

# City of Morgan Hill



File #: 15-766, Agenda Date: 11/18/2015, Version: 1

## **CITY COUNCIL STAFF REPORT**

### **MEETING DATE: NOVEMBER 18, 2015**

PREPARED BY: Jim Rowe, Staff Planner/Community Development  
 APPROVED BY: City Manager

**ZONING AMENDMENT, ZA-14-13: PEAK-AMAS: A ZONING AMENDMENT TO CHANGE THE CURRENT ZONING ON A 1.94 ACRE PARCEL FROM R-3(C) CONDITIONAL TO R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT CONSISTENT WITH THE ADOPTED GENERAL PLAN. THE PROPERTY IS LOCATED ON THE NORTHEAST CORNER OF WEST DUNNE AVENUE AND PEAK AVENUE (APN 767-03-017) CEQA: PRIOR EIR PREPARED WITH GENERAL PLAN UPDATE**

#### **RECOMMENDATION(S)**

1. Open/Close Public Hearing;
2. Waive the first and second reading of the Ordinance; and
3. Introduce Ordinance approving Zoning Amendment ZA-14-13.

#### **COUNCIL PRIORITIES, GOALS & STRATEGIES:**

##### **Ongoing Priorities**

Protecting the environment  
 Preserving and cultivating public trust

##### **2015 Focus Areas**

Ongoing Support of Senior Services

#### **REPORT NARRATIVE:**

This item was first considered by the City Council at the August 5, 2015 City Council meeting. The applicant is requesting the subject property at 17090 Peak Avenue be rezoned from R-3 Conditional to R-3 Medium Density Residential. Removal of the conditional zoning on the property would allow the applicant to apply for expansion of the existing Via Monte senior assisted residential care facility from 28 to 84 beds under a separate Conditional Use Permit. The R-3 Medium Density Residential District allows congregate care for the elderly and assisted living facilities as a conditional use. At the August 5, 2015 meeting, Council members expressed concern that the requested zoning amendment would allow multi-family apartment or townhouse development as a permitted use on the subject property. The City Council tabled the zoning request and suggested that the City enter into a Development Agreement with the Applicant to limit the land use (preclude multi-family residential) as

---

**File #: 15-766, Agenda Date: 11/18/2015, Version: 1**

---

a pre-condition to zoning approval. Council member Librers also asked staff to evaluate the potential historic value of the stone wall and small farm structure on the property.

An internal City team that included Planners and the City Attorney determined that a deed restriction, agreed to by the Applicant, would be an appropriate means to limit the use of the subject property to a State Licensed Residential Care Facility for the Elderly. The Applicant has voluntarily offered and agreed to properly record said deed restriction against the subject property after the second reading of an ordinance amending the zoning on the subject property from R-3 (c) Multi-family Conditional to R-3 Medium Density Residential Zoning District, and Applicant shall effect such deed restriction recordation within thirty days of the second reading of said rezoning ordinance. The deed restriction shall remain in place continuously for as long as the subject property remains zoned R-3 Medium Density Residential District. The deed restriction requirement, to memorialize the voluntary offer of the applicant, is set forth in Section 5 of the attached Zoning Ordinance.

Staff conducted a historic resource evaluation to determine the potential historic value of the stone wall and other site improvements. The project site is developed with a section of a stone retaining wall, a concrete wall with steps, and a small storage shed. Based on a historic resource evaluation, none of the structures on-site are of historical significance in accordance with the California Register of Historic Places (CRHP) or the National Register of Historic Places (NRHP). The project site is not listed in the Morgan Hill Historic Inventory. None of the properties adjacent to the site or across the street are included in the CRHP, NRHP, or the Morgan Hill Historic Inventory. Therefore, implementation of the proposed project would not cause an adverse change in the significance of a historical resource.

The attached August 5, 2015 City Council report provides the analysis and findings in support of the recommended zoning amendment.

### **COMMUNITY ENGAGEMENT: Inform**

A 10 day public hearing notice was published in the Friday, November 6, 2015 edition of the Morgan Hill Times and notices were mailed to property owners within three hundred feet of the project pursuant to Government Code Sections 65090-65096.

### **Conclusion**

The applicant is requesting the subject property at 17090 Peak Avenue be rezoned from R-3 Conditional to R-3 Medium Density Residential. Approval of the zoning amendment will eliminate the need for further zoning amendments and will establish zoning consistent with the General Plan Multi-family Medium Density land use designation.

Staff recommends City Council approval of the Zoning Amendment by adoption of the attached Ordinance.

### **ALTERNATIVE ACTIONS:**

Deny Zoning Amendment ZA-14-13. This action would require the applicant to request amendment to the current R-3(C) Conditional zoning to expand the facility and increase the number of beds from 28 to 84. Approval of the zoning amendment will eliminate the need for further zoning amendments to expand the facility and will establish zoning consistent with the General Plan Multi-family Medium

---

**File #: 15-766, Agenda Date: 11/18/2015, Version: 1**

---

Density land use designation. Expansion of the Senior Care facility would be subject to Planning Commission approval of a conditional use permit.

**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

As noted in the above report narrative, this item was first considered by the City Council on August 5, 2015. The item was tabled with direction to staff to address a limitation on the allowable use of the subject property and to evaluate the potential historic value of the existing site improvements.

The Planning Commission conducted a public hearing on this item at their July 14, 2015 meeting and voted 5-1 to recommend City Council of Zoning Amendment ZA-14-13. Commissioner Mueller voted no and recommended the current R-3 Conditional Zoning remain in place, expressing concern that the proposed rezoning could allow future development of the site with multi-family residential development without further review by the Planning Commission and City Council. The recommended deed restriction described in Section 5 of the attached Zoning Ordinance addresses both the City Council and Commissioner Mueller's concern.

The applicant spoke at the Planning Commission hearing in support of the project. No members of the neighborhood appeared to speak on the project. Following the August 5, 2015 meeting the Mayor and Council members received email messages from the adjacent property owners and a nearby property owner in opposition to the zoning amendment and requesting that the subject property remain under its current use with no expansion of the existing Residential Care Facility for the Elderly. The email messages and staff replies are attached.

**FISCAL AND RESOURCE IMPACT:**

An application fee was collected to cover the cost of processing this application and a separate fee was collected to cover the cost of conducting the historic resource evaluation.

**CEQA (California Environmental Quality Act):**

Project, Description of CEQA requirements

The project site was reviewed as part of Master Environmental Impact Report for the 2001 General Plan update and has been found complete, correct, and in substantial compliance with the requirements of the California Environmental Quality Act. The Zoning Amendment complies with the General Plan as required by Government Code Section 65860 and as noted in the July 15, 2015 City Council staff report.

**LINKS/ATTACHMENTS:**

1. August 5, 2015 City Council Report
2. Ordinance
3. Exhibit A - Map
4. Vicinity Map
5. July 14, 2015 Planning Commission Staff Report
6. E-mail correspondence and staff reply messages

# City of Morgan Hill



File #: 15-471, Agenda Date: 8/5/2015, Version: 1

## **CITY COUNCIL STAFF REPORT**

### **MEETING DATE: AUGUST 5, 2015**

PREPARED BY: Jim Rowe, Staff Planner/Community Development  
 APPROVED BY: City Manager

**ZONING AMENDMENT, ZA-14-13: PEAK-AMAS: A ZONING AMENDMENT TO CHANGE THE CURRENT ZONING ON A 1.94 ACRE PARCEL FROM R-3(C) CONDITIONAL TO R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT CONSISTENT WITH THE ADOPTED GENERAL PLAN. THE PROPERTY IS LOCATED ON THE NORTHEAST CORNER OF WEST DUNNE AVENUE AND PEAK AVENUE (APN 767-03-017) CEQA: PRIOR EIR PREPARED WITH GENERAL PLAN UPDATE**

#### **RECOMMENDATION(S)**

1. Open/Close Public Hearing;
2. Waive the first and second reading of the Ordinance; and
3. Introduce Ordinance approving Zoning Amendment ZA-14-13.

#### **COUNCIL PRIORITIES, GOALS & STRATEGIES:**

##### **Ongoing Priorities**

Protecting the environment  
 Preserving and cultivating public trust

##### **2015 Focus Areas**

Ongoing Support of Senior Services

##### **REPORT NARRATIVE:**

In February of 1982, the subject property received approval to amend its zoning designation from R-2 to R-3 (C), to allow the development of the 99 bed convalescent hospital located on the corner of Peak Ave. and Noble Ct. Under the R-2 zoning, convalescent hospitals are limited to 15 beds. The R-3 zoning has no limitations on the size of a convalescent home. At the time of the initial zoning amendment request, persons residing in the neighborhood were supportive of the convalescent hospital but requested some assurance that the hospital, not multi-family housing would be developed. To accommodate this, the amendment was approved as conditional zoning. In 1987, the 99 bed Pacific Hills Manor convalescent facility was constructed on the northerly parcel at 370 Noble Court. In 2002, the R-3 conditional zoning was amended to allow the existing Vila Monte Senior Care facility, located at 17090 Peak Avenue, to expand from 15 beds to 28 beds.

