



## Legislation Details (With Text)

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**File created:** 5/22/2020    **In control:** Planning Commission

**On agenda:** 6/3/2020    **Final action:** 6/3/2020

**Title:** Consideration of request for a discretionary six-month extension of time to the expiration date for Vesting Tentative Tract Map No. 5434/UGM pertaining to approximately 28.81 acres of property located on the northeast corner of North Temperance and East McKinley Avenues (Council District 4)

1. APPROVE the request for a discretionary six-month extension of time for the expiration date for Vesting Tentative Tract Map No. 5434, extending vesting rights, subject to compliance with the original conditions of approval as contained in Planning Commission Resolution No. 13470, and the attached current Development Impact Fees dated May 6, 2020.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Vicinity Map, 2. Exhibit B - Current Aerial Photograph, 3. Exhibit C - Planning Commission Resolution No. 13470, 4. Exhibit D - Vesting Tentative Tract Map No. 5434 UGM dated Feb 24, 2017, 5. Exhibit E - Subdivider Request for Extension of Time dated August 12, 2019, 6. Exhibit F - Subdivider Request for Extension of Time dated February 14, 2020, 7. Exhibit G - Fresno Municipal Code Findings, 8. Exhibit H - Letter received from applicant dated May 5, 2020, 9. Exhibit I - Letter received from applicant dated May 19, 2020, 10. Exhibit J - Letter received from applicant dated May 28, 2020.pdf

Date	Ver.	Action By	Action	Result
6/3/2020	1	Planning Commission	approved	Pass

## REVISED REPORT TO THE PLANNING COMMISSION

**June 3, 2020**

**FROM:** DANIEL ZACK, Assistant Director  
Development Services Division

**THROUGH:** WILL TACKETT, Planning Manager  
Development Services Division

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

### **SUBJECT**

Consideration of request for a discretionary six-month extension of time to the expiration date for Vesting Tentative Tract Map No. 5434/UGM pertaining to approximately 28.81 acres of property

located on the northeast corner of North Temperance and East McKinley Avenues (Council District 4)

1. **APPROVE** the request for a discretionary six-month extension of time for the expiration date for Vesting Tentative Tract Map No. 5434, extending vesting rights, subject to compliance with the original conditions of approval as contained in Planning Commission Resolution No. 13470, and the attached current Development Impact Fees dated May 6, 2020.

### **CONTINUED HEARING FROM MAY 6 AND MAY 20, 2020**

This item was scheduled to go before the Planning Commission on May 6, 2020. Prior to the scheduled hearing, the applicant submitted a letter dated May 5, 2020, to Planning Department staff. In order to provide a response to said letter, staff requested that the Planning Commission continue the May 6, 2020, meeting to May 20, 2020.

Prior to the Planning Commission meeting scheduled for May 20, 2020, the applicant submitted a letter dated May 19, 2020, to staff which requested that the item be continued to June 3, 2020. The Planning Commission continued the hearing of the item to June 3, 2020.

### **EXECUTIVE SUMMARY**

In a letter dated February 14, 2020, Zach Gomes, on behalf of KB Homes, timely filed a request for a discretionary six-month time extension of Vesting Tentative Tract Map No. 5434/UGM, pertaining to approximately 28.81 acres of property on the northeast corner of North Temperance and East McKinley Avenues. The subject application includes a request for an extension to the original Development Impact Fees prepared in 2006. The City has previously granted applicant a six-month discretionary extension.

The currently requested extension may only be granted if the required findings codified in Fresno Municipal Code (FMC) Section 15-3316(C)(2) can be made. Based upon the submitted application and the circumstances, staff has determined that the findings required for such an extension, as codified in Fresno Municipal Code (FMC) Section 15-3316(C)(2) (Extensions of Time), can be made.

If the request is approved as recommended by staff, the tentative map expiration date will be extended to August 17, 2020.

### **BACKGROUND / PROJECT ANALYSIS**

**2017 Approval of VTM 5434:** Vesting Tentative Tract Map No. 5434/UGM proposes a 140 lot single-family residential subdivision on approximately 28.81 acres at a density of 4.85 dwelling units per acre. Vesting Tentative Tract Map No. 5434/UGM was accepted for processing on March 14, 2006, though the project did not go before the Planning Commission/City Council until 2017 for recommendation. However, since the project was accepted for processing on March 14, 2006, the Development Impact Fees current in 2006 were applied to the project pursuant to Section 66498.1 of the Government Code.

On July 5, 2017, the Fresno City Planning Commission, by a vote of 5-0, recommended approval of Vesting Tentative Tract Map No. 5434/UGM, subject to the conditions noted in Planning Commission Resolution No. 13470 (**Exhibit C**), to the Fresno City Council. The Fresno City Council at its meeting on August 17, 2017, approved Vesting Tentative Tract Map No. 5434/UGM. Pursuant to Government Code Section 66452.6(a)(1) and the provisions of the Fresno Municipal Code, an approved or

conditionally approved tentative map shall expire 24 months after its approval or conditional approval. Therefore, the original expiration date of the subject vesting tentative map was August 17, 2019.

