



## Legislation Details (With Text)

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**Title:** Consideration of Vesting Tentative Tract Map No. 6333 and the related Environmental Assessment No. T-6333 pertaining to ±0.74 acres of property located on the northwest corner of North Van Ness and East Alhambra Avenues (Council District 3).

1. ADOPT Environmental Assessment No. T-6333 dated February 19, 2021, a determination that the proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15315/Class 15 (Minor Land Divisions) of CEQA Guidelines.

2. APPROVE Vesting Tentative Tract Map No. 6333 which requests authorization to subdivide the subject property into a one-lot subdivision for condominium purposes, subject to compliance with the Conditions of Approval dated March 17, 2021.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Vesting Tentative Tract Map No. 6333 dated February 12, 2021, 2. Exhibit B - Operational Statement dated January 14, 2021, 3. Exhibit C - Aerial Map, 4. Exhibit D - Vicinity Map, 5. Exhibit E - Fresno General Plan Land Use & Zoning Map, 6. Exhibit F - Fresno Municipal Code Findings, 7. Exhibit G - Public Hearing Notice Radius Map, 8. Exhibit H - Conditions of Approval for Vesting Tentative Tract Map No. 6333 dated April 7, 2021, 9. Exhibit I - Comments and Requirements from Responsible Agencies, 10. Exhibit J - Environmental Assessment No. T-6333 dated February 19, 2021, 11. Exhibit K - Conditionally Approved Site Plan dated December 24, 2020, 12. Exhibit L - E-mail dated March 16, 2021

Date	Ver.	Action By	Action	Result
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## REPORT TO THE PLANNING COMMISSION

**April 7, 2021**

**FROM:** MIKE SANCHEZ, Assistant Director  
Development Services Division

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

**BY:** ROB HOLT, Planner III  
Development Services Division

## **SUBJECT**

Consideration of Vesting Tentative Tract Map No. 6333 and the related Environmental Assessment No. T-6333 pertaining to  $\pm 0.74$  acres of property located on the northwest corner of North Van Ness and East Alhambra Avenues (Council District 3).

1. **ADOPT** Environmental Assessment No. T-6333 dated February 19, 2021, a determination that the proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15315/Class 15 (Minor Land Divisions) of CEQA Guidelines.
2. **APPROVE** Vesting Tentative Tract Map No. 6333 which requests authorization to subdivide the subject property into a one-lot subdivision for condominium purposes, subject to compliance with the Conditions of Approval dated March 17, 2021.

## **CONTINUED HEARING FROM MARCH 17, 2021**

This project was originally scheduled to be heard before the Planning Commission on March 17, 2021. Due to technical issues with the Zoom communications system, and upon agreement from the applicant, the Planning Commission voted to continue the item to April 7, 2021.

## **EXECUTIVE SUMMARY**

Bret Giannetta of Giannetta Engineering, on behalf of Tower Village LLC, has filed Vesting Tentative Tract Map No. 6333 pertaining to  $\pm 0.74$  acres of property located on the northwest corner of North Van Ness and East Alhambra Avenues. Vesting Tentative Tract Map No. 6333 proposes to subdivide  $\pm 0.74$  acres of property into a one-lot subdivision for condominium purposes. The subject property is located within the boundaries of the Fresno General Plan, Fresno High-Roeding Community Plan, and Tower District Specific Plan.

## **BACKGROUND/PROJECT ANALYSIS**

The subject property is located within an area that has been significantly developed with a mix of commercial uses. The immediate property to the north includes a hookah lounge, restaurant and 2<sup>nd</sup> Space Theatre, the immediate property to the west includes a record store and restaurant, south across East Alhambra Avenue includes a wedding chapel, and east across North Van Ness Avenue includes a restaurant. Although not immediately surrounding the property, single-family residential development lies just east, southeast, northeast, and southwest of the subject property. Also, medium high density development lies just west and northwest of the subject property.

