

Exhibit H

FRESNO MUNICIPAL CODE FINDINGS
PLAN AMENDMENT-REZONE APPLICATION NO. P21-06440
TENTATIVE TRACT MAP NO. 6402
PLANNED DEVELOPMENT PERMIT APPLICATION NO. P22-00795
CONDITIONAL USE PERMIT APPLICATION NO. P21-06515

PLAN AMENDMENT-REZONE APPLICATION FINDINGS

Section 15-5812 of the Fresno Municipal Code provides that the Planning Commission shall not recommend and the City Council shall not approve an application unless the following findings can be made for the proposed Plan Amendment:

Findings per Fresno Municipal Code Section 15-5812	
<i>A. The change is consistent with the General Plan goals and policies, any operative plan, or adopted policy; and,</i>	
Finding A:	The subject property is located within the Fresno General Plan and the Woodward Park Community Plan of which both plans designate the subject property for Low Density Residential (0.2-3.5 dwelling units per acre) planned land uses. The proposed plan amendment proposes to change the planned land use designation to Medium Density Residential (5-12 dwelling units per acre). Tentative Tract Map No. 6402 proposes a 15-lot, 28-unit duplex residential subdivision on approximately 3.00 acres at a density of 8.95 dwelling units per acre. It should be noted that the 15 lot subdivision consists of 13 lots with duplexes (26 dwelling units) and 2 lots with single-family residential buildings (2 dwelling units) equating to a total of 28 dwelling units. The project is consistent with the following Fresno General Plan goals, objectives, and policies related to residential land use and the urban form: <u>Goals</u> • Goal 1: Increase opportunity, economic development, business, and job creation. • 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. • Goal 15: 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 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 in accordance with Objective LU-1 of the Fresno General Plan.

Objectives

- Objective UF-1: Emphasizes the opportunity for a diversity of districts, neighborhoods, and housing types.
- Objective LU-5: Calls for a diverse housing stock that will support balanced urban growth, and make efficient use of resources and public facilities.
- Objective D-4 supports that the City preserve and strengthen Fresno's overall image through design review and create a safe, walkable and attractive urban environment for the current and future generations of residents.

Policies

- Policy UF-1-a supports development projects that provide Fresno with a diversity of urban and suburban neighborhood opportunities.
- Policy UF-1-d: 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.
- Policy UF-1-e: Promotes and protects unique neighborhoods and mixed-use areas throughout Fresno that respect and support various ethnic, cultural, and historic enclaves; provide a range of housing options, including furthering affordable housing opportunities; and, convey a unique character and lifestyle attractive to Fresnoans.
- Policy UF-1-f promotes the use of Complete Neighborhood design concepts and development standards to achieve the development of Complete Neighborhoods and the residential density targets of the General Plan.
- Policy LU-5-c: Promotes medium density residential uses to maximize efficient use of residential property through a wide range of densities.
- Policy LU-5-g promotes new development in or adjacent to established neighborhoods that is compatible in scale and character with the surrounding area by promoting a transition in scale and architectural character between new buildings and established neighborhoods, as well as integrating pedestrian circulation and vehicular routes.
- Policy LU-5-h supports housing that offers residents a range of amenities, including public and private open space, landscaping, and recreation facilities with direct access to commercial services, 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 Fresnans 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. A swimming pool facility and bocce ball court is proposed at the central area of the proposed gated subdivision. Approximately 0.50 mile away to the south is a commercial/office use corridor along East Herndon Avenue with available land to provide current and future employment opportunities for all new residents of the neighborhood. 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.
<i>B. The change is consistent with the purpose of the Development Code to promote the growth of the city in an orderly and sustainable manner and to promote and protect the public health, safety, peace, comfort, and general welfare; and,</i>	
Finding B:	The subject property is located within an area which is attracting substantial residential development interest and meets the General Plan goals and strategies for infill development. The vicinity of the subject property is currently undergoing rapid growth with residential uses, and the subject property is a logical location for further residential expansion, as the subject property is served with public facilities and services needed to provide for increased housing opportunities.
<i>C. The change is necessary to achieve the balance of land uses desired by the City and to provide sites for needed housing or employment-generating uses, consistent with the General Plan, any applicable operative plan, or adopted policy; and to increase the inventory of land within a given zoning district to meet market demand.</i>	
Finding C:	The project proposes to amend the Fresno General Plan and Woodward Park Community Plan to achieve the balance of land uses desired by the City of Fresno. This includes, but is not limited to, emphasizing land conservation and maximizing the efficient use of available underutilized property within a planned residential growth area through the proposed Tentative Tract Map application, which will increase the inventory land available for development of single-family residential homes while providing for a variety of market-based options to suit a large range of

