

**EXHIBIT H  
VARIANCE APPLICATION FINDINGS  
TO APPROVE OR DENY**

**APPROVAL FINDINGS PER FRESNO MUNICIPAL CODE  
SECTION 15-5506**

A Variance, including variances from the terms of open-space zoning, shall only be granted if the Review Authority determines that the project as submitted or as modified conforms to all of the following criteria. If the Review Authority determines that it is not possible to make all of the required findings, the application shall be denied.

*a. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the vicinity and identical zoning classification, and that the granting of a Variance will not constitute a granting of a special privilege inconsistent with the limitations on the property in the vicinity and identical zone classifications;*

Finding a:	The existing 72-foot and 112-foot tall wireless telecommunication facilities on the subject property constitute an exceptional or extraordinary circumstances applicable to the property involved that do not apply generally to property in the vicinity and identical zoning classification, and that the granting of a Variance will not constitute a granting of a special privilege inconsistent with the limitations on the property in the vicinity and identical zone classifications.
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*b. The granting of the application is necessary to prevent a physical hardship which is not of the applicant's own actions or the actions of a predecessor in interest;*

Finding b:	2. The granting of the Variance is necessary to prevent a physical hardship, the existing 72-foot and 112-foot tall wireless telecommunication facilities on the subject property, which are not of the applicant's own actions or the actions of a predecessor in interest.
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*c. The granting of the application will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience, nor the preservation and conservation of open space lands; and*

Finding c:	The digital billboard will be required to comply with the California Building Code, all Caltrans requirements, and has been found to be consistent with the Fresno County Airport Land Use Compatibility Plan, subject to approval by the FAA, and up to a height of 80 feet. Compliance with the Fresno Municipal Code lighting requirements will ensure that the proposed lighting will not be detrimental or injurious to nearby properties.
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*d. The granting of the Variance will be consistent with the general purposes and objectives of this Code, any applicable operative plan, 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, and of the General Plan..*

Finding d:	The granting of the Variance safeguards and enhances the appearance of the city, and thus consistent with the general purposes and objectives of this Code, the Woodward Park Community Plan, Fresno County Airport Land Use Compatibility Plan, and the General Plan.
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**DENIAL FINDINGS PER FRESNO MUNICIPAL CODE SECTION**  
**15-5506**

A Variance, including variances from the terms of open-space zoning, shall only be granted if the Review Authority determines that the project as submitted or as modified conforms to all of the following criteria. If the Review Authority determines that it is not possible to make all of the required findings, the application shall be denied.

*a. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the vicinity and identical zoning classification, and that the granting of a Variance will not constitute a granting of a special privilege inconsistent with the limitations on the property in the vicinity and identical zone classifications;*

Finding a: There are exceptional and extraordinary circumstances and conditions applicable to the property involved that do not apply generally to property in the vicinity and identical zoning classification: 1) The property is located directly adjacent to an elevated freeway, and 2) the ownership of this specific O (*Office*) district property allows for greater uses.

However, the granting of the Variance would constitute a granting of a special privilege inconsistent with the limitations on the property in the vicinity and identical zone classifications.

As the applicant-provided photosimulations show, the digital billboard is visible at a Code-compliant height of 60 feet from the southbound travel direction of State Route 41. The applicant states that the billboard cannot be marketable due to the location of existing cell towers on the same property (“a jungle of infrastructure”). Staff’s analysis shows that the cell tower pole obstructs at most two (2) percent of the billboard. Furthermore, the applicant’s own Media Kit for Fresno shows existing billboards blocked to the same degree by streetlights and traffic signals. Common sense logic states that if bisected billboards are not marketable, they would not be placed in the applicant’s own Media Kit, let alone exist.

From the northbound view, the applicant-provided photosimulation does show trees substantially obstructing (30%) the view of the billboard at a Code compliant height of 60 feet, reduced to less than 1% at the proposed height of 80 feet. These trees however are located on Caltrans right-of-way, and there are procedures available to the applicant to have these trees trimmed.

*b. The granting of the application is necessary to prevent a physical hardship which is not of the applicant's own actions or the actions of a predecessor in interest;*

Finding b: The applicant states that the presence of existing wireless telecommunication facilities found on the same property constitutes a physical hardship, due to the tower pole obstructing the messaging that would be found on a billboard of Code-compliant height.

The mere existence of an obstruction blocking 2% of a message does not constitute a physical hardship, as a great majority of signage within City limits-including billboards-are blocked to some minor degree by City equipment.

*c. The granting of the application will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience, nor the preservation and conservation of open space lands; and*

Finding c:	The digital billboard will be required to comply with the California Building Code, all Caltrans requirements, and has been found to be consistent with the Fresno County Airport Land Use Compatibility Plan, subject to approval by the FAA, and up to a height of 80 feet. Compliance with the Fresno Municipal Code lighting requirements will ensure that the proposed lighting will not be detrimental or injurious to nearby properties.
<i>d. The granting of the Variance will be consistent with the general purposes and objectives of this Code, any applicable operative plan, 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, and of the General Plan..</i>	
Finding d:	The approval of the Variance would be inconsistent with the Development Code's Purpose, FMC Section 15-102-J, "To safeguard and enhance the appearance of the city." The approval of the Variance would create an over-height billboard which would not safeguard nor enhance the appearance of the city, as it would overwhelm its surroundings by its large scale and form. The approval of a Variance due to existing light poles and trees that could be trimmed would create precedence, thereby preventing the Development Code from safeguarding the appearance of the City.