### Condominiums

The applicant submitted and received approval for Development Permit Application No. P19-05790 from the Planning and Development Director on March 25, 2020, which allows for the construction of 18 one-bedroom residential units consisting of six two-story, three-unit residential apartment buildings with private garages on the subject property. This residential development will provide additional on-site improvements including a two-cell trash enclosure, guest and tenant parking, six-foot high concrete block walls, wrought iron fences and gates, and landscaping. It should be noted that abutting the subject property, East Alhambra Avenue is a local street and North Van Ness Avenue is a scenic drive.

The applicant submitted and received subsequent approval for a minor deviation for Development Permit Application No. P19-05790 from the Planning and Development Director on December 24, 2020, which allows for a deviation from the maximum front yard setback requirement of the CMS (*Commercial Main Street*) zone district from ten feet to eleven feet. The conditionally approved site plan is described and depicted in **Exhibit K**.

The current condominium map application is a proposal to subdivide the subject property into a one-lot subdivision for the purposes of authorizing a condominium map for the previously approved and subsequently revised multi-family development. The number of residential buildings and units will remain the same and as authorized by Development Permit Application No. P19-05790 and subsequent minor deviation. Furthermore, the proposal to subdivide the subject property into a one-lot subdivision complies with the regulations of Article 39 (Common Interest Developments [Condominiums and Conversions]) of the Fresno Municipal Code.

Although this project does provide apartments, the condominium map allows for the ability for individual ownership of each unit. Condominium maps provide diversity and variation of building types, and scales of development in order to reinforce the identity of individual neighborhoods, foster a variety of market-based options for living and working to suit a large range of incomes, and further affordable housing opportunities throughout the City, which consistent with Policy UF-1-d (noted above) of the Fresno General Plan. This project also provides development for a property that has been vacant for at least the previous 50 years. Furthermore, California is in a severe housing crisis where experts depict that California needs to double its current rate of housing production to keep up with expected population growth and prevent prices from further increasing. This project aims to help contribute fulfilling the housing needs of the region.

### **CMS (*Commercial Main Street*) Zone District**

The subject property is zoned CMS (*Commercial Main Street*) and multi-unit residential uses are permitted by-right in this zone district so long as residential dwellings are not located on the ground floor only along arterials or collectors, and that the density does not exceed 16 dwelling units per acre. The proposed one-lot subdivision has been previously reviewed and conditioned per the regulations of Article 12 (Commercial Districts) of the Fresno Municipal Code. This includes all density and massing standards, as well as setback and landscaping requirements. All approved exhibits and Conditions of Approval for Development Permit Application No. P19-05790 dated March 25, 2020, and Minor Deviation dated December 24, 2020, are applicable to this project.

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

Landscaping for the project shall be in accordance with Section 15-2305 of the Fresno Municipal Code. Additionally, all landscaping and irrigation, and open space shall comply with the conditions of approval and approved landscape and irrigation plans for Development Permit Application No. P19-05790 and minor deviation.

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

The Fresno General Plan puts a strong emphasis on infill development, complete neighborhoods, and mobility and multimodal connectivity.

Goals of the Fresno General Plan include providing for a diversity of districts, neighborhoods, housing types, and residential densities through 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, public, and commercial services to provide a sense of place and that provide as many services as possible within walking distance.

The supporting Objectives and Policies of the Fresno General Plan include emphasizing compatible infill development opportunities which provide for a diversity of districts, neighborhoods, and housing types in order to afford a range of housing stock within the City of Fresno that will support balanced urban growth and make efficient use of resources and public facilities.

Encouraging infill development on vacant lands within predominantly urbanized areas is necessary in order to meet the Fresno General Plan's objective to locate roughly one-half of future residential development in infill areas - defined as being within the City on December 31, 2012 - including the Downtown core area and surrounding neighborhoods, mixed-use centers and transit-oriented development along major BRT corridors, other non-corridor infill areas, and vacant land.

The subject property is  $\pm 0.74$  acres of vacant land (currently under construction), which is substantially surrounded by urban development. The proposed project makes the most efficient use of land and existing public improvements, infrastructure and services by taking advantage of the opportunity to develop in an area that is already majorly developed and accommodated by City services.