The current request is to remove the conditional zoning on the subject property thereby allowing the applicant to apply for expansion of the existing Vila Monte senior assisted residential care facility from 28 to 84 beds under a separate Conditional Use Permit. The R-3 Medium Density Residential District allows congregate care for the elderly and assisted living facilities as a conditional use.

## **ANALYSIS:**

The applicant is requesting the subject property at 17090 Peak Avenue be rezoned from R-3 Conditional to R-3 Medium Density Residential. The current R-3 Conditional zoning was imposed to assure nearby residents that the Noble Court property would be developed as a convalescent home, and not multi-family housing. The zoning applies to both the Noble Court parcel and the subject parcel on Peak Avenue. Approval of the Zoning Amendment will eliminate the need for further Zoning Amendments and will establish zoning consistent with the General Plan Multi-family Medium Density land use designation. The R-3 Conditional zoning will remain in place on the Noble Court property.

The project site was reviewed as part of Master Environmental Impact Report for the 2001 General Plan update and has been found complete, correct, and in substantial compliance with the requirements of the California Environmental Quality Act. The Zoning Amendment complies with the General Plan as required by Government Code Section 65860 and as noted in the following section of this report.

### **1) General Plan**

The General Plan land use designation for the project is Multi-Family Medium Density (14-21 units per acre). The proposed R-3 zoning designation establishes allowed land uses, minimum lot dimensions and other development standards that correspond to the intent of the Multi-Family Medium General Plan designation. The project site is surrounded by existing development. Public utilities and services are available at the site without significant expansion or impact to the existing services.

#### Applicable Community Development Policies

- 1a. Ensure that City decisions regarding planning are reached in a comprehensive, coordinated manner.
- 2a. Encourage the orderly development of the City, with concentric growth and infill of existing developed areas.
- 2d. Plan for the needs of all socioeconomic segments of the community, encouraging self-sufficiency in jobs and housing within the City.

The proposed rezoning would be consistent with these policies in that because it aligns with the General Plan land use designation it will implement the City's comprehensive land use plan, would allow for further development of an already urbanized (infill) parcel, and would support the development of a type of housing in need within the community.

### **2) Zoning Ordinance**

The Zoning Ordinance sets forth the following requirements for proposed Zoning Amendments:

In order to amend Division I of this title, the city council shall find the following:

- A. That the proposed amendment is in general conformance with the general plan;
- B. That the public necessity, convenience and general welfare require the adoption of the proposed amendment.
- C. The proposed amendment does not grant a change in land use from commercial or industrial to a residential land use for property incorporated into the urban service boundary after December 7, 1990 unless it can be

determined pursuant to the terms of Section 18.78.070 of the municipal code that the amount of undeveloped, residentially developable land on the same side of Monterey Road as the proposed amendment is insufficient to accommodate five years' worth of residential growth.

As discussed above, the proposed zoning amendment to R-3 Medium Density Residential would conform to the site's Multi-Family Medium Density General Plan designations.

The public necessity, convenience and general welfare require the proposed zoning in that it would further the implementation of the City's General Plan and facilitate the provision of a convalescent care facility which would be consistent with General Plan policies to provide a variety of housing types and directly meet a need for this type of facility within the community.

The proposed amendment would not grant a change in land use from commercial to residential for a property incorporated after December 7, 1990.

Applicable Division I requirements:

Chapter 18.16 - R-3 Medium Density Residential District

Section 18.16.040 - Conditional uses.

Section 18.16.050 - Site development standards-generally.

As noted in a previous section above, the City Council adopted Ordinance No. 988, amending prior Ordinance 576, establishing an R-3 Conditional Zoning District for property located at the northwest corner of West Dunne Avenue and Peak Avenue and south side of Noble Court. Ordinance 988 included the following condition:

"The subject property shall be rezoned as R-3 C, Conditional Contract Zoning allowing for development of a 99 bed convalescent home and the development of four senior housing duplex units as shown on the subdivision map submitted as part of subdivision application SD-90-18: Peak-Ramco."

The 99 bed Pacific Hills Manor convalescent home was constructed on the northerly parcel at 370 Noble Court. In 2002, the City Council adopted Ordinance No. 1577, approving an amendment to Ordinance No. 576, to allow an increase in the number of occupants of the Senior Care Facility on the subject parcel located at 17090 Peak Avenue from 15 to 28 beds. Approval of the zoning amendment will eliminate the need for further zoning amendments and will establish zoning consistent with the General Plan Multi-family Medium Density land use designation. The proposed R-3 zoning is the corresponding zoning assigned by the General Plan.

**COMMUNITY ENGAGEMENT: Inform**

A 10 day public hearing notice was published in the Friday, July 24, 2015 edition of the Morgan Hill Times and notices were mailed to property owners within three hundred feet of the project pursuant to Government Code Sections 65090-65096.

**Conclusion**

The applicant is requesting the subject property at 17090 Peak Avenue be rezoned from R-3 Conditional to R-3 Medium Density Residential. Approval of the zoning amendment will eliminate the need for further zoning amendments and will establish zoning consistent with the General Plan Multi-family Medium Density land use designation.

Staff recommends City Council approval of the Zoning Amendment by adoption of the attached Ordinance.

**ALTERNATIVE ACTIONS:**

---

**File #: 15-471, Agenda Date: 8/5/2015, Version: 1**

---

Deny Zoning Amendment ZA-14-13. This action would require the applicant to request amendment to the current R-3(C) Conditional zoning to expand the facility and increase the number of beds from 28 to 84. Approval of the zoning amendment will eliminate the need for further zoning amendments to expand the facility and will establish zoning consistent with the General Plan Multi-family Medium Density land use designation. Expansion of the Senior Care facility would be subject to Planning Commission approval of a conditional use permit.

**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

The Planning Commission conducted a public hearing on this item at their July 14, 2015 meeting and voted 5-1 to recommend City Council of Zoning Amendment ZA-14-13. Commissioner Mueller voted no and recommended the current R-3 Conditional Zoning remain in place, expressing concern that the proposed rezoning could allow future development of the site with multi-family residential development without further review by the Planning Commission and City Council.

The applicant spoke at the Planning Commission hearing in support of the project. No members of the neighborhood appeared to speak on the project.

**FISCAL AND RESOURCE IMPACT:**

An application fee was collected to cover the cost of processing this application.

**CEQA (California Environmental Quality Act):**

Project, Description of CEQA requirements

The project site was reviewed as part of Master Environmental Impact Report for the 2001 General Plan update and has been found complete, correct, and in substantial compliance with the requirements of the California Environmental Quality Act. The Zoning Amendment complies with the General Plan as required by Government Code Section 65860 and as noted in the July 15, 2015 City Council staff report.

**LINKS/ATTACHMENTS:**

1. Ordinance
2. Exhibit A - Map
3. Vicinity Map
4. July 14, 2015 Planning Commission Staff Report

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF MORGAN HILL  
AMENDING THE ZONING DESIGNATION OF A 1.94  
ACRE SITE LOCATED AT THE NORTHWESTERLY  
CORNER OF WEST DUNNE AVENUE AND PEAK  
AVENUE FROM R-3(C) CONDITIONAL TO R-3 MEDIUM  
DENSITY RESIDENTIAL DISTRICT.**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY  
ORDAIN AS FOLLOWS:**

- SECTION 1. INCORPORATING THE MAP BY REFERENCE.** There hereby is attached hereto as “Exhibit A” and made a part of this ordinance, a map showing the boundaries of the subject property.
- SECTION 2. DESCRIPTION OF LAND IN REZONING.** The boundaries of the property as shown for Parcel 2, as shown on that certain Map entitled “Parcel Map being a portion of Lots 97 & 98 Morgan Hill Ranch Map No. 3 recorded in Book G of Maps, at Pages 20 & 21, Santa Clara County Records,” which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on September 26, 1975 in Book 362 of Maps, Page 4.
- SECTION 3. FINDING OF CONSISTENCY WITH THE GENERAL PLAN.** The City Council hereby finds that the amendment established by this ordinance as herein described is compatible with the goals, objectives, policies and land use designation of the amended General Plan of the City of Morgan Hill. The Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.070 of the Morgan Hill Municipal Code.
- SECTION 4.** The City Council of the City of Morgan Hill hereby finds, on the basis of the whole record before it, that the project site was reviewed as part of Master Environmental Impact Report for the 2001 General Plan update and has been found complete, correct, and in substantial compliance with the requirements of the California Environmental Quality Act. The Zoning Amendment complies with the General Plan as required by Government Code Section 65860. The custodian of the documents or other material which constitute the record shall be the Community Development Department.
- SECTION 5. SEVERABILITY.** If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- SECTION 6. EFFECTIVE DATE; PUBLICATION.** This Ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.



**THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 5<sup>th</sup> DAY OF AUGUST 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE \_\_ DAY OF \_\_\_\_\_, 2015 AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS:**

**NOES: COUNCILMEMBERS:**

**ABSTAIN: COUNCILMEMBERS:**

**ABSENT: COUNCILMEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

\_\_\_\_\_  
**STEVE TATE, Mayor**

**⌘ CERTIFICATION ⌘**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_\_, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.**

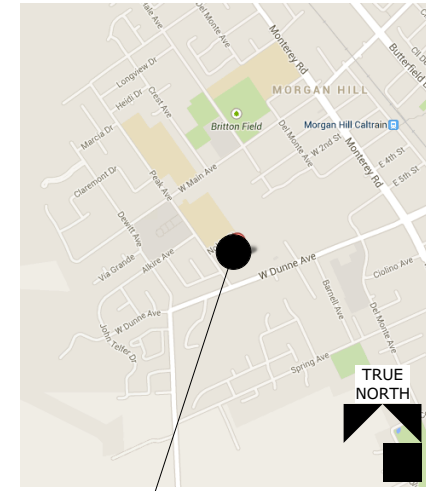
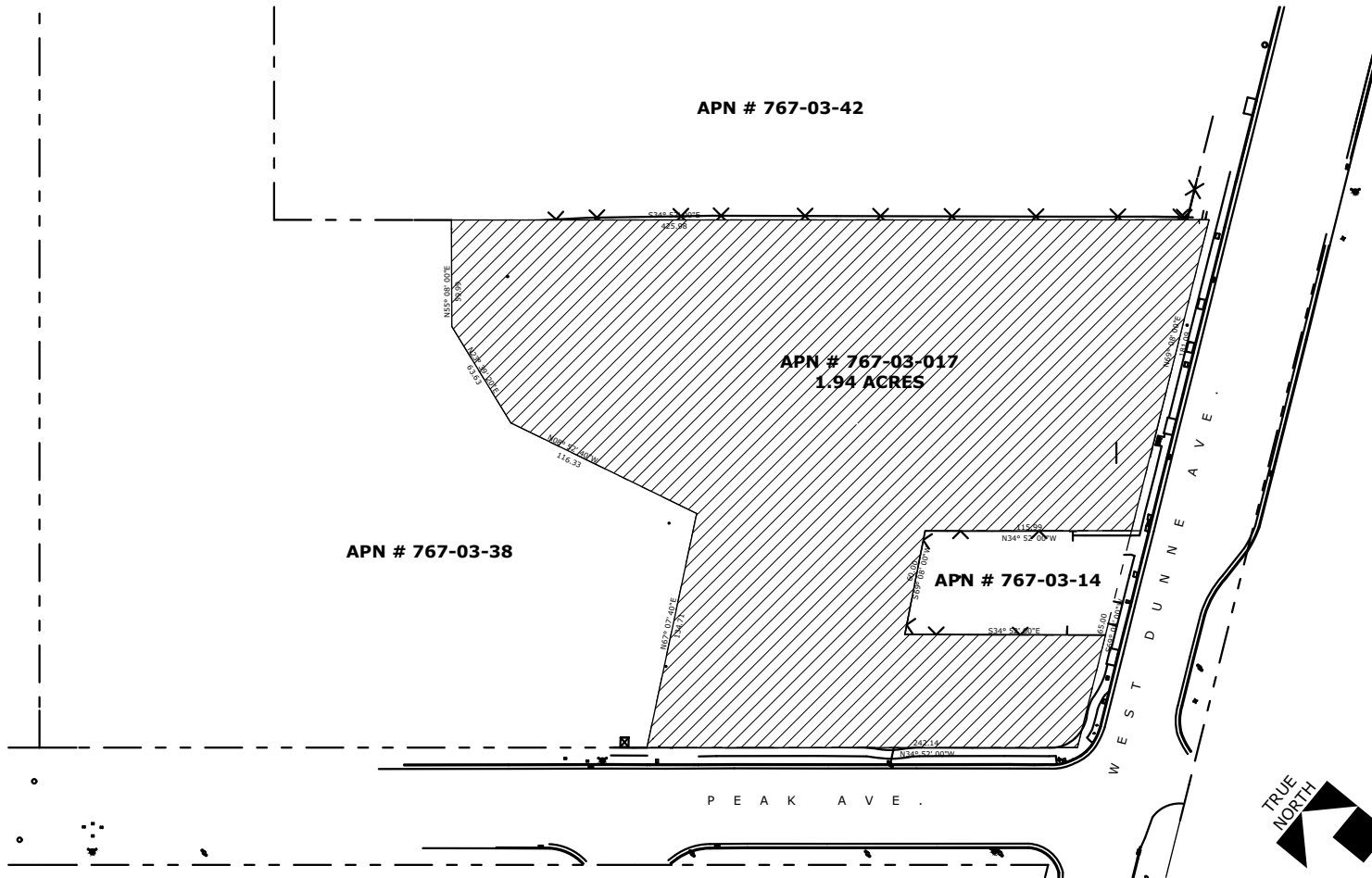
**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



PLAT MAP

VICINITY MAP



PROJECT SITE

LEGEND

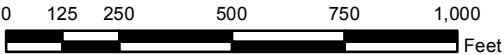
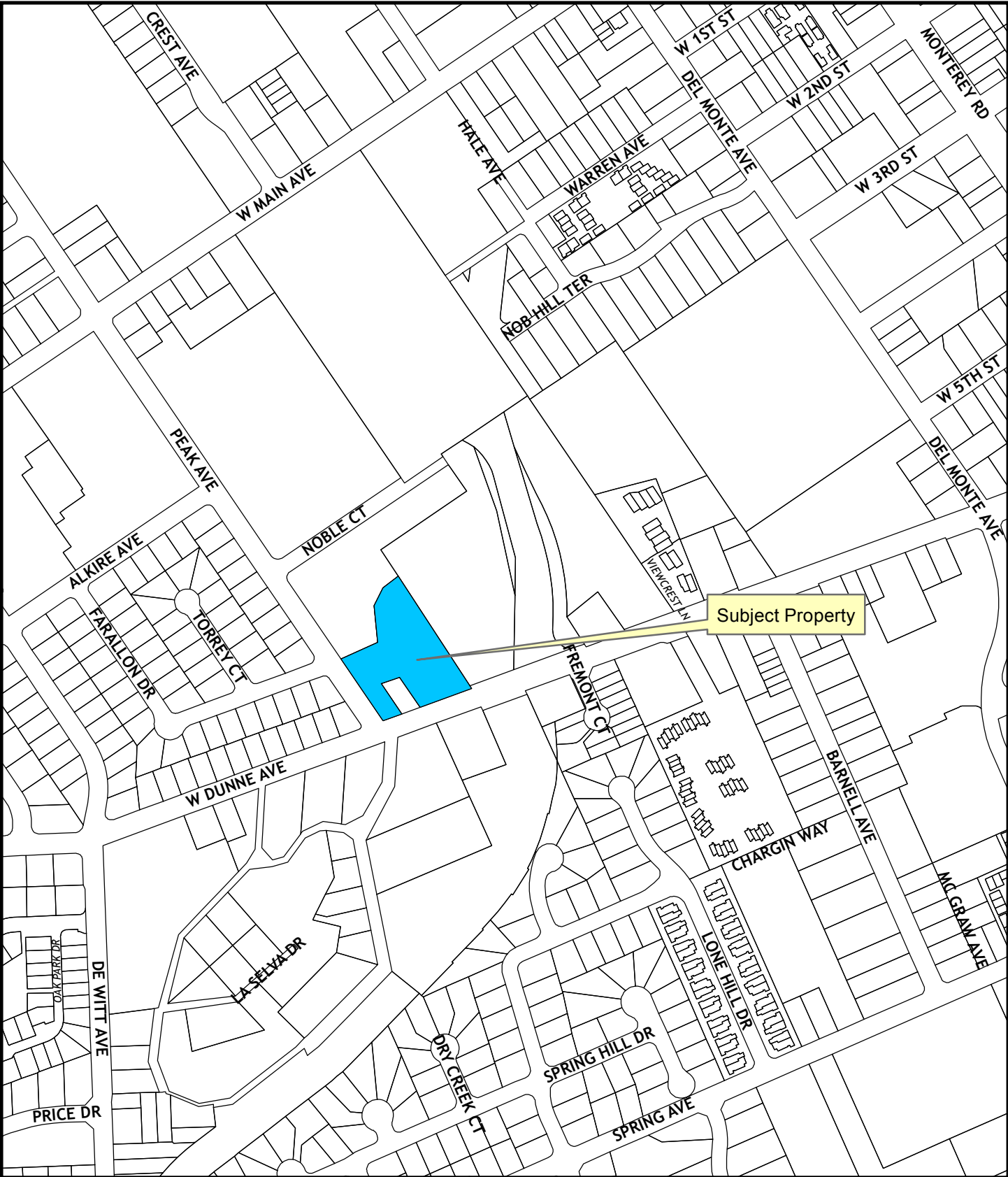
-  EXISTING ZONING = R-3-C
-  PROPOSED ZONING = R-3



