

Exhibit A

**FRESNO MUNICIPAL CODE FINDINGS
DEVELOPMENT PERMIT APPLICATION NO. P21-00989**

DEVELOPMENT PERMIT FINDINGS

Fresno Municipal Code (FMC) Section 15-5206 provides that 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:

Findings per FMC Section 15-5206	
Finding a:	<i>The applicable standards and requirements of this Code.</i>
<u>Walls</u> An Acoustical Study was completed for the project dated January 14, 2021, and the recommendations that are included as conditions of approval are as follows: • A sound wall constructed along the project site property line with West Herndon Avenue, constructed to a minimum height of six feet (6') above project grade elevation would reduce exterior noise levels within first-floor patios below the City's maximum exterior noise level standard. The south-facing individual units with balconies on the 2nd through 4th floors in the building closest to West Herndon Avenue can be exempted from the exterior noise requirements of Fresno Municipal Code (FMC) Table 15-2506-B (Noise Exposure from Transportation Noise Sources). The exemption is allowed if balconies are not included in on-site open space calculations. Only balconies on the 2nd through 4th floors of the south-facing side of the building closest to West Herndon Avenue were excluded from the on-site open space calculations, thus also being exempted from the exterior noise requirements of the FMC. The acoustical study recommended a minimum six-foot (6') tall sound wall be required. Pursuant to FMC Section 15-1604(C)(1)(c), the Expressway Area (EA) Overlay District development standards for residential districts requires, "Any barrier necessary to achieve acceptable noise levels shall not be less than eight feet in height and may be a wall, an earth berm, or any combination of wall and earth berm." Considering the acoustical study recommended a minimum 6' tall sound wall, the EA Overlay District development standards require a minimum eight-foot (8') sound wall, earth berm, or combination of both. The project is conditioned to require the EA Overlay District development standard requirement, specifically, an 8' sound wall. <u>Trail</u> In accordance with Figure MT-2: Paths and Trails of the Fresno General Plan, a Class 1 Bicycle and Pedestrian trail has been dedicated and exists on the north side of West Herndon Avenue along the proposed project frontage. The trail will serve the prospective residents of the complex. <u>Open Space</u> Pursuant to FMC Table 15-1003, the minimum on-site open space requirement of the RM-2 zone district is 15 percent. The subject property is approximately 3.7 acres in size (161,172 square feet),	

equating to a minimum on-site open space requirement of 24,176 square feet.

FMC Section 15-1004.D.2.b allows for an open space reduction (up to 25 percent) if there is a public park within 400 feet of the site and the public park is across a local street and the site provides an improved pedestrian path to and from the site. Across West Fir Avenue (local street) north of the subject property is a public park (Orchid Park) that is located approximately 60 feet from subject property. The proposed site plan depicts three pedestrian gates that provide direct access to the public sidewalk on the south side of West Fir Avenue. There is an improved path of travel approximately 420 feet east of the subject property that allows for the public to cross West Fir Avenue to the north and travel approximately 250 feet west to the public park entrance. Based on this analysis, the minimum required open space for the project is reduced by 25 percent with a new minimum open space requirement of 18,132 square feet.

Incorporation of the swimming pool area, balconies and patios (exclusive of those balconies and patios along the south-facing side of the building nearest to West Herndon Avenue), and other usable open space areas as defined under FMC Section 15-1004.D results that the cumulative amount of on-site open space is 18,683 square feet which exceeds the minimum required 18,132 square feet, providing consistency with FMC Table 15-1003.

Density

Pursuant to FMC Table 15-1003, the density range requirement of the RM-2 zone district is between 16 and 30 dwelling units per acre (du/ac). The project proposes a total number of 82 dwelling units on approximately 3.7 acres of property, equating to a density of 22.16 du/ac, consistent with the density range requirement of the RM-2 zone district.

Height

The maximum height requirement in the RM-2 zone district is 50 feet. The project proposes the tallest building (four-story building) at a peak height of 49'-10", providing consistency with the maximum height requirements of the RM-2 zone district.