	income levels on lands situated with proximity to public facilities, schools, and employment opportunities. <u>California Housing Shortage</u> Since about 1970, California has been experiencing an increasing housing shortage, such that by 2018, California ranked 49th among the United States in housing units per resident. This shortage has been estimated to be 3-4 million housing units (20-30 percent of California's housing stock, 14 million as of 2017). Experts say that California needs to double its current rate of housing production (85,000 units per year) to keep up with expected population growth and prevent prices from further increasing; and, needs to quadruple the current rate of housing production over the next 7 years in order for prices and rents to decline. Approval of the proposed project would help contribute to fulfilling the housing needs of the region.
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TENTATIVE TRACT MAP FINDINGS

Section 15-3309 of the Fresno Municipal Code provides that the Review Authority (Planning Commission) for a tentative tract map may approve or conditionally approve a tentative tract map if it makes all of the following findings:

Findings per Fresno Municipal Code Section 15-3309	
A. <i>Consistency.</i> <i>The proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan, any applicable operative plan, adopted policies or guidelines, and the Municipal Code; and,</i>	
Finding A:	The subject property is located within the Fresno General Plan and the Woodward Park Community Plan of which both plans designate the subject property for Low Density Residential (0.2-3.5 dwelling units per acre) planned land uses. The proposed plan amendment proposes to change the planned land use designation to Medium Density Residential (5-12 dwelling units per acre). Tentative Tract Map No. 6402 proposes a 15-lot, 28-unit duplex residential subdivision on approximately 3.00 acres at a density of 8.95 dwelling units per acre. It should be noted that the 15 lot subdivision consists of 13 lots with duplexes (26 dwelling units) and 2 lots with single-family residential buildings (2 dwelling units) equating to a total of 28 dwelling units. The project is consistent with the following Fresno General Plan goals, objectives, and policies related to residential land use and the urban form: <u>Goals</u> • Goal 1: Increase opportunity, economic development, business, and job creation. • 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.

- Goal 15: 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 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 in accordance with Objective LU-1 of the Fresno General Plan.

Objectives

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- Policy UF-1-e: Promotes and protects unique neighborhoods and mixed-use areas throughout Fresno that respect and support various ethnic, cultural, and historic enclaves; provide a range of housing options, including furthering affordable housing opportunities; and, convey a unique character and lifestyle attractive to Frenans.
- Policy UF-1-f promotes the use of Complete Neighborhood design concepts and development standards to achieve the development of Complete Neighborhoods and the residential density targets of the General Plan.
- Policy LU-5-c: Promotes medium density residential uses to maximize efficient use of residential property through a wide range of densities.
- Policy LU-5-g promotes new development in or adjacent to established neighborhoods that is compatible in scale and character with the surrounding area by promoting a transition in scale and architectural character between new buildings and established neighborhoods, as well as integrating pedestrian circulation and vehicular routes.

