

EXHIBIT J
DEVELOPMENT PERMIT APPLICATION FINDINGS

Findings per Fresno Municipal Code Section 15-5206	
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:	
<i>A. The applicable standards and requirements of this Code.</i>	
Finding A:	The proposed billboard has been conditioned to comply with all property development standards of the O zone district and all applicable lighting standards.
<i>B. The General Plan and any operative plan or policies the City has adopted.</i>	
Finding B:	The proposed project complies with all policies in the General Plan and Woodward Park Community Plan.
<i>C. Any applicable design guidelines adopted by the City Council.</i>	
Finding C:	There are no design guidelines adopted by the City Council that are applicable to this project.
<i>D. Any approved Tentative Map, Conditional Use Permit, Variance, or other planning or zoning approval that the project required.</i>	
Finding D:	As conditioned and recommended, the Development Permit will not need a Variance.

VARIANCE APPLICATION FINDINGS

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.	
<i>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;</i>	
Finding a:	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. Furthermore, CalTrans-owned trees exist not only adjacent to the subject property, but in fact all area Office-zoned properties abutting State Route 41. There are procedures available to the applicant to have CalTrans trees trimmed. Adding to this, the City’s zoning ordinance in the past and currently requires parking lot

	<p>trees, street trees, and lot coverage trees.</p> <p>There are no exceptional and extraordinary circumstances and conditions applicable to the property that would justify the allowance of a 43% height increase beyond what is allowed. Therefore, the granting of the Variance would constitute a granting of a special privilege, inconsistent with the limitation on the property in the vicinity and identical zoning classifications, this finding cannot be made.</p>
<p><i>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;</i></p>	
Finding b:	<p>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.</p> <p>Because these structures are located on the same site, they are therefore are the actions of a predecessor-in-interest. Because the physical hardship is of the action of a predecessor-in-interest, this finding cannot be made.</p>
<p><i>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</i></p>	
Finding c:	<p>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 86 feet.</p>
<p><i>d. The granting of the Variance will be consistent with the general purposes and objectives of this Code, any applicable operative plan, and of the General Plan.</i></p>	
Finding d:	<p>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 overheight 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. For these reasons, this finding cannot be made.</p>

GENERAL PLAN AND OPERATIVE PLAN CONSISTENCY FINDINGS

The Fresno General Plan designates the subject site for Office planned land uses and provides objectives to guide in the development of these projects. Development Permit Application No. P19-00359 and Variance Application No. P19-02282 do not conflict with policies and objectives of the Fresno General Plan and Woodward Park Community Plan. The following are excerpts of policies the Variance is consistent with:

- Policy D-1-j Lighting Standards. Update lighting standards to reflect best practices and protect adjoining uses from glare and spillover light.

The project is conditioned to comply with existing signage light standards.

- Policy D-2-c Highway Beautification. Work with Caltrans, the Fresno Council of Governments, Tree Fresno, neighboring jurisdictions, and other organizations to obtain funding for highway beautification programs.

The project is required to take down, at minimum, one existing, legal billboard as required pursuant to FMC Section 15-2605-B.

- Policy NS-5-b Airport Safety Hazards. Ensure that new development, including public infrastructure projects, does not create safety hazards such as glare from direct or reflective sources, smoke, electrical interference, hazardous chemicals, fuel storage, or from wildlife, in violation of adopted safety standards.

The project has received conditional approval from the Fresno County Airport Land Use Commission, pending a renewed Finding of No Hazard from the Federal Aviation Administration.

The project will utilize vacant land where the necessary infrastructure and facilities are available to serve the property. The proposed project is consistent with many of the goals and policies of the Fresno General Plan. The proposed project promotes diverse land uses and preserves and protects resources by developing within the city limits.

ENVIRONMENTAL FINDINGS

The CEQA permits a public agency to determine whether a particular project is exempt from CEQA. A determination of a Categorical Exemption, Section 15303/Class 3 of the CEQA Guidelines was made and Environmental Assessment No. P19-00359 was completed for this project on May 22, 2019.

The Variance is recommended to be denied. Project denials are categorically exempt from CEQA. Despite this, should the Planning Commission decide to approve the Variance, this project would nevertheless still be considered categorically exempt from CEQA under the same determination.

The project proposes a small structure, whether the height of the billboard be 60 or 86 feet. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project. Furthermore, the proposed project is not expected to have a significant effect on the environment. Accordingly, a categorical exemption, as noted above, has been prepared for the project.