

Exhibit K – Fresno Municipal Code Findings

**FRESNO MUNICIPAL CODE FINDINGS
FOR CONDITIONAL USE PERMIT APPLICATION NO. P22-03146**

CONDITIONAL USE PERMIT FINDINGS

**Findings per Fresno Municipal Code
Section 15-5306**

The Director or Planning Commission may only approve a Development Permit application if it finds that the application is consistent with the purposes of this article and with the following:

Finding a: The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Code and all other chapters of the Municipal Code;

Per FMC Section 15-104(A)(1), the Development Code “applies to the extent permitted by State and Federal law to all private property” within the City. Cal. Health and Safety Code §1250(i) provides the definition of a Congregate Living Health Facility (CLHF) and states that a CLHF shall have a “noninstitutional, homelike environment.” Cal. Health and Safety Code §1267.16(c) further specifies that a “facility of more than six beds for persons who are terminally ill and any congregate living health facility of more than six beds for persons who are catastrophically and severely disabled shall be subject to the conditional use permit requirements of the city or county in which it is located unless those requirements are waived by the city or county.” Therefore, the proposed project has been evaluated to be consistent with FMC Chapter 15, Article 53 (*Conditional Use Permits*) in this Findings document.

Further, the proposed CLHF is consistent with the Use Classification of a Residential Care Facility, General as defined by FMC §15-6702. Per this section, Residential Care Facilities are defined as “facilities that are licensed by the State of California to provide permanent living accommodations and 24-hour primarily non-medical care and supervision for persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions, including hospices, nursing homes, convalescent facilities, and group homes for minors, persons with disabilities, and people in recovery from alcohol or drug addictions.”

While this classification may state that services provided are primarily non-medical care, by definition, a CLHF, under State law, can provide a range of non-medical services such as “supportive care, pharmacy, dietary, social, or recreational” needs; “services for persons who are mentally alert; persons with physical disabilities, who may be ventilator dependent;” “services for persons who have a diagnosis of terminal illness;” or “services

for persons who are catastrophically and severely disabled.” (Cal. Health & Safety Code §1250(i).) The proposed project here would also provide supportive care, therapy services, social and recreational activities, medication management, and dietary management. Additionally, as demonstrated by the State requirements, the facility is explicitly required to be located in a “non-institutional homelike environment.” (Cal. Health & Safety Code §1250(i)(5).) While not applicable to the proposed project, if the facility had six beds or fewer, it would be considered a residential use. (Cal. Health & Safety Code §1267.16(a).) Thus, a facility licensed as a CLHF under State law fit best with the FMC §15-6702 definition for Residential Care Facilities.

As demonstrated by FMC §15-902, Residential Single Family (RS) zone districts permit a range of uses beyond the exclusive use of single-family homes. These uses include but are not limited to: small adult day cares, small domestic violence shelters, small family day cares, small group residential, community and religious assembly facilities less than 2,000 square feet, and parks and recreation facilities, schools and limited residential care facilities, which are permitted by right. Large adult family day cares, large family day cares, community and religious assembly larger than 2,000 square feet, public safety facilities, and general residential care facilities, are permitted subject to conditional use permit approval. (FMC §15-902.)

As discussed above, Residential Care Facilities, General, are permitted subject to Conditional Use Permit approval in the RS-2/EQ (*Residential Single Family, Very Low Density/Equine Overlay*) zone district.

The proposed project is subject to, and has been conditioned for compliance with, the development standards of said zone district, including, but not limited to FMC Secs. 15-903 (*Density and Massing*), 15-904 (*Site Design Development Standards*), and 15-905 (*Façade Design*). Additional applicable regulations include but are not limited to: Section 15-2006 (*Fences, Walls, and Hedges*), Section 15-2007 (*Walls for noise attenuation*), Section 15-2008 (*Screening between differing land uses*), Section 15-2015 (*Outdoor Lighting and Illumination*), Section 15-2409 (*Required Parking*), and Chapter 15 Article 25 (*Performance Standards*).

Finding b: The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted;

The Low-Density Residential designation is intended to provide for large lot residential development. Low Density residential allows one to 3.5 housing units per acre. The resulting land use pattern is large lot residential in nature, such as rural residential, ranchettes, or estate homes. However, the General Plan and its implementation through the FMC both identify that other land uses besides single family residential homes, such as residential care facilities, are permitted in residential land use and zoning classifications.