	• Policy LU-5-h supports housing that offers residents a range of amenities, including public and private open space, landscaping, and recreation facilities with direct access to commercial services, 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. A swimming pool facility and bocce ball court is proposed at the central area of the proposed gated subdivision. Approximately 0.50 mile away to the south is a commercial/office use corridor along East Herndon Avenue with available land to provide current and future employment opportunities for all new residents of the neighborhood. Therefore, 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.
<i>B. Passive and Natural Heating and Cooling.</i> <i>The proposed subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision; and,</i>	
Finding B:	As proposed, to the extent feasible, the proposed subdivision will provide for future passive or natural heating or cooling opportunities by maximizing northerly-southerly facing lots. The subdivision proposes a swimming pool facility and bocce ball court that will provide for shade trees and other landscaping. Street tree requirements in the front of the subdivision are also conditioned for the subdivision.
<i>C. Availability of Water.</i> <i>Water will be available and sufficient to serve a proposed subdivision with more than 500 dwelling units in accordance with the Subdivision Map Act (Section 66473.7); and,</i>	
Finding C:	The project consists of a 15-lot, 28-unit residential subdivision/development, therefore, a water supply assessment is not required. Water facilities are available to provide service to the site subject to the conditions listed in the Department of Public Utilities comments dated June 2, 2022.

D. Infrastructure Capacity. <i>There exists sufficient infrastructure capacity for water, runoff, storm water, wastewater, and solid waste systems to serve the proposed subdivision; and,</i>	
Finding D:	The project was reviewed by appropriate partner agencies and it was determined that there is sufficient infrastructure capacity for water, runoff, storm water, wastewater, and solid waste systems to serve the proposed subdivision, subject to compliance with Conditions of Approval dated October 19, 2022.
E. Compliance with Floodplain Regulations. <i>The proposed subdivision is compliant with the City of Fresno Floodplain Management Ordinance and the State of California Code of Regulations Title 23, as well as any other applicable State or federal laws.</i>	
Finding E:	The proposed project site is not located within a designated floodplain or floodway as determined by the Fresno Metropolitan Flood Control District memorandum dated May 27, 2022.

PLANNED DEVELOPMENT FINDINGS

A Planned Development shall only be approved if all of the following findings are made:

Findings per Fresno Municipal Code Section 15-5905	
A. <i>The proposed development is consistent with the General Plan, any applicable operative plan, and adopted policies, including the density and intensity limitations that apply; and,</i>	
Finding A:	The subject property is located within the Fresno General Plan and the Woodward Park Community Plan of which both plans designate the subject property for Low Density Residential (0.2-3.5 dwelling units per acre) planned land uses. The proposed plan amendment proposes to change the planned land use designation to Medium Density Residential (5-12 dwelling units per acre). Tentative Tract Map No. 6402 proposes a 15-lot, 28-unit duplex residential subdivision on approximately 3.00 acres at a density of 8.95 dwelling units per acre. It should be noted that the 15 lot subdivision consists of 13 lots with duplexes (26 dwelling units) and 2 lots with single-family residential buildings (2 dwelling units) equating to a total of 28 dwelling units. The project is consistent with the following Fresno General Plan goals, objectives, and policies related to residential land use and the urban form: <u>Goals</u> • Goal 1: Increase opportunity, economic development, business, and job creation. • 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

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<i>B. The subject site is physically suitable for the type and intensity of the land use being proposed; and,</i>	
Finding B:	The concurrent plan amendment and rezone applications propose to change the planned land use of the subject property from Low Density Residential to Medium Density Residential, which is consistent with the proposed zone change to the RS-5/UGM (<i>Single-Family Residential, Medium Density/Urban Growth Management</i>) zone district. The concurrent application for a Tentative Tract Map proposes the development of a duplex residential subdivision at an allowable density under the Fresno General Plan as noted above, i.e. 8.95 dwelling units per acre, within the Medium Density Residential (5-12 dwelling units per acre) planned land use.
<i>C. Adequate transportation facilities, utilities, and public services exist or will be provided, in accord with the conditions of PD approval, to serve the proposed development; and the approval of the proposed development will not result in a reduction of public services so as to be a detriment to public health, safety, or welfare; and,</i>	

