



## Legislation Details (With Text)

**File #:** ID18-1407      **Version:** 1      **Name:**

**Type:** Action Item      **Status:** Passed

**File created:** 11/13/2018      **In control:** City Council

**On agenda:** 12/6/2018      **Final action:** 12/6/2018

**Title:** CONTINUED HEARING to consider Pre-zone Application No. R-17-019 and related Environmental Assessment No. R-17-019. This application pertains to ±39.3 acres of property located on the north and south sides of West Clinton Avenue between North Hayes and North Polk Avenues (Council District 3-Baines).

1. ADOPT the Mitigated Negative Declaration prepared for Environmental Assessment No. R17-019 dated September 28, 2018.

2. BILL (for introduction and adoption) - Approving Pre-zone Application No. R-17-019 pertaining to property north of West Clinton Avenue which proposes to amend the Official Zone Map from the Fresno County RR (Rural Residential) zone district to the City of Fresno RS-5/UGM (Residential Single Family, Medium Density/Urban Growth Management-14.64 acres) and the RS-4/UGM (Residential Single Family, Medium Low Density -20 acres) zone districts and that portion south of Clinton Avenue from County R-R (Rural Residential) zone district to the RS-5/UGM/cz (Residential Single Family, Medium Density/Urban Growth Management, conditions of zoning- 4.66 acres) consistent with the Fresno General Plan planned land uses.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A Vicinity Map, 2. Exhibit A-1 Project Area Map, 3. Exhibit E Pre-zone Map (Requested), 4. Exhibit B Aerial Photograph, 5. Exhibit C Public Hearing Notice Mailing List Vicintiy Map, 6. Exhibit D Fresno General Plan Designation, 7. Exhibit E-1 Pre-zone Map (Recommended), 8. Exhibit F Sequence of Development, 9. Exhibit G Project Information Tables, 10. Exhibit H Municipal Code Findings, 11. Exhibit I Tentative Tract Maps 5560 and 5881, 12. Exhibit J Planning Commission Resolution, 13. Exhibit K Water Demand Analysis, 14. Exhibit L Environmental Assessment No. R-17-019, 15. Exhibit M Application Material, 16. Exhibit N Ordinance Bill.pdf, 17. Exhibit O Power Point Presentation.pdf

Date	Ver.	Action By	Action	Result
12/6/2018	1	City Council	approved	Pass

## REPORT TO THE CITY COUNCIL

**December 6, 2018**

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

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

BONIQUE EMERSON, Planning Manager  
Development Services Division

**BY:** BRUCE BARNES, Project Manager  
Development Services Division

## **SUBJECT**

CONTINUED HEARING to consider Pre-zone Application No. R-17-019 and related Environmental Assessment No. R-17-019. This application pertains to ±39.3 acres of property located on the north and south sides of West Clinton Avenue between North Hayes and North Polk Avenues (Council District 3-Baines).

1. ADOPT the Mitigated Negative Declaration prepared for Environmental Assessment No. R17-019 dated September 28, 2018.
2. BILL (for introduction and adoption) - Approving Pre-zone Application No. R-17-019 pertaining to property north of West Clinton Avenue which proposes to amend the Official Zone Map from the Fresno County RR (*Rural Residential*) zone district to the City of Fresno RS-5/UGM (*Residential Single Family, Medium Density/Urban Growth Management-14.64 acres*) and the RS-4/UGM (*Residential Single Family, Medium Low Density -20 acres*) zone districts and that portion south of Clinton Avenue from County R-R (*Rural Residential*) zone district to the RS-5/UGM/cz (*Residential Single Family, Medium Density/Urban Growth Management, conditions of zoning- 4.66 acres*) consistent with the Fresno General Plan planned land uses.

## **EXECUTIVE SUMMARY**

Pre-zone Application No. R-17-019, filed by Jeffrey Roberts on behalf of Assemi and Sons, Inc., pertains to ±39.3 acres of property located on the north and south side of West Clinton Avenue between North Hayes and North Polk Avenues. The project is a request to amend the Official Zone Map from the Fresno County RR (*Rural Residential*) zone district to the City of Fresno RS-5/UGM (*Residential Single Family, Medium Density/Urban Growth Management-19.3 acres*) and the RS-4/UGM (*Residential Single Family, Medium Low Density -20 acres*) zone districts consistent with the Fresno General Plan planned land uses (see Exhibit E). The portion of the project located south of West Clinton Avenue, 4.66 acres is included within Growth Area 2. The pre-zone of the property is for the purpose of facilitating a future annexation, which also proposes detachment of the property from the Kings River Conservation District and the North Central Fire Protection District and annexation to the City of Fresno. The applicant will initiate this annexation through a land owner petition. These actions will be under the jurisdiction of the Local Agency Formation Commission. The applicant intends to develop the property with two single family Tract Maps (see Exhibit I).

