

**RESOLUTION NO. 23-07**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A CONDITIONAL USE PERMIT TO ALLOW FOR A 32-BED AND 108-BED SENIOR RESIDENTIAL CARE FACILITY WITH ANCILLARY COMMUNAL SPACE AND PROPERTY IMPROVEMENTS LOCATED AT 17090 PEAK AVENUE (APN 767-03-017)**

**WHEREAS**, an application was submitted by Michael De Castro representing Vila Monte Kezia Nelly Amas (owner), for the request of a conditional use permit to add two bedrooms (4-beds) to the existing Vila Monte senior care facility and expand services into a new approximate 18,700 square foot two-story building consisting of 52 bedrooms (108-beds) with ancillary communal space and associated property improvements. The property, identified by Assessor Parcel Number 767-03-017, is located at 17090 Peak Avenue, north of the Peak Avenue and West Dunne Avenue intersection (Kezia Nelly Amas, Property Owner).

**WHEREAS**, such request was considered by the Planning Commission at their regular meeting of July 26, 2022 where the commission heard the presentation along with exhibits and drawings and public testimony and continued the item to a date uncertain to allow further collaboration between the property owner and adjacent resident; and

**WHEREAS**, the applicant met with the adjacent resident and redesigned the site plan, prepared new exhibits and drawings; and

**WHEREAS**, such request was reconsidered by the Planning Commission at their regular meeting of July 25, 2023; and

**WHEREAS**, based upon the Initial Study concluding the project qualifies for a Categorical Exemption, the Development Services Director has determined that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332, Class 32; and has further determined that none of the exceptions to the exemption apply;

**WHEREAS**, testimony received at a duly noticed public hearing, along with exhibits and drawings, and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The Conditional Use Permit is consistent with the Zoning Ordinance and the General Plan.

**SECTION 2.** The approved Conditional Use Permit has been found consistent with the Findings of approval contained in Section 18.108.030 of the Zoning Code and hereby adopted:

**a. The proposed use is allowed in the applicable district.**

A residential care facility is conditionally allowed use within the Residential Attached Medium zoning district.

**b. The proposed use is consistent with the General Plan, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.**

The use is consistent with the General Plan, specifically but not limited to Policy CNF-2.1, CNF-2.3, CNF-2.4, and CNF-8.3. It is a conditionally allowed use within the RAM zoning district, and if approved, will build the facility to meet all the development standards and parking requirements.

**c. The site is suitable and adequate for the proposed use.**

The site is flat near the west and south borders adjacent to the fronting streets and slopes up a hill as it gets to the Hale Avenue Extension project to the north and east. The existing building is situated on top of the hill toward the northeast portion of the site and the building footprint will not change. The proposed new building will be placed on the flatter portion of the site adjacent to Peak Avenue which significantly reduces the amount of cut and fill that could be required to develop the site. The conceptual site plan demonstrates the project can meet all the development standards within the RAM zoning designation.

**d. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the property.**

The existing adjacent uses include the Pacific Hills Manor Residential Care Facility to the north, Morgan Hill Masonic Center to the south, residential to the west and southwest, with the Hale Avenue Extension to the east. The proposed use is a compatible use with the existing adjacent uses in that the property is situated in between another care facility and medical facility, and it is a residence for the tenants. While the development standards allow for a larger building footprint and up to three stories, the proposal is a two-story structure to reduce the massing and provide compatibility with existing buildings.

**e. The proposed use will not be detrimental to the public health,**

**safety, and welfare.**

This is a State Licensed Facility which ensures the facility will meet the established health and safety standards for California. The new construction will meet all current building code requirements and therefore will not be detrimental to the public health, safety, and welfare.

- f. The proposed use would not have a substantial adverse effect in traffic circulation and on the planned capacity of the street system.**

The estimated daily and peak hour trips for the project are based on the Institute of Transportation Engineers (ITE) trip rate data. The trip rates are used to quantify if a project would have traffic and circulation impacts beyond what is anticipated within the Morgan Hill General Plan EIR. Any project/development that generates over 100 or more net new peak hour trips is deemed significant and would require further study of a Traffic Impact Analysis (TIA). Based on the trip generation rates for assisted living and the project size (beds), the proposed project would generate less than 100 trips and therefore will not have a substantial adverse effect on traffic and circulation beyond what was planned for the capacity of the current street system.