The project is consistent with the following Fresno General Plan goals and objectives related to land use and the urban form:

- 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.
- Develop 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.
- Emphasize increased land use intensity and mixed use development at densities supportive of greater use of transit in Fresno.
- Improve Fresno's visual image and enhance its form and function through urban design strategies and effective maintenance.

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.

Objective UF-1 emphasizes the opportunity for a diversity of districts, neighborhoods, and housing types.

Policy UF-1-d further emphasizes provisions for a diversity and variation of building types, densities, and scale of development in order to reinforce the identity of individual neighborhoods, foster a variety of market-based options for living and working to suit a large range of income levels, and further affordable housing opportunities throughout the city.

Objective LU-1 promotes the establishment of a comprehensive citywide land use planning strategy to meet economic development objectives, achieve efficient and equitable use of resources and infrastructure, and create an attractive living environment.

Policy LU-1-a promotes new development, infill, and rehabilitation of existing building stock in the Downtown Planning Area, along BRT corridors, in established neighborhoods generally south of Herndon Avenue, and on other infill sites and vacant land within the City.

Objective LU-2 emphasizes to plan 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.

Policy LU-2-a promotes the development of vacant, underdeveloped, and re-developable land within the City limits where urban services are available by considering the establishment and implementation of supportive regulations and programs.

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; and, Implementing Policy LU-5-b promotes medium low density residential uses to preserve existing uses of that nature or provide a transition between low and medium density residential areas.

Policy LU-5-g supports development adjacent to established neighborhoods that is compatible in scale and character with the surrounding area.

Policy LU-5-h supports housing that offers residents a variety of amenities including public and private open space, landscaping, with direct access to public transit and community gathering spaces.

Much of Fresno has been built as discrete residential tracts bordered by strip retail centers, many of which are not accessible from the adjacent homes due to security walls or other barriers. By contrast, the Complete Neighborhoods concept will enable Fresnoans to live in communities with convenient services, employment, and recreation within walking distance.

The defining characteristic of a Complete Neighborhood is a neighborhood that is mostly self-sufficient, walkable, and interconnected. It provides residents with most all they need on a daily basis nearby. In other words, a Complete Neighborhood anticipates and plans in advance all amenities needed in a neighborhood to ensure quality and lasting property values before the residential units are built instead of trying to piecemeal those amenities after the fact. This convenient and healthy lifestyle is the benefit of a Complete Neighborhood. While total self-sufficiency or even completeness is unlikely to be accomplished in each neighborhood, some of the defining characteristics of a Complete Neighborhood include: Parks and public schools within or near the neighborhood, public plaza/civic space; access to public transit, neighborhood-serving retail and a range of employment opportunities.

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 High-Roeding Community Plan and Tower District Specific Plan

Upon reviewing the policies contained in the Fresno High-Roeding Community Plan, staff has determined that there are no policies that are applicable or which control based upon the priority of plans specified in the Fresno Municipal Code and Fresno General Plan.

The purpose of these goals and objectives are to provide a variety of housing types for individual lifestyles and space needs. Furthermore, it is to provide opportunities of higher densities in neighborhoods throughout the City. The proposed project meets the goals and objectives of the General Plan, the Fresno High-Roeding Community Plan, and the Tower District Specific Plan by implementing the appropriate regulations of the CMS zone district and ensuring that new development is compatible to the existing structures in relation to scale, mass, and character.

### **Housing Element Site**

The subject property is designated as a Housing Element site, and it is a site listed in the 2013-2023 RHNA Housing Sites Inventory. The Housing Sites Inventory establishes the total minimum capacity of this site to be 9 units with an affordability categorization of Moderate. The proposed project includes 18 units of Moderate housing, providing consistency with the Housing Element of the Fresno General Plan and the RHNA Housing Sites Inventory. As such, findings are not required to be made under Government Code Section 65863(b)(2).

### **Public Services**

#### Fire Department

The condominium map will be served by Fire Station 9 located at 2340 North Vagedes Avenue (2.2 miles from subject property).