**EXHIBIT A:**  
 MAP SHOWING REZONING LAND OF NELLY AMAS BEING A PART OF  
 ORDINANCE NO. \_\_\_\_\_, NEW SERIES

**SITE BENCHMARK:**  
 SURVEY CONTROL SET MAG NAIL  
 ELEVATION = 376.00  
**BASIS OF BEARING**  
 FOUND SURVEY MONUMENTS I THE  
 CENTERLINE OF PEAK AVE.  
 RECORDED INFORMATION WAS  
 USED PER RECORD MAP BOOK 362  
 PAGE 4 FILED IN THE COUNTY OF  
 SANTA CLARA RECORDER'S OFFICE  
 PREPARED BY: SHARON MORRIS





**Peak-Amas  
Vicinity Map**



**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION OF A 1.94 ACRE SITE LOCATED AT THE NORTHWESTERLY CORNER OF WEST DUNNE AVENUE AND PEAK AVENUE FROM R-3(C) CONDITIONAL TO R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT.**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:**

- SECTION 1. INCORPORATING THE MAP BY REFERENCE.** There hereby is attached hereto as “Exhibit A” and made a part of this ordinance, a map showing the boundaries of the subject property.
- SECTION 2. DESCRIPTION OF LAND IN REZONING.** The boundaries of the property as shown for Parcel 2, as shown on that certain Map entitled “Parcel Map being a portion of Lots 97 & 98 Morgan Hill Ranch Map No. 3 recorded in Book G of Maps, at Pages 20 & 21, Santa Clara County Records,” which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on September 26, 1975 in Book 362 of Maps, Page 4.
- SECTION 3. FINDING OF CONSISTENCY WITH THE GENERAL PLAN.** The City Council hereby finds that the amendment established by this ordinance as herein described is compatible with the goals, objectives, policies and land use designation of the amended General Plan of the City of Morgan Hill. The Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.070 of the Morgan Hill Municipal Code.
- SECTION 4. ENVIRONMENTAL DETERMINATION.** The City Council of the City of Morgan Hill hereby finds, on the basis of the whole record before it, that the project site was reviewed as part of Master Environmental Impact Report for the 2001 General Plan update and has been found complete, correct, and in substantial compliance with the requirements of the California Environmental Quality Act. The Zoning Amendment complies with the General Plan as required by Government Code Section 65860. The custodian of the documents or other material which constitute the record shall be the Community Development Department.
- SECTION 5. RESTRICTION ON LAND USE.** Applicant has voluntarily offered to record a deed restriction against the subject property limiting use of the subject property to a State licensed Residential Care Facility for the Elderly to be operated in accordance with any findings and conditions approved through a use or site permit issued by City . The City accepts and acknowledges the Applicant's offer. The Applicant has indicated that the Applicant will voluntarily and properly record said deed restriction against the subject property

after the second reading of the ordinance amending the zoning on the subject property from R-3 (c) Multi-family Conditional to R-3 Medium Density Residential Zoning District, and Applicant shall effect such deed restriction recordation within thirty days of the second reading of said rezoning ordinance. The deed restriction shall remain in place continuously for as long as the subject property remains zoned R-3 Medium Density Residential District.

**SECTION 6. SEVERABILITY.** If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 7. EFFECTIVE DATE; PUBLICATION.** This Ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

**THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 18<sup>th</sup> DAY OF NOVEMBER 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE DAY OF \_\_\_\_\_, 2015 AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:**

**AYES: COUNCILMEMBERS:**

**NOES: COUNCILMEMBERS:**

**ABSTAIN: COUNCILMEMBERS:**

**ABSENT: COUNCILMEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

\_\_\_\_\_  
**STEVE TATE, Mayor**

~ CERTIFICATION ~

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the day of , 2015.

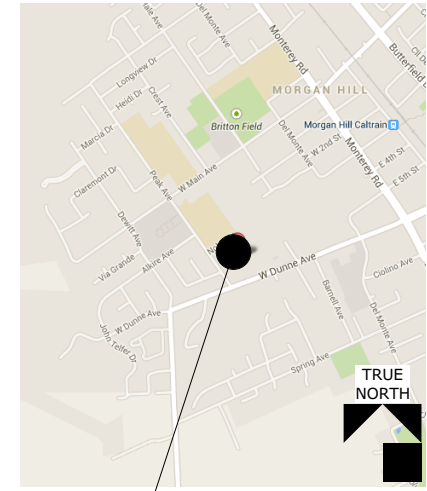
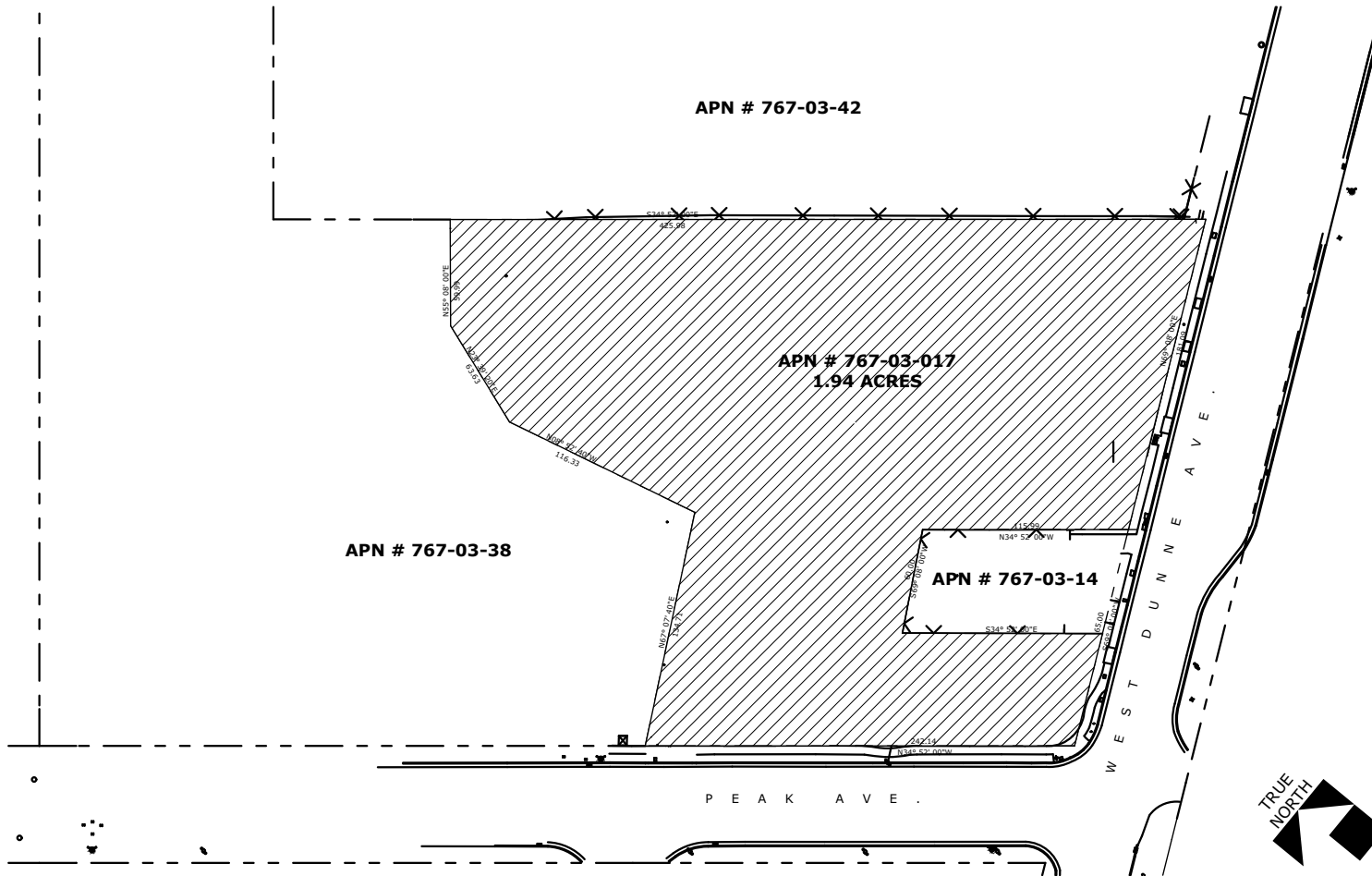
WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: \_\_\_\_\_