**2019 Request for First Discretionary Extension:** In a letter dated August 12, 2019 (**Exhibit E**), applicant requested a five month extension of time. In its letter, applicant explained that it needed more time to complete the sewer design and work through issues with the required lift station.

On October 15, 2019, the Planning and Development Department approved a six-month extension, extending the expiration of the map to February 17, 2020.

**2020 (Current) Request for Second Discretionary Extension:** In a letter dated February 14, 2020 (**Exhibit F**), applicant requested a second extension of time extending expiration by six months from the (previously extended) expiration date of February 17, 2020. Mr. Gomes explained that delays due to the complexity of designing the required lift station have prevented him from obtaining a final recorded map. Zach Gomes also requests in his letter that the Development Impact Fees associated with the project be vested.

**Final Map Activity and Processing:** The final map for Tract 5434 was timely submitted (prior to vesting map expiration) on February 11, 2019. The map is required to be annexed into a Community Facility District (CFD). A final map cannot be approved until after a tract is annexed into a CFD. Two Council meetings are required for a tract to annex into a CFD. The first Council meeting is for a Resolution of Intention and was approved on April 23, 2020.

## FRESNO MUNICIPAL CODE FINDINGS

Based upon analysis of the application staff concludes that the required findings contained within FMC 15-3316(C)(2) (Extensions of Time) can be supported.

The required findings are set forth below and explained within **Exhibit G** attached to this report:

- a) **No Change to General Plan.** There have been no changes to the provisions of the General Plan or any operative plan, or development plan that would cause the map to no longer be in conformity with the General Plan, operative plan, or development plan.
- b) **No Material Change to Development Code.** There have been no changes to the provisions of this Development Code that would cause the map to no longer be in conformity with this Development Code.
- c) **No Changes Affecting Application of the General Plan and Development Code.** There have been no changes in the character of the site or its surroundings that affect how the policies of the General Plan or other standards of this Development Code apply to the project.
- d) **No Change Detrimentially Affecting Availability of Public Facilities to Serve Project.** There have been no changes to the capacities of community resources, including roads, schools, sewage treatment or disposal facilities, or water supply, so that there is no longer sufficient remaining capacity to serve the project.

## CORRESPONDENCE RECEIVED

Staff has received various letters from the applicant relating to the subject application, including, letters dated May 5, 2020, May 19, 2020 and May 28, 2020. These letters are attached as **Exhibits H, I, and J**, respectively. These letters discuss various issues, including, delays due to the complexity of designing the required lift station, and sewer main issues, have prevented the applicant from obtaining a final recorded map.

Staff of the Planning, Public Works and Public Utilities Departments have reviewed the above noted letters from the applicant. It is noted that new additional information was provided in the letter dated May 28, 2020, which describes in detail various issues which have caused delays to the project, including: the complexity of the lift station design, multiple designs on a proposed gravity feed sewer system, a request from the City to revise the sewer design to accommodate an adjacent tract, etc. Based on the information provided within the above noted letters, including new additional information provided in the letter dated May 28, 2020, staff continues to recommend approval of the request for a discretionary six-month extension of time for Vesting Tentative Tract Map No. 5434.

## ENVIRONMENTAL FINDINGS

A Mitigated Negative Declaration, as prepared for Environmental Assessment No. R-04-098/T-5434/ANX-17-002, dated May 5, 2017, was adopted by the City Council on August 17, 2017, relative to the approval of Vesting Tentative Tract Map No. 5434/UGM. No further environmental analysis is needed.

## CONCLUSION

The appropriateness of the proposed request for an extension of time has been examined with respect to its conformity with the goals, objectives and policies of the Fresno General Plan and the Citywide Development Code; its continued compatibility with surrounding existing or proposed uses and character of the site and its surrounding; and with respect to any changes to capacities of community resources which may have occurred. These factors have been evaluated as described herein above. Upon consideration of this evaluation, it can be concluded that the additional six-month extension of time to the expiration date of the Vesting Tentative Tract Map No. 5434/UGM can be supported.

### Attachments:

- Exhibit A - Vicinity Map
- Exhibit B - Current Aerial Photograph
- Exhibit C - Planning Commission Resolution No. 13470
- Exhibit D - Vesting Tentative Tract Map No. 5434/UGM dated February 24, 2017
- Exhibit E - Subdivider Request for Extension of Time dated August 12, 2019
- Exhibit F - Subdivider Request for Extension of Time dated February 14, 2020
- Exhibit G - Fresno Municipal Code Findings
- Exhibit H - Letter received from applicant dated May 5, 2020
- Exhibit I - Letter received from applicant dated May 19, 2020
- Exhibit J - Letter received from applicant dated May 28, 2020