- g. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.**


The proposed expanded use at the proposed location introduces a compatible use to the existing adjacent uses. Pursuant to the general plan, there is sufficient services and infrastructure to support the expansion of the residential care facility.

**SECTION 3.** The Planning Commission hereby approves the Conditional Use Permit subject to the conditions set forth in Exhibit A attached hereto and incorporated herein this reference. Any expansion, intensification, or changes to the use approved under this conditional use permit deemed major by the Development Services Director shall be permitted only upon amendment of this Conditional Use Permit or approval of a separate Conditional Use Permit application.


**PASSED AND ADOPTED THIS 25<sup>th</sup> DAY OF JULY 2023, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

<b>AYES:</b>	<b>COMMISSIONERS:</b>	<b>MUELLER, HABIB, LAKE, KUMAR, WILSON</b>
<b>NOES:</b>	<b>COMMISSIONERS:</b>	<b>TANDA</b>
<b>ABSTAIN:</b>	<b>COMMISSIONERS:</b>	<b>NONE</b>
<b>ABSENT:</b>	<b>COMMISSIONERS:</b>	<b>DOWNEY</b>

**ATTEST:**

  
\_\_\_\_\_  
**JENNA LUNA, Deputy City Clerk**

**APPROVED:**

  
\_\_\_\_\_  
Joseph Mueller (Sep 21, 2023 14:28 PDT)  
**JOSEPH MUELLER, Chair**

**EXHIBIT "A"**  
**STANDARD CONDITIONS**

**APPLICATION NO: UP2020-0009**  
**THE FOLLOWING APPROVAL REQUIREMENTS AND ANY SPECIAL CONDITIONS**  
**SHALL BE APPLIED THROUGH THE DEVELOPMENT APPROVAL PROCESS.**

Legend

MHMC= Morgan Hill Municipal Code  
MHARH= Morgan Hill Architectural Review Handbook  
CMH= City of Morgan Hill  
CFC= California Fire Code

**I. PROJECT DESCRIPTION**

Conditional Use Permit to add two bedrooms (4-beds) to the existing Villa Monte Senior Care Facility and expand services into a new approximate 18,700 square foot two-story building consisting of 54 bedrooms (108-beds) with ancillary communal space. The property, identified by assessor parcel number 767-03-017 is located on the northeast corner of West Dunne Avenue and Peak Avenue at 17090 Peak Avenue (Kezia Nelly Amas, Owner). The project is categorically exempt pursuant to Section 15332, In-Fill Development Project.

**II. PROJECT CONDITIONS OF APPROVAL**

It shall be the responsibility of the Owner to ensure that any changes or modifications to the Project are in compliance with the original City Conditions of Approval of the Project, which are hereby incorporated herein as set forth in full.

**PLANNING DIVISION**

- A. **Conditional Use Permit.** This Conditional Use Permit approval is limited to the Project Description above and the conceptual plan set on file (UP2020-0009) with the Development Services Department. The proposal will require approval of a Design Permit prior to submittal of a building permit.
- B. **Design Permit.** The applicant shall submit for a Design Permit for the review of the future approximate 18,700 square foot building. The site design shall comply with all applicable development standards within the Zoning Chapter of the Municipal Code including the Residential Attached Medium Zoning designation. The approved building plans and landscape plans must be in substantial

conformance with the approved Use Permit and future Design Permit plans as determined by the Development Services Director.

- C. **Design Permit.** The City shall work with the applicant to address privacy concerns including but not limited to setbacks.
  
- D. **Residential Care Facility.** This conditional use permit is for a residential care facility which is defined per the Municipal Code as a State licensed facility providing twenty-four-hour non-medical residential living accommodations pursuant to the uniform building, housing, and fire codes. Care and Supervision shall include but not be limited to any one or more of the following activities provided by a person or facility to meet the needs of the residents:
  - a. Assistance in dressing, grooming, bathing, and other personal hygiene;
  - b. Assistance with taking medication and central storing and distribution of medications;
  - c. Arrangement of and assistance with medical and dental care;
  - d. Maintenance of house rules for the protection of residents;
  - e. Supervision of resident's schedules and activities;
  - f. Maintenance and supervision of resident monies or property; and
  - g. Monitoring food intake and special diets.
  