\_\_\_\_\_  
IRMA TORREZ, City Clerk



PLAT MAP

VICINITY MAP



PROJECT SITE

LEGEND

-  EXISTING ZONING = R-3-C
-  PROPOSED ZONING = R-3



**EXHIBIT A:**  
 MAP SHOWING REZONING LAND OF NELLY AMAS BEING A PART OF  
 ORDINANCE NO. \_\_\_\_\_, NEW SERIES

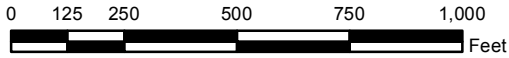
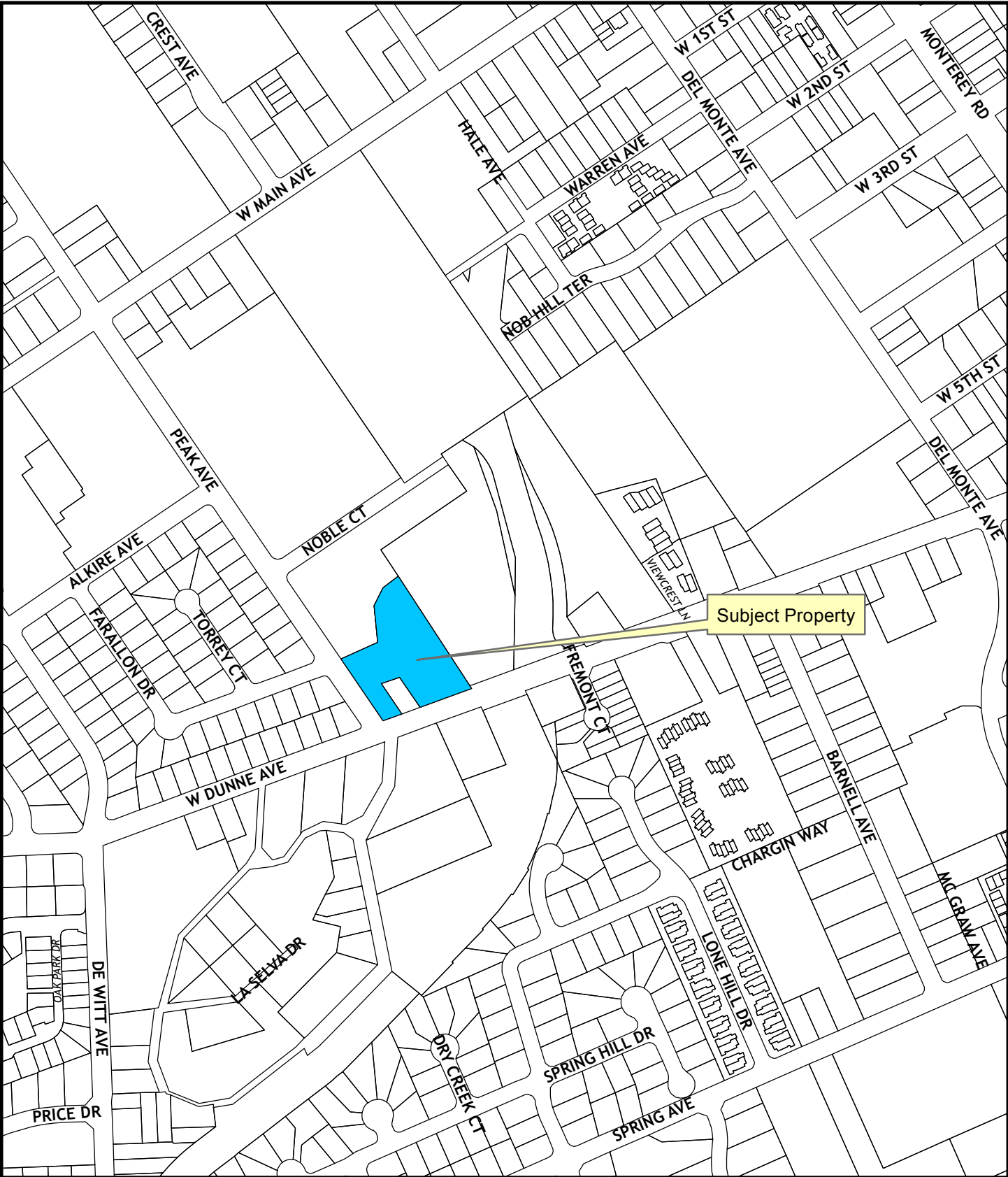
**SITE BENCHMARK:**  
 SURVEY CONTROL SET MAG NAIL  
 ELEVATION = 376.00  
**BASIS OF BEARING**  
 FOUND SURVEY MONUMENTS I THE  
 CENTERLINE OF PEAK AVE.  
 RECORDED INFORMATION WAS  
 USED PER RECORD MAP BOOK 362  
 PAGE 4 FILED IN THE COUNTY OF  
 SANTA CLARA RECORDER'S OFFICE  
 PREPARED BY: SHARON MORRIS

1" = 60'-0"  
 08/22/2013

VILA MONTE CARE FACILITY - 17090 PEAK AVENUE, MORGAN HILL CA 95057  
 PLAT MAP

WESTON MILES  
 ARCHITECTS  
 • Architecture • Landscape •





**Peak-Amas  
Vicinity Map**





**BACKGROUND:**

In February of 1982, the subject property received approval to amend its zoning designation from R-2 to R-3 (C), to allow the development of the 99 bed convalescent hospital located on the corner of Peak Ave. and Noble Ct. Under the R-2 zoning, convalescent hospitals are limited to 15 beds. The R-3 zoning has no limitations on the size of a convalescent home. At the time of the initial zoning amendment request, persons residing in the neighborhood were supportive of the convalescent hospital but requested some assurance that the hospital, not multi-family housing would be developed. To accommodate this, the amendment was approved as conditional zoning. In 1987, the 99 bed Pacific Hills Manor convalescent facility was constructed on the northerly parcel at 370 Noble Court. In 2002, the R-3 conditional zoning was amended to allow the existing Via Monte Senior Care facility, located at 17090 Peak Avenue, to expand from 15 beds to 28 beds.

The current request is to remove the conditional zoning on the subject property thereby allowing the applicant to apply for expansion of the existing Via Monte senior assisted residential care facility from 28 to 84 beds under a separate Conditional Use Permit. The R-3 Medium Density Residential District allows congregate care for the elderly and assisted living facilities as a conditional use.

**ANALYSIS:**

The applicant is requesting the subject property at 17090 Peak Avenue be rezoned from R-3 Conditional to R-3 Medium Density Residential. The current R-3 Conditional zoning was imposed to assure nearby residents that the Noble Court property would be developed as a convalescent home, and not multi-family housing. The zoning applies to both the Noble Court parcel and the subject parcel on Peak Avenue. Approval of the Zoning Amendment will eliminate the need for further Zoning Amendments and will establish zoning consistent with the General Plan Multi-family Medium Density land use designation. The R-3 Conditional zoning will remain in place on the Noble Court property.

The project site was reviewed as part of Master Environmental Impact Report for the 2001 General Plan update and has been found complete, correct, and in substantial compliance with the requirements of the California Environmental Quality Act. The Zoning Amendment complies with the General Plan as required by Government Code Section 65860 and as noted in the following section of this report.

**1) General Plan**

The General Plan land used designation for the project is Multi-Family Medium Density (14-21 units per acre). The proposed R-3 zoning designation establishes allowed land uses, minimum lot dimensions and other development standards that correspond to the intent of the Multi-Family Medium General Plan designation. The project site is surrounded by existing development. Public utilities and services are available at the site without significant expansion or impact to the existing services.

Applicable Community Development Policies

- 1a. Ensure that City decisions regarding planning are reached in a comprehensive, coordinated manner.

- 2a. Encourage the orderly development of the city, with concentric growth and infill of existing developed areas.
- 2d. Plan for the needs of all socioeconomic segments of the community, encouraging self-sufficiency in jobs and housing within the city.

The proposed rezoning would be consistent with these policies in that because it aligns with the General Plan land use designation it will implement the City's comprehensive land use plan, would allow for further development of an already urbanized (infill) parcel, and would support the development of a type of housing in need within the community.

## **2) Zoning Ordinance**

The Zoning Ordinance sets forth the following requirements for proposed Zoning Amendments:

In order to amend Division I of this title, the city council shall find the following:

- A. That the proposed amendment is in general conformance with the general plan;
- B. That the public necessity, convenience and general welfare require the adoption of the proposed amendment.
- C. The proposed amendment does not grant a change in land use from commercial or industrial to a residential land use for property incorporated into the urban service boundary after December 7, 1990 unless it can be determined pursuant to the terms of [Section 18.78.070](#) of the municipal code that the amount of undeveloped, residentially developable land on the same side of Monterey Road as the proposed amendment is insufficient to accommodate five years' worth of residential growth.

As discussed above, the proposed zoning amendment to R-3 Medium Density Residential would conform to the site's Multi-Family Medium Density General Plan designations.

The public necessity, convenience and general welfare require the proposed zoning in that it would further the implementation of the City's General Plan and facilitate the provision of a convalescent care facility which would be consistent with General Plan policies to provide a variety of housing types and directly meet a need for this type of facility within the community.

The proposed amendment would not grant a change in land use from commercial to residential for a property incorporated after December 7, 1990.