Finding C:	The project will front onto East Alluvial Avenue, which is a collector street. There are currently no FAX bus facilities serving the site, however with more development, this may increase the need for bus service. It should be noted that the closest FAX bus facility is approximately 800 feet from the subdivision entrance at the intersection of East Alluvial and North Willow Avenues. The project was routed to both the Fire Department and the Department of Public Utilities, which these departments have appropriately conditioned the project in order to provide services to the project. The Department of Public Utilities memorandum dated June 2, 2022 requires water and sewer main extensions within the proposed tract to serve each dwelling unit. Based upon the foregoing, the Conditions of Approval and the size of the development, the project is not proposed in size or scope which would result in a reduction of public services so as to be a detriment to public health, safety, or welfare.
<i>D. The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area; and,</i>	
Finding D:	Planning and Development Department staff have determined that the proposed use will not have a substantial adverse effect on surrounding land residential uses if developed in accordance with the various conditions and requirements established through the related tentative tract map application review and planned development application review process. The proposed project is gated and does not provide any connectivity to the developed single-family residential neighborhood to the north and multi-family complex to the east. A 6-foot masonry block wall will be constructed around the boundary of the proposed subdivision to provide separation from the existing surrounding residential development.
<i>E. The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior community design, environmental preservation, and/or substantial public benefit. In making this determination, the following factors should be considered:</i> <i>1. Appropriateness of the use(s) at the proposed location.</i> <i>2. The mix of uses, housing types, and housing price levels.</i> <i>3. Provision of infrastructure improvements.</i> <i>4. Provision of open space. For example, a greater amount of open space than would otherwise be provided under the strict application of this code.</i> <i>5. Connectivity to public trails, schools, etc.</i> <i>6. Compatibility of uses within the development area.</i> <i>7. Creativity in design and use of land.</i> <i>8. Quality of design, and adequacy of light and air to the interior spaces of the buildings.</i> <i>9. Overall contribution to the enhancement of neighborhood character and to the built and natural environment of Fresno in the long term.</i>	
Finding E:	The subject property is planned and zoned for duplex residential uses. The planned development gives the prospective home buyers the option of purchasing a mainstream type of home with less annual expense on yard maintenance and water consumption. Private gated entrances provide for additional security for the homebuyer and create a more varied mix of residential uses for the immediate area. Multiple exterior elevations with various architectural styles will be a standard option for home buyers. All required infrastructure improvements will be constructed by the project applicant. Overall, the project positively contributes to the enhancement of

	the neighborhood character and to the built and natural environment providing for additional private single-family residential development options for the neighborhood. The planned development helps provide for a larger mix of housing and home types to ensure a more affordable community that appeals to a wider variety of home buyer needs. In the long term, the proposed development will be compatible with the surrounding existing and planned land uses in the area.
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CONDITIONAL USE PERMIT FINDINGS

A Conditional Use Permit shall only be granted if the decision-maker determines that the project as submitted or as modified conforms to all of the following criteria. If the decision-maker determines that it is not possible to make all of the required findings, the application shall be denied:

Findings per Fresno Municipal Code Section 15-5905	
<i>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;</i>	
Finding A:	In accordance with FMC Table 15-902 and FMC Section 15-906, the proposed duplex residential subdivision consisting of 13 duplex buildings (26 dwelling units) and two single-family residential buildings, is a permitted use in the RS-5 (<i>Single-Family Residential, Medium Density</i>) zone district, subject to approval of a Conditional Use Permit. Given that the conditions of approval issued for the project will be complied with prior to development of the site, Conditional Use Permit Application No. P21-06515 will comply with the RS-5 and RM-1 zone district development standards, and all other chapters of the Municipal Code.
<i>B. The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted;</i>	

Finding B:

The subject property is located within the Fresno General Plan and the Woodward Park Community Plan of which both plans designate the subject property for Low Density Residential (0.2-3.5 dwelling units per acre) planned land uses. The proposed plan amendment proposes to change the planned land use designation to Medium Density Residential (5-12 dwelling units per acre). Tentative Tract Map No. 6402 proposes a 15-lot, 28-unit duplex residential subdivision on approximately 3.00 acres at a density of 8.95 dwelling units per acre. It should be noted that the 15 lot subdivision consists of 13 lots with duplexes (26 dwelling units) and 2 lots with single-family residential buildings (2 dwelling units) equating to a total of 28 dwelling units.