Setbacks

The setback requirements are as follows:

- Front setback (West Herndon Avenue): Not applicable due to the subject property being located outside of the Priority Areas of the General Plan (Note 1 in FMC Table 15-1003). Additional analysis for Expressway Area Overlay setback requirements (West Herndon Avenue) is provided further below.
- Interior side setback (eastern property line): The minimum interior side yard setback requirement in the RM-2 zone district is five feet (5'). The site plan depicts the interior side yard setback at ten feet (10'), providing consistency with the minimum interior side yard setback requirement of the RM-2 zone district.
- Street side yard setback (North Prospect Avenue): The minimum street side yard setback requirement for parcels greater than 125 feet in depth in the RM-2 zone district is 15 feet. The site plan depicts the street side yard setback at 24'-4", providing consistency with the minimum street side yard setback requirement of the RM-2 zone district.

- Rear yard setback (West Fir Avenue): The minimum rear yard setback requirement in the RM-2 zone district is 15 feet. The site plan depicts a rear yard setback at 21'-8", providing consistency with the minimum rear yard setback requirement of the RM-2 zone district.
- Parking, from back of sidewalk: The minimum parking setback requirement (from back of sidewalk) in the RM-2 zone district is 30 feet. The site plan depicts the nearest parking setback from back of sidewalk at 30'-9", providing consistency with the minimum parking setback requirement (from back of sidewalk) of the RM-2 zone district.

The maximum lot coverage requirement of the RM-2 zone district is 50 percent. The site plan depicts a proposed lot coverage of approximately 33 percent, providing consistency with the maximum lot coverage requirements of the RM-2 zone district.

Expressway Area (EA) Overlay District

The subject property is located along West Herndon Avenue which is an Expressway as identified in the Fresno General Plan Circulation Element. Properties along expressways are located within the Expressway Area (EA) Overlay zone district under FMC Section 15-1604. The development standard for Residential Districts in the EA Overlay zone district require that no building shall be erected within 200 feet of the right-of-way line, although there are exceptions if a building is proposed to be erected within 200 feet of the right-of-way line. The nearest proposed building to the right-of-way line along West Herndon Avenue (Expressway) is approximately 68 feet.

The exception requirements for a building to be erected closer than 200 feet to an Expressway right-of-way line are if an acoustical study determines that interior noise can be mitigated to acceptable levels and in no case shall the minimum building setback be less than 75 feet from the center line of the nearest moving traffic lane of the abutting roadway. An application for a Minor Deviation was submitted to reduce the 75-foot requirement to allow for a minimum distance requirement of 68 feet. As proposed, the nearest building to the centerline of the nearest moving traffic lane (not including the turn lane) on West Herndon Avenue is 68 feet. The intent of the measurement from the nearest moving traffic lane, and not the turn lane, is that the turn lane has reduced traffic speeds due to the upcoming turn.

Parking

The project proposes all 82 dwelling units as two-bedroom units. FMC Table 15-2409 requires that for two-bedroom units of "Multi-Unit Residential" uses, one covered parking space is required per dwelling unit, and one additional uncovered guest parking space is required per every two dwelling units. This results in a minimum requirement of a total of 123 parking spaces (82 covered and 41 uncovered). The proposed site plan depicts 99 covered parking spaces (72 carports and 27 garages) and 55 uncovered parking spaces for a total of 154 parking spaces.

Given the analysis provided above and incorporation of conditions of approval, Development Permit Application No. P21-00989 will meet all the provisions of the FMC, including all applicable design guidelines and development standards of the RM-2 zone district.

Finding b:	<i>The General Plan and any operative plan or policies the City has adopted.</i>
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b. The Fresno General Plan designates the subject property for Urban Neighborhood Residential planned land uses and provides goal, objectives, and policies of the Fresno General Plan to guide in the development of this project. Development Permit Application No. P21-00989 meets all

policies and objectives of the Fresno General Plan. The following are excerpts of such objectives.

Goals

Goal 7: 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.

Goal 8: 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.

Objectives

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

Objective LU-2: 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.

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

Policies

Policy UF-1-d: Provide for diversity and variation of building types, densities, 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 income levels, and further affordable housing opportunities throughout the city.

Policy LU-5-e: Promote urban neighborhood residential uses to support compact communities and Complete Neighborhoods that include community facilities, walkable access to parkland and commercial services, and transit stops.

Policy NS-1-k: Review all new public and private development proposals that may potentially be affected by or cause a significant increase in noise levels, per Policy NS-1-i, to determine conformance with the policies of this Noise Element. Require developers to reduce the noise impacts of new development on adjacent properties through appropriate means.