### Applicable Division I requirements:

Chapter 18.16 - R-3 Medium Density Residential District

Section 18.16.040 – Conditional uses.

Section 18.16.050 - Site development standards—generally.

As noted in a previous section above, the City Council adopted Ordinance No. 988, amending prior Ordinance 576, establishing an R-3 Conditional Zoning District for property located at the northwest corner of West Dunne Avenue and Peak Avenue and south side of Noble Court. Ordinance 988 included the following condition:

“The subject property shall be rezoned as R-3 C, Conditional Contract Zoning allowing for development of a 99 bed convalescent home and the development of four senior housing

duplex units as shown on the subdivision map submitted as part of subdivision application SD-90-18: Peak-Ramco.”

The 99 bed Pacific Hills Manor convalescent home was constructed on the northerly parcel at 370 Noble Court. In 2002, the City Council adopted Ordinance No. 1577, approving an amendment to Ordinance No. 576, to allow an increase in the number of occupants of the Senior Care Facility on the subject parcel located at 17090 Peak Avenue from 15 to 28 beds. Approval of the zoning amendment will eliminate the need for further zoning amendments and will establish zoning consistent with the General Plan Multi-family Medium Density land use designation. The proposed R-3 zoning is the corresponding zoning assigned by the General Plan.

**Community Engagement**

A 10 day public hearing notice was published in the Friday, July 3, 2015 edition of the Morgan Hill Times and notices were mailed to property owners within three hundred feet of the project pursuant to Government Code Sections 65090-65096.

**Conclusion**

The applicant is requesting the subject property at 17090 Peak Avenue be rezoned from R-3 Conditional to R-3 Medium Density Residential. Approval of the zoning amendment will eliminate the need for further zoning amendments and will establish zoning consistent with the General Plan Multi-family Medium Density land use designation. The proposed zoning amendment is the corresponding zoning assigned by the General Plan.

Staff recommends the Planning Commission recommend City Council approval of the Zoning Amendment by adoption of the attached resolution.

**CEQA (California Environmental Quality Act):**

Project, Description of CEQA requirements

The project site was reviewed as part of Master Environmental Impact Report for the 2001 General Plan update and has been found complete, correct, and in substantial compliance with the requirements of the California Environmental Quality Act. The Zoning Amendment complies with the General Plan as required by Government Code Section 65860 and as noted in the July 14, 2015 Planning Commission staff report.

**LINKS/ATTACHMENTS:**

1. Resolution
2. Exhibit A – Map
3. Vicinity Map

Jim Rowe

---

**From:** Kathy Depaolo [kadepaolo@sbcglobal.net]  
**Sent:** Tuesday, August 11, 2015 1:25 PM  
**To:** Jim Rowe  
**Cc:** Steve Tate; Rich Constantine; Steve Rymer; Leslie Little; Marilyn Librers (Home); Gordon\_Siebert; Larry Carr (Home)  
**Subject:** Zoning Amendment, ZA-14-13:Peak-Amas

Hi Jim,

Thank you for your letter about the zoning issue noted above in the subject line.

Our request is really very simple and I'm afraid I muddied the waters a bit by bringing in other issues. Mike and I simply want one thing and one thing only, and that is keep the zoning as it is. We want to keep the zoning as R-3 (c) Medium Density Conditional.

I know we have no business with what Ms. Amas does with her property AND we are not so interested in the plans. We just don't want the facility to become so much larger. We don't want the zoning changed to allow a large facility.

Please keep the zoning as it is and please don't amend the zoning by making it R-3 Medium Density Residential. We are not against Ms. Amas or her facility in any way. We just ask that it remain the size it is rather than changing the zoning and allowing for a huge facility.

Thank you. I hope this better explains what it is we would like. Would you possibly get back to me so that I know you received my letter? I did write to Mayor Tate and the Council over the weekend.

Kathy DePaolo-Diefenbach, RVT  
Instructor, Veterinary Technology Program  
Foothill College  
12345 El Monte Rd.  
Los Altos Hills, CA 94022  
Phone: 650 949-7818  
Email: [kadepaolo@sbcglobal.net](mailto:kadepaolo@sbcglobal.net)  
[depaolokathleen@foothill.edu](mailto:depaolokathleen@foothill.edu)

**Jim Rowe**

---

**From:** Jim Rowe  
**Sent:** Monday, August 10, 2015 11:35 AM  
**To:** 'Mike'  
**Cc:** Steve Tate; Steve Rymer  
**Subject:** RE: Zoning Amendment, ZA-14-13: Peak-Amas

Hello Mike,

I want to apologize for the confusion regarding our phone conversation on July 14, 2015. As I recall our conversation, I explained that the item before the Planning Commission that evening was to consider a recommendation to the City Council to amend the zoning on the adjacent property. The recommendation, if approved by the City Council, would allow expansion of the existing Vila Monte residential care facility for the elderly under a separate conditional use permit action. I did not characterize the meeting as a preliminary review of the proposed expansion of the Vila Monte facility. I indicated the Planning Commission meeting was an advisory action (a recommendation) to the City Council on the matter of the zoning request. I also indicated that if approved by the City Council, the item would come back before the Planning Commission under a conditional use permit application. The Planning Commission did not at their July 14 meeting, nor the City Council at their August 5<sup>th</sup> meeting, review development plans or discussed how the adjacent Vila Monte property would develop with the proposed expansion of use. I explained in our phone conversation that if you wished to address the Planning Commission on the specific development plans for the Vila Monte property, you were welcome to do so, however the Commission would not be able to address those comments directly as the matter before the Commission that evening was limited to the zoning amendment recommendation. Perhaps this gave you an understanding that you did not need to attend the meeting. I did not intend that to be the case. The opportunity to address the specific plans for development of the expanded Vila Monte facility would occur with the Planning Commission's consideration of a conditional use permit application. That application requires a separate public hearing and direct mailing notice to you as the adjacent property owner. The public hearing for the conditional use permit would occur at a later date.

As to the matter of not receiving notice of the August 5, 2015 City Council meeting, our records indicate a notice was mailed to 385 W. Dunne Avenue addressed to a Theresa Collingsworth. I will ask the applicant to provide an updated mailing list so going forward you, as the current property owner, will receive direct notice regarding all future public hearings.

At the August 5, 2015 City Council meeting, Council members expressed concern that the recommended action on the Vila Monte property could allow multi-family rental or townhouses to be developed on the property as a permitted use. The Council tabled the item and directed staff to research and provide a recommendation that would restrict the property to allow only the expansion of the residential care facility for the elderly. Because the Council tabled the item, it will be necessary to re-advertise the item for a new public hearing and a new notice will be mailed to you as an adjacent property owner. We will use the updated mailing list to notify you of the next public hearing. A tentative hearing date has not been determined at this time.

I again apologize for the confusion regarding our phone conversation. As you pointed out in your email messages, the proposed expansion of the Vila Monte facility directly impacts you as the adjacent property owner. Therefore I would encourage you to continue providing comment, both written and in testimony at future meetings. Your participation in this process will allow city staff, the Planning Commission and the City Council to make better informed decisions regarding the various applications concerning this proposed development.

Please reply if you have any questions. Also, if you have not had an opportunity to do so, I encourage you to stop by City Hall/Development Services Center to review the latest development plans filed by the applicant in June 26, 2015. Our public information counter is open to the public weekdays from 8:00 a.m. to 5:00 p.m. and staffing assistance

provided by a city planner on duty between 8:00 and noon and from 1:00 to 5:00 p.m. I am also available to meet with you.

Jim Rowe  
 Staff Planner  
 Community Development Department  
 City of Morgan Hill  
 17575 Peak Avenue  
 Morgan Hill, CA 95037  
 408-465-0844  
[jrowe@morganhill.ca.gov](mailto:jrowe@morganhill.ca.gov)

**From:** Mike [mailto:mikediefenbach@sbcglobal.net]  
**Sent:** Saturday, August 08, 2015 10:55 AM  
**To:** Jim Rowe  
**Cc:** Steve Tate  
**Subject:** Zoning Amendment, ZA-14-13: Peak-Amas

Dear Jim,

My name is Mike Diefenbach. My wife Kathy, son Conrad and myself live at 385 West Dunne Avenue at the corner of Peak; which we purchased in January of this year. I spoke with you by phone on July 14th of this year. I was inquiring about the planning commission meeting of that evening which we received a notice of public hearing in the mail.

During our conversation I mentioned that the plan of re-zoning and the addition of an expanded facility on the property would directly impact us since we are encircled by the mentioned property. You said that we did not need to attend the July 14th meeting unless we wanted to because it was just a preliminary meeting and we would be unable to voice our concerns. You said that we should though attend any future meetings and that we would be notified of those dates and times.

We where not; and did not know anything about the meeting of earlier this week until a neighbor stopped by and asked why we did not attend the meeting. Our hearts dropped; knowing that we were not notified and to have missed hearing of the proposed plans. Not to mention missing the opportunity of voicing our concerns.

