003/R-11-003/C-13-092/T-6033/UGM was published on March 21, 2014.

## LOCAL PREFERENCE

N/A

## FISCAL IMPACT

Affirmative action by the Council will result in timely deliverance of the review and processing of the application as is reasonably expected by the applicant/customer. Prudent financial management is demonstrated by the expeditious completion of this land use application inasmuch as the applicant/customer has paid to the city a fee for the processing of this application and that fee is, in turn, funding the respective operations of the Development and Resource Management Department.

Attachments:

Exhibit A:	Vicinity Map
Exhibit B:	Aerial Photograph
Exhibit C:	Vesting Tentative Tract Map No. T-6033/UGM
Exhibit D:	Exhibits for Conditional Use Permit Application No. C-13-092
Exhibit E:	Conditions of Approval for C-13-092
Exhibit F:	Conditions of Approval for T-6033

Exhibit G	Environmental Assessment
Exhibit H:	Planning Commission Resolutions
Exhibit I:	City Council Resolutions