#### Public Utilities

The Department of Public Utilities (DPU) has determined that adequate sanitary sewer and water services are available to serve the project site subject to implementation of the Fresno General Plan policies and the mitigation measures of the related Master Environmental Impact Report; and, the construction and installation of public facilities and infrastructure in accordance with Department of Public Works standards, specifications and policies.

DPU Solid Waste Management previously reviewed the multi-family residential development during the processing of Development Permit Application No. P19-05790 and conditioned the project to install a trash enclosure and provide sufficient turn radii for the waste vehicles.

DPU Planning and Engineering Division previously reviewed the multi-family residential development during the processing of Development Permit Application No. P19-05790 and determined the existing six-inch sewer main located on the west property line of the subject property is adequate to serve the project. In addition to the payment of all applicable fees, installation of a sewer house branch will be

required as well as the recordation of a twenty-foot sewer main easement for the existing six-inch sewer main.

DPU Water Division previously reviewed the multi-family residential development during the processing of Development Permit Application No. P19-05790 and determined on-site water facilities shall be private. The project shall also be required to pay applicable fees.

According to the Fresno Metropolitan Flood Control District (FMFCD), the subject site is not located within a flood prone or hazard area. Permanent drainage service is available provided the developer can verify to the satisfaction of the City that runoff can be safely conveyed to the Master Plan inlet(s) and will, therefore, not create flooding.

All previous conditions for Development Permit Application No. P19-05790 dated March 25, 2020 and Minor Deviation dated December 24, 2020, in addition to any conditions imposed for Vesting Tentative Tract Map No. 6333, have been incorporated into the Conditions of Approval dated March 17, 2021.

## **Governing Regulations**

### Condominium Project Being a Subdivision

Section 66424 of the State of California Government Code defines “subdivision” as the division by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease, or financing, whether immediate or future. The property shall be considered as contiguous units, even if separated by roads, streets, utility easement, or railroad rights-of-way. “Subdivision includes a condominium project, as defined in subdivision (f) of Section 4125 or 6542 of the Civil Code...”

### Condominium / Project Defined

Section 4125 of the California Civil Code provides that a “condominium project” is defined as a development consisting of condominiums. A condominium consists of an undivided interest in common in a portion of real property (*one common-lot subdivision*) coupled with a separate interest in space called a unit (*subdivided airspace*), the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof. The area within these boundaries may be filled with air, earth, or water or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support. The description of the unit (*subdivided airspace*) may refer to (1) boundaries described in the recorded final map, parcel map, or condominium plan, (2) physical boundaries, either in existence, or to be constructed, such as walls, floors, and ceilings of a structure or any portion thereof, (3) an entire structure containing one or more units, or (4) any combination thereof. The portion or portions of the real property held in undivided interest (*common-lot*) may be all of the real property, except for the separate interests (*subdivided airspace units*), or may include a particular three-dimensional portion thereof, the boundaries of which are described on a recorded final map, parcel map, or condominium plan. The area within these boundaries may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to land except by easement for access and, if necessary, support. An individual condominium within a condominium project may include, in addition, a separate interest in other portion of the real property (*emphasis added*).

## Design and Location of Buildings Not a Part of Map Review Process for Condominium

Section 66427(a) of the State of California Government Code provides that a map of a condominium project, a community apartment project, or of the conversion of five or more existing dwelling units to a stock cooperative project need not show the buildings or the manner in which the buildings or the airspace above the property shown on the map are to be divided, nor shall the governing body have the right to refuse approval of a parcel, tentative, or final map of the project on an account of design or the location of buildings on the property shown on the map that are not violative of local ordinance or on account of the manner in which airspace is to be divided in conveying the condominium.

Section 66427(b) of the State of California Government Code provides that a map need not include a condominium plan or plans, as defined in Section 4120 or 6540 of the Civil Code, and the governing body may not refuse approval of a parcel, tentative, or final map of the project on account of the absence of a condominium plan.