We moved to Morgan Hill and into this lovely home because we fell in love with the rural feel of the area and the welcoming community. The property surrounding us gives us a feeling of protection from noise and obstructed views and we would sure hate to lose all that.

And as important we would hate to see the habitat for our deer and wild turkey populations be demolished.

I guess you could say that this re-zoning plan is all in the name of progress; but since it is literally in our own backyard and we were not notified of the last planning meeting, it truly hurts and we sure have concerns about your communication process.

Could you please make sure that we are notified some how of the next planning meeting on this issue. Also would you be able to give us the name of a contact person concerning this issue, so we may come down and get filled in on what we have missed?

We feel very strongly about this so thank you for understanding.

Mike Diefenbach and Family  
385 West Dunne Avenue

Jim Rowe

---

**From:** Leslie Little  
**Sent:** Sunday, August 09, 2015 9:25 PM  
**To:** Jim Rowe; Gina Paolini  
**Subject:** Fwd: Zoning Amendment, ZA-14-13: Peak-Amas

I'd like to discuss this Monday.. I'll be in Oakland til noon

Sent from my iPhone

Begin forwarded message:

**From:** "Steve Rymer" <[Steve.Rymer@morganhill.ca.gov](mailto:Steve.Rymer@morganhill.ca.gov)>  
**Date:** August 9, 2015 at 9:09:29 AM PDT  
**To:** "Steve Tate" <[Steve.Tate@morganhill.ca.gov](mailto:Steve.Tate@morganhill.ca.gov)>, <[kadepaolo@sbcglobal.net](mailto:kadepaolo@sbcglobal.net)>  
**Cc:** "Larry Carr" <[larry.carr@charter.net](mailto:larry.carr@charter.net)>, "Rich Constantine" <[rich.constantine@morganhill.ca.gov](mailto:rich.constantine@morganhill.ca.gov)>, "Gordon siebert" <[gordon.siebert@gmail.com](mailto:gordon.siebert@gmail.com)>, "Marilyn Librers" <[dunnhill848@earthlink.net](mailto:dunnhill848@earthlink.net)>, "Leslie Little" <[Leslie.Little@morganhill.ca.gov](mailto:Leslie.Little@morganhill.ca.gov)>  
**Subject:** Re: Zoning Amendment, ZA-14-13: Peak-Amas

Hi Ms. Deapolo

Thank you for contacting us regarding your concern...I have asked our Assistant City Manager for Community Development, Leslie Little, to look into this including contacting you on Monday...thank you for your patience and enjoy your Sunday.

Steve Rymer  
 City Manager

Sent from my iPad

Begin forwarded message:

**From:** Kathy Depaolo <[kadepaolo@sbcglobal.net](mailto:kadepaolo@sbcglobal.net)>  
**Date:** August 8, 2015 at 2:53:56 PM PDT  
**To:** "steve.tate@morganhill.ca.gov" <[steve.tate@morganhill.ca.gov](mailto:steve.tate@morganhill.ca.gov)>  
**Cc:** "rich.contantine@morganhill.ca.gov" <[rich.contantine@morganhill.ca.gov](mailto:rich.contantine@morganhill.ca.gov)>, "[larry.carr@morganhill.ca.gov](mailto:larry.carr@morganhill.ca.gov)" <[larry.carr@morganhill.ca.gov](mailto:larry.carr@morganhill.ca.gov)>, "[marilyn.librers@morganhill.ca.gov](mailto:marilyn.librers@morganhill.ca.gov)" <[marilyn.librers@morganhill.ca.gov](mailto:marilyn.librers@morganhill.ca.gov)>, "[gordon.siebert@morganhill.ca.gov](mailto:gordon.siebert@morganhill.ca.gov)" <[gordon.siebert@morganhill.ca.gov](mailto:gordon.siebert@morganhill.ca.gov)>  
**Subject:** Zoning Amendment, ZA-14-13: Peak-Amas  
**Reply-To:** Kathy Depaolo <[kadepaolo@sbcglobal.net](mailto:kadepaolo@sbcglobal.net)>

Hello Mayor Tate and Council members,



I am writing to express my outrage about not being able to attend the City Council meeting of August 5, 2015. We have been patiently waiting to find the appropriate venue for us to express our thoughts about this rezoning. We were specifically told that there was no reason to attend the July 14th meeting but that we would be notified when a venue presented itself so that we could have our voices heard. We were never told about the meeting this past week that would have been very important for us to attend. We were told by Jim Rowe that he would contact us about this. Aren't you required to send us something by mail like you did with the first meeting on July 14th??

I would like you and the city council to know that we chose Morgan Hill specifically because of its small town feel. I grew up in Petaluma, California and Morgan Hill reminds me a lot of Petaluma. We were especially thrilled to find a place like our home at 385 W. Dunne Ave. This is where we plan to live for many, many years. We bought it with our retirement in mind. On the very first day of ownership, when we were given the keys to our home, we noticed a sign had been posted in the space to the left of our house. We were there the day before and no sign was there. The first day of ownership and we find this sign talking about the Zoning Amendment. I thought that was a little odd and frankly it scared us to death! We'd been asking about this very thing.

I have been in the veterinary field for 35 years working for 25 years in an Emergency Veterinary Clinic and have been teaching in the Veterinary Technology Program at Foothill College for the past 18 years. My husband is a Landscape Contractor and currently teaches in the Environmental Horticulture program at Foothill College. Needless to say the environment is very important to us. We love the family of deer that live in the area surrounding our house. There is also what appears to be a historic wall that should also be discussed. Furthermore, the trees that shade our backyard are beautiful.

*We liked that we had some open space around us **yet we knew to ask about the owner of the land surrounding our small house what their future plans might be. We talked about this before we closed on our property because this was very important to us. We were told specifically that the owner of Vila Monte "may decide to put a parking lot for the existing property behind our backyard.***

I also researched, specifically, what type of business this was. Shortly after we moved in we began to hear shouting, and yelling and sometimes moaning coming from that area. It concerned me enough to look into exactly what they are doing in that facility. When I checked out Nelly Amas I found the website that explained exactly what this facility is. It is for mentally ill people over the age of 60. Please, I urge you, go on the website at [cnbarcf.com](http://cnbarcf.com) and read the available information.

She explains about wanting to bring people who are currently in a locked type facility for the mentally ill and transitioning them to this new facility she plans to build in Morgan Hill. I called the police to ask about how many times they are called to the facility and I wasn't given a clear answer. In the tape we watched of the city council meeting we heard a woman say that this facility is "assisted living for the elderly". She also said "memory assistance" which is not my understanding of the facility. Please scroll down and look on the right hand side of the page. **She lists the address of Vila Monte and states that this is a 30 bed facility SOON TO BE 99 BEDS!** I would like very much for someone on the council to go to the above website.

I hate to be a "not in my backyard" type of person but I am very concerned about the nature of this business and our safety and the safety of the neighborhood surrounding this facility.

We saw the plans for this large two-story facility. Our house would literally be completely surrounded by this facility! The plans are for an 84 bed facility! (though she states 99 beds on her website) Given the age and condition of Vila Monte, I'm sure Ms. Amas could remodel and update the current facility and make it much nicer for the individuals without having to increase the size of this facility by 250%.

I have called the Planning Commission of Morgan Hill 3 different times. I have never received a return call. I specifically mentioned the Zoning Amendment ZA-14-13: Peak Amas. It seems to me that Morgan Hill and the City Council have a vested interest in our NOT being there at the meeting. I hope I am wrong about this. I would like to know, very specifically, who we should talk to about this decision that strongly impacts our life!

Kathy and Mike Diefenbach  
385 W. Dunne Ave.  
Morgan Hill, CA 95037  
408 776-0108

Jim Rowe

---

**From:** Mike [mikediefenbach@sbcglobal.net]  
**Sent:** Saturday, August 08, 2015 10:55 AM  
**To:** Jim Rowe  
**Cc:** Steve Tate  
**Subject:** Zoning Amendment, ZA-14-13: Peak-Amas

Dear Jim,

My name is Mike Diefenbach. My wife Kathy, son Conrad and myself live at 385 West Dunne Avenue at the corner of Peak; which we purchased in January of this year. I spoke with you by phone on July 14th of this year. I was inquiring about the planning commission meeting of that evening which we received a notice of public hearing in the mail.

During our conversation I mentioned that the plan of re-zoning and the addition of an expanded facility on the property would directly impact us since we are encircled by the mentioned property. You said that we did not need to attend the July 14th meeting unless we wanted to because it was just a preliminary meeting and we would be unable to voice our concerns. You said that we should though attend any future meetings and that we would be notified of those dates and times.

We where not; and did not know anything about the meeting of earlier this week until a neighbor stopped by and asked why we did not attend the meeting. Our hearts dropped; knowing that we were not notified and to have missed hearing of the proposed plans. Not to mention missing the opportunity of voicing our concerns.

We moved to Morgan Hill and into this lovely home because we fell in love with the rural feel of the area and the welcoming community. The property surrounding us gives us a feeling of protection from noise and obstructed views and we would sure hate to lose all that.