## **BACKGROUND / ANALYSIS**

Pre-zone Application No. R-17-019, which was filed by Jeffrey Roberts of Assemi and Sons, Inc., is a request to amend the Official Zone Map from the Fresno County RR (*Rural Residential*) zone district to the City of Fresno RS-5/UGM (*Residential Single Family, Medium Density/Urban Growth Management-19.3 acres*) and the RS-4/UGM (*Residential Single Family, Medium Low Density -20 acres*) zone districts consistent with the Fresno General Plan planned land uses. The pre-zone of the property is for purpose of facilitating a future annexation, which also proposes detachment of the property from the Kings River Conservation District and the North Central Fire Protection District and annexation to the City of Fresno. The applicant will initiate this annexation through a land owner

petition. These actions will be under the jurisdiction of the Local Agency Formation Commission.

Adjacent uses to the north, south, east and west of subject site include rural residential single-family homes and a school. The portion of the property south of West Clinton Avenue is within Growth Area 2.

After annexation into the City of Fresno, the applicant intends to construct two single-family residential housing tracts. Tract Map 5560 proposes to construct 88 single-family homes and has a density of 4.63 units to the acre. Tract Map 5881 proposes to construct 50 single family homes and has a density of 5.19 units to the acres. These tract maps are consistent with the planned land use and have already been approved by the City. One of these maps expired in August 2018 and the other is set to expire in December of 2018. No extension requests have been filed to date.

### **Growth Area 2 and Water needs**

As mentioned above, a portion of the property included in the rezone request includes property within Growth Area 2. A policy contained in the Fresno General Plan calls for the City to “focus on infill development as well as new development within Growth Area 1 based on planned infrastructure expansion, public service capacity, and fiscal considerations...Growth Area 2 needs critical infrastructure improvements and the City does not anticipate funding for this area can be committed in the near-term.”

According to an agreement between the City of Fresno and the Fresno Irrigation District, projects proposed in Growth Area 2 must secure a “permanent surface water allotment” to serve the property and properties must relinquish surface water allocation rights to the Fresno Irrigation District. The applicant has not secured a surface water allotment-See Exhibit E-1. In addition, the applicant has not provided a water assessment for the property in Growth Area 2 that analyses the full development potential of the site, therefore, staff was unable to fully assess that property. However, a condition of zoning and a covenant that restricts any further development (additional residential development or establishment of agricultural farming) on the vacant portion of the property located in Growth Area 2 south of Clinton Avenue could be recommended. Based upon analysis of the application in accordance with the Fresno Municipal Code, staff concludes that the required Rezone findings of Section 15-5812 of the FMC can be made for the portion of the subject site within Growth Area 1. These findings can also be made for the subject site within Growth Area 2, provided that a condition of zoning is included and a covenant be executed by the property owner restricting development on the subject property as noted above. These findings are attached as Exhibit H. In the event that the Growth Area 2 property owner wishes to develop the balance of his site, it will necessitate the filing of a future rezone application to remove the condition of zoning as well as secure surface water supply assessment.

### **Timeline**

Although the proposed project was submitted in October of 2017, the application was not deemed complete until May of 2018 when the required traffic study was submitted. The environmental review process, which typically takes a minimum of 90 days for a mitigated negative declaration, could not begin until the traffic study was submitted. The project initially went to Planning Commission in September 2018, which is within our targeted timelines for a Level 4 project. Given that the applicant did not have owner authorization to submit an application for the property in Growth Area 2, that property was excluded from the Planning Commission recommendation pursuant to the requirements

of the Fresno Municipal Code. At the initial Planning Commission hearing, the Commission, who has the ability to initiate a rezone pursuant to Section 15-5803-A-1 of the Fresno Municipal Code, requested that the property in Growth Area 2 be included in the project description and the item was referred back to staff. The project subsequently went back to Planning Commission in October 2018.

