



Legislation Details (With Text)

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Title: Consider an appeal filed by Councilmember Caprioglio, appealing the Planning Commission's action to approve Conditional Use Permit No. C-13-092 and related Vesting Tentative Tract Map No. 6033/UGM, and environmental findings, by Jeffrey T. Roberts of Granville Homes, Inc, for property located on the northeast corner of N. Fowler and E. Clinton Avenues (Council District 4) (Continued from October 23, 2014)
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. RESOLUTION - Deny the appeal and approve Conditional Use Permit No. C-13-092
3. RESOLUTION - Deny the appeal and approve Vesting Tentative Tract Map No. 6033/UGM
Sponsors: Planning and Development Department
Indexes:
Code sections:
Attachments: 1. Exhibit A -Vicinity Map.pdf, 2. Exhibit B - Aerial Photograph.pdf, 3. Exhibit C - Vesting Tentative Tract Map T-6033UGM.pdf, 4. Exhibit D - Conditional Use Permit C-13-092.pdf, 5. Exhibit E - Conditions of Approval for C-13-092.pdf, 6. Exhibit F - Conditions of Approval for T-6033.pdf, 7. Exhibit G - Environmental Assessment.pdf, 8. Exhibit H - Planning Commission Resolutions.pdf, 9. Exhibit I - City Council Resolutions.pdf, 10. Exhibit J - Appeal Letters.pdf, 11. Exhibit K - Photos.pdf, 12. Exhibit L - Floor Plan Alternatives.pdf

Date	Ver.	Action By	Action	Result
2/5/2015	1	City Council	adopted as amended	Pass

REPORT TO THE CITY COUNCIL

February 5, 2015

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

THROUGH: MIKE SANCHEZ, Assistant Director
Development and Resource Management Department

BY: SOPHIA PAGOULATOS, Supervising Planner
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Development Services Division

SUBJECT

Consider an appeal filed by Councilmember Caprioglio, appealing the Planning Commission's action

to approve Conditional Use Permit No. C-13-092 and related Vesting Tentative Tract Map No. 6033/UGM, and environmental findings, by Jeffrey T. Roberts of Granville Homes, Inc, for property located on the northeast corner of N. Fowler and E. Clinton Avenues (Council District 4)
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RECOMMENDATIONS

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
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EXECUTIVE SUMMARY

Jeffrey T. Roberts, on behalf of Granville Homes, Inc., filed Conditional Use Permit Application No. C-13-092 and Vesting Tentative Tract Map No. 6033/UGM 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 at a density of 5.3 dwelling units per acre. Conditional Use Permit No. C-13-092 proposes a development with public streets and modified property development standards for all of the proposed lots (see Exhibits A through F for maps, exhibits and conditions).

The applicant has stated that deed restrictions, enforced by private property agreements, will be used to ensure compliance with parking standards. These types of assurances have been provided in the past without ensuring compliance (see Exhibit K for photos).

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 for lot size, lot coverage and yard (setback) requirements. Thirty-five lots were proposed with 7-foot garage setbacks, however the conditions of approval required 18-foot garage setbacks. The Fresno Municipal Code (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 (see Exhibit J for appeal letters). In response to the appeal, the Planning Commission's action is set aside and a City Council public hearing was scheduled and noticed in accordance with Sections 12-401-B and 12-401-C-2 of the FMC. Staff recommends denial of the appeal and approval of the project as approved by the Planning Commission. Staff also supports approval of garage setbacks less than 18 feet on private streets.

BACKGROUND

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 front and 15-foot and 10-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 setbacks, however the conditions of approval required 18-foot garage setbacks.

The FMC 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, including the requirement for a minimum 18-foot setback from garage to back of sidewalk on public streets (see Exhibit H for Planning Commission Resolutions).

Analysis

The reasons for requiring the 18-foot garage setbacks on public streets are the following:

1. Pedestrian Safety: the 18-foot garage setback (driveway) provides 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. Moreover, driveways less than 18 feet in length do not provide adequate visibility to the driver backing out of the garage, thereby jeopardizing pedestrian safety.
2. Other Design Options Available: while it is acknowledged that the 35 lots in question are smaller lots with more design challenges, there are many other options available (as discussed at the City Council Workshop held on August 21, 2014) to achieve the same densities and maintain an attractive, safe and pedestrian-friendly streetscape. For example:
 - a. Two story floor plans;
 - b. Recessed garages (18 feet) with reduced front setbacks for remainder of façade;
 - c. Alley loaded option with garages located in rear;
 - d. Shared driveways/auto court concept, similar to cul-de-sac but with private drives;
 - e. Swing garages (garages close to the sidewalk with turn-in entry)
 - f. Cluster housing;
 - g. Tandem-parked garages (designed to park two cars end-to-end rather than adjacent to one another).
3. Streetscape Design: the 7-8 foot garage setbacks proposed in T-6033/C-13-092 result in a streetscape that is dominated by garages. The garage is the widest element of the facade, and in half of the plans protrudes about 10 feet closer to the sidewalk than the living area of the dwelling.
4. Municipal Resources: the City does not have the resources to enforce the parking issues that would result from such a design, nor does it have the resources to assume the liability related to reduced pedestrian safety.

The applicant has provided a conditional use permit exhibit (Exhibit D) which depicts eight typical lots showing lot dimensions, minimum yard setbacks and potential house placement. Of the eight typical lots, four show garages with an 18-foot setback to sidewalk, while the remaining show garages with a 7'-8' setback to sidewalk. The four typical lots with a proposed 7'-8' setback from garage to sidewalk are shown in Exhibit D, page 3. The rear yard setbacks of the potential house placement 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. Only the plan with that would result in the 4-foot rear yard setback would be non-compliant with the setbacks allowed through the conditional use permit; all of the other plans would comply. All of the two-story floor plans would meet approved standards and result in the larger rear yard sizes. Alternatively, the homes could be re-designed to fit the lots (see Exhibit L for alternative floor plans).

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.

The project is designated for medium low density (3.5-6.0 dwelling units per acre) according to the recently updated General Plan land use map. Since Conditional Use Permit No. C-13-092 and Tract Map T-6033 propose a residential subdivision with a density of 5.3 dwelling units per acre, the project is considered to be consistent with the recently updated General Plan.

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 FMC 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 (see Exhibit J). This process included the distribution of requests for comment from other responsible or affected agencies and interested organizations.

Preparation of the environmental assessment covered not only the conditional use permit and tract map currently under review, but also the related plan amendment and rezone applications, which were approved by the City Council on May 15, 2014. Completion 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 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.

It should be noted that the city's General Plan update and new MEIR (SCH# 2012111015) went into effect on January 20, 2015. Since the conditional use permit and tract map are consistent with the land use map of the newly adopted General Plan, no additional environmental impacts are anticipated to result from the proposed project.

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 prepared a 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.

Exhibits:	Exhibit A:	Vicinity Map
	Exhibit B:	Aerial Photograph
	Exhibit C:	Vesting Tentative Tract Map No. T-6033/UGM
	Exhibit D:	Exhibits for 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
	Exhibit J:	Appeal Letters
	Exhibit K:	Photos
	Exhibit L:	Floor Plan Alternatives