- E. **Residential Care Facility Standards.** The new facility will need to meet the minimum following standards and incorporate any design features within the Design Permit:
  - a. Individual sleeping quarters with no more than half kitchens, a common dining facility which provides a sit-down dining service at two distinct times per day, and recreational features such as a lounge or recreation room shall be provided.
  - b. Safety features designed for the needs of the elderly, such as emergency call systems which are linked to on-site staff which are available twenty-four hours per day, grab bars and handrails, special door hardware, cabinets, appliances, and doorways designed to accommodate wheelchairs, and social services for residents which must also include at least three of the following: transportation services provided by the facility, housekeeping, facility provided linen/laundry, and organized social and recreational activities.
  - c. Such facilities may have up to two manager's units which contain full kitchen facilities.
  - d. Residential care facility includes, but is not limited to, health facilities as defined in California Health and Safety Code (H&SC) Section 1250 et seq., Community Care Facilities (H&SC Section 1500 et seq.), Residential Care Facilities for the Elderly (H&SC Section 1569 et seq.), or Facilities for the Mentally Disordered or otherwise handicapped defined in California Welfare and Institutions Code (W&I Code Section 5000 et seq.), alcoholism or drug abuse recovery or treatment facilities (H&SC Section 11834.02), and other similar care facilities.

- F. **Time Limits.** The conditional use permit approval granted pursuant to this Resolution shall remain in effect for two years from the approval date. Failure to obtain a design permit within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to expiration date. (MHMC 18.108.040)
- G. **Defense and Indemnity.** As part of, and in connection, with this application to the City of Morgan Hill, Applicant agrees to defend, indemnify, and hold harmless the City of Morgan Hill, its officers, agents, employees, officials and representatives (Indemnitees) from and against any and all claims, actions, or proceedings arising from any suit for damages or for equitable or injunctive relief which is filed against City to attack, set aside, void or annul its approval of this application or any related decision, or the adoption of any environmental documents which relates to said approval. The City shall promptly notify the Applicant of any such claim, action or proceeding and the City shall cooperate fully in the defense thereof. In the event that Applicant is required to defend Indemnitees in connection with the proceeding, Indemnitees shall retain the right to approve (a) the counsel to so defend Indemnitees; (b) all significant decisions concerning the manner in which the defense is conducted; and (c) any and all settlements, which approval shall not be unreasonably withheld. This indemnification shall include, but is not limited to, (a) all pre-tender litigation costs incurred on behalf of the City, including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals; (b) reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted; and (c) all damages, costs, expenses, attorney fees or expert witness fees that may be awarded to the prevailing party arising out of or in connection with the approval of the application or related decision. City may, in its sole discretion, participate in the defense of such action; but such participation shall not relieve Applicant of its obligations under this condition. The undersigned hereby represents that they are the Applicant or are fully empowered by the Applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by Applicant to be bound by such conditions.

#### **ENGINEERING DIVISION**

- A. The Design Permit will be reviewed for compliance with the Municipal Code including but not limited to the on and off-site improvements and stormwater control plan.
- B. Project will be subject to impact fees prior to issuance of any future building permit.

## **ENVIRONMENTAL SERVICES**

- A. The Design Permit landscaping shall comply with the Morgan Hill Municipal Code (MHMC) 18.148 – Water Conservation.