### **Planning Commission Action**

On October 17, 2018, the Planning Commission voted 4 to 2, with one absent, to adopt a resolution in support of the project. The support was conditioned on the applicant providing a "Water Supply Assessment" for the 4.66 acre site located south of the West Clinton Avenue, the Water Supply Assessment being included in the Mitigated Negative Declaration, and any future developer of the parcel south of Clinton Ave complying with the FID Conveyance Agreement from December 15, 2016. . Following this meeting, the applicant provided a "Water Demand Analysis Data" work sheet for the existing single-family home rather than full extent of development that could occur on the 4.66 acre site which could be as many as 55 single family homes. Upon further request, the applicant provided additional correspondence that estimated water use for up to 24 dwelling units, but did not include substantial evidence to support this conclusion. The Planning Commission Resolution and the Water Demand Analysis are attached as Exhibits J and K respectively.

### **Land Use Plans and Policies**

As proposed, the project would be consistent with the Fresno General Plan goals and objectives related to Medium and Medium-low Residential planned land use and the urban form:

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

Objective LU-5-b. Medium-Low Density Residential Uses. Promote medium-low density residential uses to preserve existing uses of that nature or provide a transition between low and medium density residential areas.

Objective LU-5-c. Medium Density Residential Uses. Promote medium density residential uses to maximize efficient use of residential property through a wide range of densities.

These Objectives noted above 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.

Therefore, it is staff's opinion that the proposed *recommended* project including the property located in Growth Area 2 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 (see Exhibit E-1). Furthermore, the proposed project, including the design and improvement of the subject property, is found; (1) to be consistent with the goals, objectives and policies of the applicable Fresno General Plan and West Area Community Plan; (2) to be suitable for the type and density of development; (3) to be safe from potential cause or introduction of serious public health problems; and, (4) to not conflict with any public interests in the subject property or adjacent lands.

## **Public Resources**

Evaluation of public services capacity and availability for the area has determined that public infrastructure improvements exist within the surrounding area to serve existing development as well as future development located in Growth Area 1, but not Growth Area 2. Furthermore, the proposed project will be obligated to pay fair share and proportional payment of fees and all development mitigation costs. The Department of Public Utilities (DPU) has determined that adequate sanitary sewer and water services are available to serve that portion of the project site located in Growth Area 1, but not Growth Area 2 subject to implementation of the Fresno General Plan policies and mitigation measures of the related MEIR and the construction and installation of public facilities and infrastructure in accordance with Department of Public Works standards, specifications and policies. However, as noted earlier, a covenant restricting future development for the property located within Growth Area 2 may be approved to mitigate water supply concerns.

Review for compliance with fire and life safety requirements for the interior of proposed buildings and the intended use are reviewed by both the Fire Department and the Building and Safety Services Section of the Development and Resource Management Department when a submittal for building plan review is made as required by the California Building Code.

The Fresno Metropolitan Flood Control District (FMFCD) has indicated that the subject boundary encompasses lands within the FMFCD and will be served by the District's Storm Drainage and Flood Control Master Plan.

## **Circulation Element Plan Policies and Major Street System Traffic Capacity**

The Fresno General Plan designates West Clinton Avenue as a collector street. The developer of this project will be required to dedicate and construct improvements along the street frontage with future development of the two Tract Maps.

The Public Works Department, Traffic Engineering Division has reviewed the potential traffic related impacts for the proposed project and has determine 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 City requirements. A Traffic Impact Study, dated May 1, 2018, was provided to the city and requires the developer to make significant improvements not only to West Clinton Avenue but numerous other streets and intersections in the vicinity. These requirements generally include: (1) The provision of vehicular access to West Clinton Avenue for any phase of the development; (2) Street dedications; (3) Street improvements, (including, but not limited to, construction of concrete curbs, gutters, pavement, underground street lighting systems; and, (4) Payment of applicable impact fees (including, but not limited to, the Traffic Signal Mitigation Impact (TSMI) Fee, Fresno Major Street Impact (FMSI) Fee, and the Regional Transportation Mitigation Fee (RTMF) Fee.

The area street plans are the product of careful planning that projects traffic capacity needs based on the densities and intensities of planned land uses anticipated at build-out of the planned area. Based upon the project requirements for street dedications, improvements, and contributions to the City wide impact fee system, the adjacent and interior streets will provide adequate access to, and recognize the traffic generating characteristics of, individual properties and, at the same time, afford the community an adequate and efficient circulation system.