The use of the subject property as a residential care facility is consistent with the applicable general plan designation and all applicable general plan policies as well as

with applicable zoning designation and regulations. The project represents an adaptive reuse and an infill opportunity of a partially developed semi vacant lot. The proposed use of a residential care facility provides services to the area and will provide diversity to the range of housing types in the area. Per State requirements the facility is required to be residential in nature and will be required to be consistent with the design of the overall surrounding neighborhood. (Cal. Health & Safety Code §1250(i) & 1267.16(a).) These qualities will benefit both residents of the facility, as well as residents of the neighborhood who may themselves, or have family members who, require services the facility provides. The following are several goals, objectives, and policies that the project supports: Objective UF-1, Policies UF-1-a, UF-1-d, UF-1e. Objective UF-12, Policy UF-12-c. Objective LU-1, Policy LU-1-a, LU-1-b. Objective LU-2, Policy LU-2-a. Objective LU-5, Policies LU-5-a, LU-5-g, LU-5-h. Objective LU-8; Policy LU-8-c. Objective HC-2, Policies HC-2-a, HC-2-b.

As evidenced above, the proposed use is consistent with the policies of the Fresno General Plan and the Bullard Community Plan, and the planned land use designation of Single Family Residential.

Finding c: The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements;

The proposed use as a residential care facility will provide provides inpatient care, medical supervision, 24-hour skilled nursing and range of other services such as supportive care, pharmacy, dietary, social or recreational needs; and other services for persons who are mentally alert; persons with physical disabilities, persons who may be ventilator dependent; services for persons who have a diagnosis of terminal illness; or services for persons who are catastrophically and severely disabled. The use is required per State Code to exhibit a “non-institutional homelike environment.” (Cal. Health & Safety Code §1250(i)(5).) As demonstrated in the findings above, the project has been specifically conditioned that all applicable regulations are enforced to ensure that the project will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements.

Finding d: The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and

As demonstrated in the sections above, the facility is required per State Code to exhibit a “non-institutional homelike environment.” (Cal. Health & Safety Code Sec. 1250(i)(5).) The inherent purpose of a CLHF is to provide services for persons who are mentally alert; persons with physical disabilities, persons who may be ventilator dependent; services for persons who have a diagnosis of terminal illness; or services for persons who are catastrophically and severely disabled a residence that is fully integrated in a residential community. As demonstrated in the finding above, the project is subject to any applicable

requirement of the FMC regarding design, location, size, and operating characteristics. Per the FMC, there are no restrictions on the size, number of dwelling units, or beds of a residential care facility, beyond the maximum height, minimum setbacks, and maximum lot coverage. The project as conditioned will comply with the massing development standards. Therefore, the design, location, size, and operating characteristics of the proposed facility are proposed and conditioned to exhibit characteristics of a single-family home as feasibly possible and are therefore compatible with the existing and reasonably foreseeable future land uses in the vicinity.

Finding e: The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required; and;

The project site is physically suitable for the type, density, and intensity, of the use being proposed. The project proposes a CLHF that is required to exhibit appearance and design characteristics of a residential home, to the extent possible. Therefore, it is physically suited for the surrounding area which is predominately a residential neighborhood. Access is provided from two (2) drive approaches on West Bullard Avenue, which is an arterial street, which is a roadway designed to move traffic within and between neighborhoods and to and from freeways and expressways. Two (2) additional drive approaches are proposed, one south of the property on West Morris Avenue, a local street, and one approach west of the property on a private access road. 26 parking stalls are provided, which is more than the required 24 stalls required based on FMC requirements for residential care facilities. The project has been reviewed and conditioned accordingly by the Fire Department, Department of Public Works, and Department of Public Utilities to ensure that emergency access, utilities, and services are available in accordance with applicable requirements. Therefore, adequate access, parking, utilities, and services shall be provided to serve the property, and were reviewed for consistency with the requirements of the residential single family planned land use and the RS zone district. In conclusion, the site is physically suitable for the type, density, and intensity, of the use being proposed.

Finding f: Fresno County Airport Land Use Compatibility Plan (as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5.

The proposed residential care facility use is located within the Traffic Pattern Safety Zone 7 (Precision Approach Zone) of the Fresno Air Terminal. The only prohibited use in this safety zone are hazards to flight, which is not applicable to the proposed project since it is a one-story building. Therefore, the proposed project is consistent with the ALUCP.