

RESOLUTION NO. 16-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A CONDITIONAL USE PERMIT TO ALLOW FOR THE OPERATION OF AN 84-BED RESIDENTIAL CARE FACILITY TO OPERATE ON 1.94 ACRE PARCEL LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST DUNNE AVENUE AND PEAK AVENUE (APN 767-03-017)

WHEREAS, such request was considered by the Planning Commission at their meeting of August 23, 2016, at which time the Planning Commission approved application UP2016-0010 Peak-Amas; and

WHEREAS, the Planning Commission has made the findings required for approval of a conditional use permit as described in Section 18.54.050 of the Morgan Hill Municipal Code; and

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:

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

SECTION 1. The approved use together with the below conditions is consistent with the General Plan land use designation of the subject site, which is "Residential Attached Medium" and zoning district designation, which is "R3," as amended in Ordinance 2186; and

SECTION 2. The project is categorically exempt from the California Environmental Quality Act in accordance with Section 15332 (In-Fill Development Project).

SECTION 3. The Planning Commission has made the findings required for approval of a conditional use permit as described in Section 18.54.050 of the Morgan Hill Municipal Code. The basis and the findings are set forth in the staff report of the Planning Commission Meeting of August 23, 2016, which findings were duly considered by the Commission and are hereby adopted.

SECTION 4. The use shall be expressly conditioned on conformance to conditions incorporated herein and as attached as Exhibit "A".

SECTION 5 The approved project shall be conducted in a manner consistent with the proposed operations explained within the staff report of the Planning Commission Meeting of August 23, 2016 and Site Plans titled Vila Monte Care Facility stamped date received July 29, 2016, and by this reference incorporated herein.

SECTION 6. Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your use for the purpose of defraying all or a portion

of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun. This right to protest does not apply to voluntary Residential Development Control System fees.

PASSED AND ADOPTED THIS 23rd DAY OF AUGUST 2016, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

JENNA LUNA, Deputy City Clerk

WAYNE TANDA, Chair

A F F I D A V I T

I, _____, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

Applicant

Date: _____

EXHIBIT A

CONDITIONS OF APPROVAL

Project/Application: UP2016-0010: Peak-Amas

The following conditions shall be met prior to the issuance of building and/or site development permits and shall continue for the life of the conditional use permit except as otherwise specified in the conditions.

ACRONYMS:

MHMC – Morgan Hill Municipal Code

MHARH – Morgan Hill Architectural Review Handbook

PLANNING DIVISION

I. TIME LIMITS

- A. The Conditional Use Permit approval granted under this Resolution shall remain in effect for 24 months to August 23, 2018. Failure to commence the use within this term shall result in termination of approval unless an extension of time is granted prior to the expiration date.
(MHMC 18.54.070 A)
- B. In accordance with Section 18.54.090 of the Municipal Code, the Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section if necessary to ensure compliance with said conditions.
(MHMC 18.54.090)

II. OTHER CONDITIONS

- A. The Conditional Use Permit is approved solely for the operation of the assisted living/residential care facility as described in the applicants proposed statement of operations (except as otherwise conditioned contained herein) on file with the planning division dated July 29, 2016 (application UP2016-0010: Peak - Amas) and as shown in the area depicted on the illustrations in the set of plans date stamped July 29, 2016. Any expansion, intensification, or changes to the uses approved under this Conditional Use Permit shall be permitted only upon amendment of this Conditional Use Permit or approval of a separate Conditional Use Permit application.
- B. The Applicant shall obtain a Design Review Permit prior to applying for building permits for the project. The site plan for the Design Review permit shall be in substantial compliance with the site plan approved through the conditional use permit and shall incorporate applicable conditions of approval contained herein.
- C. The Applicant will provide on all publicly accessible exterior doors, automatic door operators that are listed for use by the State of California.

- D. The assisted living facility shall operate in compliance with the definition of Nursing Home or Convalescent hospital found in Section 18.04.335. The facility shall obtain a Residential Care Facility for the Elderly license from the Department of Social Services or Department of Public Health, State of California (or equivalent from another State Agency/Division) and maintain compliance and in good standing with all licensing requirements of the State.
- E. Services provided by the facility must be in compliance with Section 18.04.335 of the Morgan Hill Municipal Code on an on-going basis and must be available to all residents without limitation
- F. On-site Staff must be available 24-hours a day.
- G. DEFENSE AND INDEMNITY: Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this Conditional Use Permit approval. In addition, applicant shall pay 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, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they 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.
- H. MITIGATION FEE ACT: Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun.
- I. SIGNED COPIES OF RESOLUTION: Submit two (2) signed copies of Resolution _____ to the Planning Division prior to issuance of building permits.

POLICE DEPARTMENT

Police Dept requires review of safety and security plan for site and additional buildings; As part of the plan, Police Dept requires installation of security cameras for both interior (common areas) and exterior with enough storage to save for 7 days and provide access to PD to live feed for emergency response as needed. Police Dept also requires access to 2 proposed gates by Knox box AND by providing access code to Police Dispatch with updates if/when access codes change. The plan shall be reviewed and approved prior to the issuance of Building Permits.

PUBLIC WORKS ENGINEERING DIVISION

A barrier/gate shall be installed and maintained in the drive aisle to prevent through traffic from West Dunne Ave to Peak Ave. The driveway entrance on West Dunne Avenue shall only be used for deliveries, refuse hauling, and those personnel providing services in Building 3 as shown on the site plans.