## **Council District Plan Implementation Committee**

The District 3 Plan Implementation Committee is currently not active.

### **Notice of City Council Hearing**

The Development and Resource Management Department mailed notices of this City Council hearing to surrounding property owners within 1,000 feet of the subject property.

### **ENVIRONMENTAL FINDING**

An environmental assessment 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 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 for that portion of the project site located in Growth Area 1, but not in Growth Area 2; traffic carrying capacity of the planned major street system; and, student generation projections and school facility site location identification. If the portion of the site located in Growth Area 2 is to be pre-zoned, further CEQA analysis would be required since no water supply study was provided for the full extent of development that could occur on this 4.66 acre site. However, a condition of zoning and a covenant that restricts any further development inconsistent with the uses and densities in existence at the time the approval becomes effective for that portion of the property located in Growth Area 2 south of Clinton Avenue could be recommended

The City of Fresno has conducted an initial study of the above-described project and it has been determined to NOT be a subsequent project that is fully within the scope of the MEIR SCH No. 2012111015, which was prepared for the Fresno General Plan and adopted by the Fresno City Council on December 18, 2014. Therefore, the Development and Resource Management Department proposes to adopt a Mitigated Negative Declaration for this project.

With mitigation imposed, there is no substantial evidence in the record that this project may have additional significant, direct, indirect or cumulative effects on the environment that are significant and that were not identified and analyzed in the MEIR. After conducting a review of the adequacy of the MEIR pursuant to Public Resources Code, Section 21157.6(b)(1), the Development and Resource Management Department, as lead agency, finds 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. The project is not located on a site which is included on any of the lists enumerated under Section 65962.5 of the Government Code including, but not limited to, lists of hazardous waste facilities, land designated as hazardous waste property, hazardous waste disposal sites and others, and the information in the Hazardous Waste and Substances Statement required under subdivision (f) of that Section. 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 with the project specific mitigation imposed, staff has determined that there is no substantial evidence in the record that the project may have a significant direct, indirect or cumulative effect on the environment and has prepared a mitigated negative declaration for this project. A public notice for Environmental Assessment No. R-17-019 was published on September 28, 2018 with no comments or appeals received to date.

## **FRESNO MUNICIPAL CODE FINDINGS**

Based upon analysis of the applications, staff concludes that the required findings of Section 15-5812 of the FMC can be made for the portion of the property located in Growth Area 1. Findings A and B cannot be made for the portion of the property in Growth Area 2 given that the water assessment to determine that the proposed project is sustainable has not been completed by the applicant. However, as noted earlier, a condition of zoning and a covenant restricting future development for the property located within Growth Area 2 may be approved to mitigate water supply concerns. These findings are attached as Exhibit G to this staff report.

## **CONCLUSION**

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 West Area Community Plan; its compatibility with surrounding 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 Pre-zone Application No. R-17-019 is appropriate for the portion of the project site which is located in Growth Area 1; and, that all criteria identified within Articles 58 and 61 of Chapter 15 of the FMC have been met. In addition, staff is also in support of pre-zoning that portion of the site that is located in Growth Area 2 since a condition of zoning and a covenant restricting future development for the property located within Growth Area 2 may be approved to mitigate water supply concerns.

### Attachments:

- Exhibit A: Vicinity Map
- Exhibit A-1: Project Area Map
- Exhibit B: Aerial Photograph
- Exhibit C: Public Hearing Notice Mailing List Vicinity Map
- Exhibit D: Fresno General Plan Planned Land Use Map
- Exhibit E: Pre-zone Map (Requested)
- Exhibit E-1: Pre-zone Map (Recommended)
- Exhibit F: Sequence of Development Map
- Exhibit G: Project Information Tables
- Exhibit H: Fresno Municipal Findings
- Exhibit I: Tentative Tract Maps 5560 and 5881
- Exhibit J: Planning Commission Resolution dated October 17, 2018
- Exhibit K: Water Demand Analysis Data
- Exhibit L: Environmental Assessment No. R-17-019 dated September 28, 2018
- Exhibit M: Application Material
- Exhibit N: Ordinance Bill

Exhibit O: Power Point Presentation