The proposed project supports the above policies by developing vacant land into multi-family housing in a manner that promotes walkable communities, increases neighborhood connectivity, and accommodates the City's share of the regional housing need.

Upon reviewing the policies contained in the Bullard Community Plan, staff has determined that there are no policies that are applicable or are more restrictive than those contained in the FMC or the Fresno General Plan.

Finding c:	<i>Any applicable design guidelines adopted by the City Council.</i>
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c. The proposed structure and site layout is consistent with the site design and façade design development standards provided in the RM-2 (*Multi-Family Residential, Urban Neighborhood*) zone district and the design guidelines adopted in the Fresno General Plan as analyzed in Finding A above.

Finding d:	<i>Any approved Tentative Map, Conditional Use Permit, Variance, or other planning or zoning approval that the project required.</i>
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d. The project required an application for a Minor Deviation to allow for a ten percent (10%) reduction in the distance of the building nearest to West Herndon Avenue to the nearest moving traffic lane on West Herndon Avenue. The findings for the Minor Deviation are provided below and the project is consistent with the requirements of the Minor Deviation.

Finding e:	<i>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</i>
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e. The proposed development is consistent with the Fresno County Airport Land Use Compatibility Plan (ALUCP) because airspace review is required for any objects over 100 feet tall. The tallest structure in the proposed project is 49'-10". Also, the proposed project is in Zone 6 (Traffic Pattern Zone) of the ALUCP where there is no limit on dwelling units per acre. The project is lower than the minimum height review requirement and has no limitation on dwelling units per acre per the ALUCP, thus the project complies with the requirements of the ALUCP.

MINOR DEVIATION FINDINGS

FMC Section 15-5607 provides that a decision to grant a deviation shall be based on making all of the following findings

Findings per FMC Section 15-5607.B (All Other Development Standards)	
Finding 1:	<i>The deviation is necessary due to the physical characteristics of the property and the proposed use or structure or other circumstances, including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance;</i>
1. Given the project site's proximity to the centerline of the nearest moving traffic lane (not including the turn lane) on West Herndon Avenue is 68 feet, approval of a minor deviation is necessary to comply with FMC Section 15-1604.C.1.b to allow for the proposed building setback at 68 feet (10%) of the centerline of the nearest moving traffic lane instead of the minimum requirement of 75 feet. The intent of the measurement from the nearest moving traffic lane, and not the turn lane, is that the turn lane has reduced traffic speeds due to the upcoming turn. The subject property is located along an Expressway (West Herndon Avenue) that requires a larger than normal setback requirement. There are adjacent single-family residential buildings adjacent to the east approximately 68 feet from the nearest moving traffic lane that also benefit from a reduction of the minimum required 75-foot setback requirement. Thus, the deviation is necessary due to the physical characteristics of the property and the proposed four-story multi-family residential structures.	
Finding 2:	<i>There are no alternatives to the requested deviation that could provide an equivalent level of benefit to the applicant with less potential detriment to surrounding owners and occupants or to the general public;</i>
2. The minor deviation is only applicable to the proposed four-story multi-family residential building along the southern property line which abuts West Herndon Avenue. As discussed above, any redesign proposal that would require a revision to the location of this four-story building could result in other proposed three-story multi-family residential buildings to be relocated closer to the existing single-family residential neighborhood adjacent to the east of the subject property. Therefore, there are no alternatives that will provide an equivalent level of benefit to the applicant with less potential detriment to surrounding owners and occupants or the general public.	
Finding 3:	<i>The granting of the requested deviation will not be detrimental to the health or safety of the public or the occupants of the property or result in a change in land use or density that would be inconsistent with the requirements of this Code; and</i>
3. Based on evidence outlined in the environmental findings, which do not identify a potential substantial adverse public health or safety risk, and based on the Conditions of Approval will ensure that the deviation proposed for this multi-family development will not be detrimental to the public health, safety, or general welfare of the community, and will not be detrimental to surrounding properties or improvements.	
Finding 4:	<i>If the deviation requested is to accommodate religious uses protected by RLUIPA, the decision-maker must also find that the denial of the requested deviation would impose a substantial burden on religious exercise.</i>
4. The project, as proposed, is for development of a multi-family residential use and is not an accommodation for a religious use.	

Based upon the plans and information submitted by the applicant and the recommended conditions of project approval, staff has determined that all of the findings above can be made.