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A swimming pool facility and bocce ball court is proposed at the central area of the proposed gated subdivision.

	Approximately 0.50 miles away to the south is a commercial/office use corridor along East Herndon Avenue with available land to provide current and future employment opportunities for all new residents of the neighborhood. 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.
<i>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;</i>	
Finding C:	The proposed project has been reviewed by the City of Fresno Planning and Development, Public Utilities, Public Works, Police, and Fire Departments. In addition, all responsible outside agencies, including the Fresno County Department of Public Health, San Joaquin Valley Air Pollution Control District, Fresno Metropolitan Flood Control District, Fresno Irrigation District, Clovis Unified School District, and Pacific Gas & Electric have been contacted and afforded opportunity to review and provide comments and/or requirements for purposes of the proposed project. The reviews, comments, and conditions provided by these City Departments and partnering responsible agencies have been analyzed and incorporated in the conditions of approval for the proposed project. Public services, such as fire and police, are available for the proposed project. The project will not result in significant impacts to emergency response times or other performance objectives for emergency services. The nearest fire station (Fire Station 13) is approximately 2.1 miles away from the project site. The nearest police station (Northeast) is approximately 1.76 miles from the project site. The proposed project will also contribute to Citywide Development Impact fees which contribute towards police and fire services. Therefore, the proposed project will not be a detriment to the public safety of the community. The proposed project will also not be a detriment to the general welfare of the community. On the contrary, the project will provide housing (during a State housing crisis) which contributes to the opportunity for the area to be a complete neighborhood with a mix of housing choices. Furthermore, the project has been adequately reviewed by all responsible departments and agencies for compliance with applicable regulations and requirements as included in the conditions of approval for development, which will minimize or eliminate any potentially significant adverse impacts to the health, safety, and general welfare of the surrounding community.
<i>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;</i>	
Finding D:	<u>Design</u> The design of the subdivision is consistent with the provisions of the RM-1 zone district (pursuant to FMC Section 15-906) which provide additional requirements and property development standards for duplex uses in the RS-5 zone district. The project proposes 8.95 dwelling units per acre, which is consistent with the allowable density range of between 5 and 12 dwelling units per acre as established by the General Plan and Development Code. The proposed residential development will be compatible in design and appearance with existing single-family development in the vicinity given the conditions of approval issued for the project will be complied with

	prior to the development of the site. <u>Location</u> As previously stated, the project is permitted in the RS-5 zone district subject to approval of a Conditional Use Permit approved by the Planning Commission and is found to be compatible with the existing land uses in the vicinity. <u>Size</u> The project is comprised of one property totaling approximately 3.00 acres with an outlot to be dedicated for private use of the hospice building. <u>Operating Characteristics</u> The proposed project will operate as a typical duplex/single-family residential development which is consistent with the underlying RS-5 zone district and Medium Density Residential planned land use designation. Therefore, the proposed development is compatible with the established residential land uses in the surrounding area, will comply with all FMC requirements, and will not have a negative impact on the existing and future land uses in the vicinity for the reasonably foreseeable future.
<i>E. The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required;</i>	
Finding E:	The proposed project is conditioned to meet the intensity and massing development standards outlined under FMC Sections 15-1003 regarding maximum height, setbacks, frontage and lot coverage, and minimum open space. The proposed project improvements will provide adequate site and emergency vehicle access with one drive approach and gated entryway on East Alluvial Avenue, and one emergency vehicle access gate along the hospice building property adjacent east of the subject property, which will be an outlot. Improvements include the installation of all on- and off-site utilities and services for the project. Therefore, the proposed development is consistent with the allowable land use and intensity requirements per the underlying RS-5 zone district. Adequate access, parking, utilities, and services shall be provided to serve the property and were reviewed for consistency with the requirements of the RS-5 zone district.
<i>F. The proposed use is consistent with the 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>	
Finding F:	The subject property is not located within the Fresno County Airport Land Use Compatibility Plan. Therefore, this requirement does not apply to the project.

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.