And as important we would hate to see the habitat for our deer and wild turkey populations be demolished.

I guess you could say that this re-zoning plan is all in the name of progress; but since it is literally in our own backyard and we were not notified of the last planning meeting, it truly hurts and we sure have concerns about your communication process.

Could you please make sure that we are notified some how of the next planning meeting on this issue. Also would you be able to give us the name of a contact person concerning this issue, so we may come down and get filled in on what we have missed?

We feel very strongly about this so thank you for understanding.

Mike Diefenbach and Family  
385 West Dunne Avenue

**Jim Rowe**

---

**From:** Daniel Tirado [dtirado@mac.com]  
**Sent:** Friday, August 07, 2015 2:56 PM  
**To:** Steve Tate  
**Cc:** Jim Rowe  
**Subject:** Re: ZA 14-13 rezoning at Peak and Dunne

Dear Mayor Tate,

Thank you for taking the time to listen to my concerns on Wednesday night meeting regarding ZA 14-13 rezoning at Peak and Dunne. Because we were all so tired and because I was nervous as heck I left off the most important reason I came to the meeting, it was about the size of the project. It's not a small thing.

Here is what I understand: This project will change the whole character of my neighborhood, basically the intent is to Bulldoze the hill, stone walls too and cut down all but 4 of the trees, add 2 buildings one being a 2 story and expand the existing facility by 400% from roughly 5770 feet to 24,000+ and increase beds by 200% from 28 to 84 total beds. That is not small! It's like putting 20 pounds of stuff in a 10 pound bag.

Please know that I do feel bad that the developer has spent time and money to move this project forward but they knew when they bought the property 3 years ago what the zoning was and accepted it then. Now trying to change the rules just is not fair. I can't change my house into a 2 story zero lot line monster in my neighborhood because of the zoning, they shouldn't either. They knew of the restrictions at time of purchase. I'm sorry but it's just not right.

My neighbor's fears and concerns are that by changing the zoning to R3 that the land becomes more valuable and even though Vila Monte's intent is to expand, who is to say that a week from now for what ever reason... they won't sell it take the money and run leaving my neighborhood open to larger projects.

I know and respect Architect Lesley Miles and hold her in high regard but this project is just not suited for my neighborhood. The original conditional zoning was there for a reason. Please keep it in place.

My neighbors and I intend to lobby you and the city council members in to keeping the zoning as is.

Thank you for your time and consideration,

Respectfully  
Daniel Tirado

Ps My hope is and it would be nice that having lived in this neighborhood since 1957 would count for something. This corner adds so much charm to our neighborhood.

**Jim Rowe**

---

**From:** Daniel Tirado [dtirado@mac.com]  
**Sent:** Friday, August 07, 2015 1:54 PM  
**To:** Marilyn Librers  
**Cc:** Jim Rowe  
**Subject:** RE: ZA 14-13 rezoning at Peak and Dunne.

Dear Councilwoman Marilyn Librers,

I want to thank you for listening to my concerns at the Wednesday night meeting regarding ZA 14-13 rezoning at Peak Ave. and Dunne Ave. in my haste to not go over my 3 minute limit and to not keep you all there later then it already was, also because I was nervous as heck, I failed to mention one of the main reasons for showing up to the meeting. I had a chance to see the plans for the purposed structures and frankly I was left with an awful feeling in my chest.

Here is what I understand. This project is not small, it will change the whole character of my neighborhood, basically the intent is to Bulldoze the hill, stone walls too and cut down all but 4 of the trees, add 2 buildings one being a 2 story and expand the existing facility by 400% from roughly 5770 feet to 24,000+ and increase beds by 200% from 28 to 84 total beds. That is not small! It's like putting 20 pounds of stuff in a 10 pound bag.

Please know that I do feel bad that the developer has spent time and money to move this project forward but they knew when they bought the property 3 years ago what the zoning was and accepted it then. Now trying to change the rules just is not fair. I can't change my house into a 2 story zero lot line monster in my neighborhood because of the zoning, they shouldn't either. They knew of the restrictions at time of purchase. I'm sorry but it's just not right.

My neighbor's fears and concerns are that by changing the zoning to R3 that the land becomes more valuable and even though Vila Monte's intent is to expand, who is to say that a week from now for what ever reason... they won't sell it take the money and run leaving my neighborhood open to larger projects.

I know and respect Architect Lesley Miles and hold her in high regard but this project is just not suited for my neighborhood. The original conditional zoning was there for a reason. Please keep it in place.

My neighbors and I intend to lobby you and the city council members in to keeping the zoning as is.

Thank you for your time and consideration,

Respectfully  
Daniel Tirado

Ps My hope is and it would be nice that having lived in this neighborhood since 1957 would count for something. This corner adds so much charm to our neighborhood.

Jim Rowe

---

**From:** Daniel Tirado [dtirado@mac.com]  
**Sent:** Friday, August 07, 2015 11:47 AM  
**To:** Larry Carr  
**Cc:** Jim Rowe  
**Subject:** Re: ZA 14\_13 Wednesday night meeting.

Dear Larry Carr,

Thank you for voicing my concerns and that of my neighbors in regard to the rezoning at Peak and Dunne Ave. ZA-14-13. I was so tired that my brain wasn't working well. I'm sure you all were tired as well and I didn't want to go over my 3 minute limit or take up more of your time so I missed mentioning the point that I was going to bring up at the Wednesday night meeting. This project is not small, it will change the whole character of my neighborhood I saw the plans, and what I understand, basically the intent is to Bulldoze the hill, cut down all but 4 of the trees, add 2 building and expand the existing facility by 400% from roughly 5770 feet to 24,000 and increase beds by 200% from 28 to 84 total beds.

Please know that I do feel bad that the developer has spent money to move this project forward but they knew when they bought the property 3 years ago what the zoning was and accepted it then. Now trying to change the rules just is not fair. I can't change my house into a 2 story zero lot line monster in my neighborhood because of the zoning, they shouldn't either. They knew of the restrictions at time of purchase. I'm sorry but it's just not right.

Our fears and concerned are that by changing the zoning to R3 that the land becomes more valuable and even though their intent is to expand, who is to say that a week from now for what ever reason... they won't sell it take the money and run leaving my neighborhood with their mess.

The original conditional zoning was there for a reason Please keep it in place. My neighbors and I intend to lobby you and the city council member in to keeping the zoning as is.

Thank you for your time and consideration,

Respectfully  
Daniel Tirado

**Jim Rowe**

---

**From:** Daniel Tirado [dtirado@mac.com]  
**Sent:** Thursday, August 06, 2015 4:38 PM  
**To:** Jim Rowe  
**Subject:** Re:ZA-14-13 last night's city council meeting.

Dear Jim Rowe,

I first want to apologize that I made more work for you on the ZA-14-13 (Vila Monte) project. I do feel bad that the owner has spent money to get this far and I'm sorry I didn't come to the planning commission meeting when it was first discussed to avoid all the extra stuff you are going to have to do. At that time I was sick and unable to attend.

As I had pointed out in my first Email to Steve Golden, this project is not suitable for the space and location. The 1.93 acre plot is not suitable for a 2 story building with a total of 84 bed for the facility. I saw the plans for the project today and I'm sorry but the nice picture that Lesley Miles painted to the City council about landscaping, set backs and room for the deer was a little misleading and the number of units was very vague in fact, non existent. You are attempting to increase Vila Monte by 200% of current capacity. If I'm correct that at the moment the capacity is 28 beds. Please know that I know and like Lesley and hold her in very high regard but both you and I know that this project is not a good fit for the neighborhood. They will basically bulldoze the hill, cut most, if not all the existing trees, remove the existing store wall and old Oak trees and have a condition that will flood the existing house in times of heavy rains.

As Councilmen Carr pointed out the conditional use permit of old was there for the same reason as now. The neighbors that have lived here for ages feel it is inappropriate to zone it for higher density. The new property owners have only been here for 3 years while those of us that live here have been here for 58 years. I'm sure they knew when they bought the property that it had conditional use zoning restrictions. If they were unaware, then they were mislead and should address this to their realtor. Just because they had intentions to expand doesn't make it right. I can't remodel my house to a 2 story, zero lot line structure in my neighborhood because of zoning, Vila Monte should have to live with the Zoning that they purchased.

Some neighbors have also expressed concerns that if the zoning is changed that land will have more value. There will be nothing to stop the owner from selling it tomorrow or before they brake ground because of what ever reasons they can come up with (not enough money, turn down in the economy, lost of investors, lost of interest in the business etc) They could sell to another developer. We just don't trust people to keep their "intentions".

I will be showing all my neighbors how large the project is and I'm sure we will be getting back to you.

Thank you for your time  
Respectfully,  
Daniel Tirado

Ps if I have the numbers wrong as to the number of the purposed beds or anything wrong information please correct me.

THIS PAGE LEFT BLANK INTENTIONALLY