### **Council District 3 Project Review Committee**

On February 23, 2021, the Council District 3 Project Review Committee unanimously recommended approval of the proposed project, 4 votes to 0.

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

This project was originally scheduled before the Planning Commission on March 17, 2021. During the meeting, the Planning Commission voted to continue the hearing to April 7, 2021.

Relative to the March 17, 2021 Planning Commission meeting, the Planning and Development Department mailed notices of this Planning Commission hearing to all surrounding property owners within 1000 feet of the subject property, pursuant to Section 15-5007 of the FMC (**Exhibit G**).

### **ANALYSIS OF THE CORRESPONDENCE RECEIVED**

Staff received one e-mail in opposition of the project (**Exhibit L**) in response to the Notice of Public Hearing mailed for the project. Staff has reviewed the e-mail in opposition to the project and has provided a responsive analysis of the e-mail.

(1) Below is an analysis of the issues raised in the e-mail dated March 16, 2021 (**Exhibit L**).

**Issues raised:** Concerns from an “interested person” property owner affected by the proposed project included opposition to the CEQA exemption and the residential subdivision, parking issues, and increased traffic.

#### **Staff Response:**

##### *CEQA Exemption for a Condominium Map*

The project is exempt from the CEQA Guidelines Section 15315 (Minor Land Divisions) because it is a division of property into four or fewer parcels and is in conformance with the Fresno General Plan and CMS (*Commercial Main Street*) zone district, and all required



services and access to the proposed parcels to local standards are available.

#### *CEQA Exemption for a Development Permit*

Furthermore, the Development Permit that was approved on March 25, 2020 for the proposed development was also determined to be Categorically Exempt via Section 15332 (Infill Development Projects) of the CEQA Guidelines.

#### *Parking*

The project consists of 18 one-bedroom residential units in the CMS zone district. Per Table 15-2408 (Required On-Site Parking Spaces in Mixed Use and CMS Districts) of the FMC, 18 one-bedroom residential units would require a minimum of 14 covered parking spaces, and 4 guest parking spaces. The approved site plan for the Development Permit provides 18 private covered garages for each dwelling unit and 17 guest parking stalls.

#### *Traffic Impacts*

Traffic impacts were reviewed by the Public Works Department and it was determined that based on the number of average daily trips for the proposed project, a Traffic Impact Study was not required. The subject property is in close proximity to two bus routes along East Olive and North Van Ness Avenues. These bus routes provide nearby access to public transit, which is a component of a Complete Neighborhood. Furthermore, there is existing neighborhood-serving retail adjacent to the subject property with a range of employment opportunities.

## **ENVIRONMENTAL FINDINGS**

The California Environmental Quality Act (CEQA), Public Resource Code Section 2100 et seq., permits a public agency to determine whether a particular project is exempt from CEQA. A determination of a Categorical Exemption from Section 15315/Class 15 was made and Environmental Assessment No. T-6333 was completed for this project on February 19, 2021 (**Exhibit J**).

## **FRESNO MUNICIPAL CODE FINDINGS**

Based upon analysis of the applications, staff concludes that the required findings contained within Section 15-3309 et seq. of the Fresno Municipal Code. These findings are attached as **Exhibit F**.

## **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.

## CONCLUSION

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan, the Fresno High-Roeding Community Plan, and the Tower District Specific Plan; compliance with the provisions of the FMC; 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 and exhibits. The proposed project does not meet the findings for denial per the Subdivision Map Act (California Government Code 66400, *et seq.*) and staff concludes that the required findings contained within Section 15-3309 *et seq.* of the FMC can be made. Upon consideration of this evaluation, it can be concluded that the proposed projects are appropriate for the project site.

### Attachments:

Exhibit A:	Vesting Tentative Tract Map No. 6333 dated February 12, 2021
Exhibit B:	Operational Statement dated January 14, 2021
Exhibit C:	Aerial Map
Exhibit D:	Vicinity Map
Exhibit E:	Fresno General Plan Land Use & Zoning Map
Exhibit F:	Fresno Municipal Code Findings
Exhibit G:	Public Hearing Notice Radius Map
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