## **BUILDING DIVISION**

- A. The following items need to be incorporated into the design and will be verified at Building Permit application plan review:
1. The Accessible parking spot shall be connected to the accessible path of travel that leads to the main entrance and to the public right of way.
  2. The trash enclosure should be designed to be in compliance with recently passed City of Morgan Hill Ordinance 2328. <https://www.morgan-hill.ca.gov/DocumentCenter/View/40220/Ordinance-2328-Refuse-and-Recycle-Enclosures?bidId=>. All trash enclosures not compliant with this ordinance will be required to be in compliance by 1/1/2030, therefore it is recommended to design the trash enclosure for compliance. Provide trash enclosure designs to verify compliance. Note: This ordinance requires a pedestrian entrance; this pedestrian entrance shall be accessible and connected to the accessible path of travel.
  3. On-site parking and paths shall comply with the lighting requirements of MHMC 15.40 Building Security. Provide a Photometric plan to show compliance. [https://library.municode.com/ca/morgan\\_hill/codes/code\\_of\\_ordinances?nodeId=TIT15BUCO\\_CH15.40BUSE](https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeId=TIT15BUCO_CH15.40BUSE). Photometric plans were not provided as indicated in the response letter.
  4. Project shall be designed to comply with the current edition of the California Codes of Regulations as amended by the Morgan Hill Municipal Code Title 15.
  5. Project is in a Geological Hazard Area and shall comply with MHMC 18.70. Plan review by the City Geologist is required at time of Building Permit Application. This review requires additional time. [https://library.municode.com/ca/morgan\\_hill/codes/code\\_of\\_ordinances?nodeId=TIT18ZO\\_DIVIZOCO\\_CH18.70GEHA](https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeId=TIT18ZO_DIVIZOCO_CH18.70GEHA)
  6. Project shall comply with the Morgan Hill Municipal Code (MHMC) including but not limited to:
    - i. MHMC 15.65 Sustainable Building Regulations. (Project is required to score LEED Silver)  
[https://library.municode.com/ca/morgan\\_hill/codes/code\\_of\\_ordinances?nodeId=TIT15BUCO\\_CH15.65SUBURE](https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeId=TIT15BUCO_CH15.65SUBURE)



- ii. MHMC 18.72.040 C. Electric Vehicle Charging.
  - iii. MHMC 15.40 Building Security  
[https://library.municode.com/ca/morgan\\_hill/codes/code\\_of\\_ordinances?nodeld=TIT15BUCO\\_CH15.40BUSE](https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeld=TIT15BUCO_CH15.40BUSE)
  - iv. MHMC 18.148 Water Conservation  
[https://library.municode.com/ca/morgan\\_hill/codes/code\\_of\\_ordinances?nodeld=TIT18ZO\\_DIVIIDECO\\_CH18.148WACO](https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeld=TIT18ZO_DIVIIDECO_CH18.148WACO)
  - v. MHMC 15.63 Prohibition of Natural Gas Infrastructure in New Buildings (GAS IS PROHIBITED)  
[https://library.municode.com/ca/morgan\\_hill/codes/code\\_of\\_ordinances?nodeld=TIT15BUCO\\_CH15.38WATHPR](https://library.municode.com/ca/morgan_hill/codes/code_of_ordinances?nodeld=TIT15BUCO_CH15.38WATHPR)
7. An acoustical analysis report shall be submitted with the building permit documents showing interior and exterior noise mitigations for compliance to the MHMC, California Building Code and CALGreen Code.
8. A Geotechnical Report is required for this project at time of Grading Permit or Building Permit Application, whichever is first.

#### **FIRE DIVISION**

- A. **Preliminary Review Only:** The requirements and conditions stated in this review are preliminary and are intended to be used for the purposes of project planning. An official Fire Department review of the project will be conducted upon receipt of a complete plan submittal application that clearly shows all intended grading, demolition, construction or building modifications.

Prior to Design Permit submittal, provide Fire Apparatus turning template to show onsite access, turning, radius and if access exceeds 150-feet and approved fire apparatus turn around.

- B. Fire Apparatus (Engine) Access Roads Required: Prior to the commencement of combustible construction, an access roadway with a paved all-weather surface and a minimum unobstructed width of 20 feet, vertical clearance of 13 feet, 6 inches shall be provided, with minimum circulating turning radius of 36 feet outside and 23 feet inside, and a maximum slope of 15%, unless otherwise approved in writing by the Fire Marshal. Installations shall conform to the City of Morgan Hill Standard Details and Specifications 11-B. (CFC Section 503 as amended by MHMC 15.44.090)
- C. Review of the conceptual plans do not release the developer, architect, or contractor of the responsibility for the corrections of mistakes, errors or omissions contained therein.

#### **POLICE DEPARTMENT**

- A. **Safety and Security Plan.** The Police Department shall review and approve a safety and security plan for the facility including a security camera plan prior to the issuance of a building permit or site development permit, whichever one is issued first.
  
- B. **Camera Access.** The Police department will require access to camera feed and camera recordings to be able to view real time and recorded footage if/when required.







# City of Morgan Hill Peak Amas Resolution Ready for Signatures

Final Audit Report

2023-09-21

Created:	2023-09-21
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## "City of Morgan Hill Peak Amas Resolution Ready for Signatures" History

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