

RESOLUTION No. PC 2022-15

**A Resolution of the Planning Commission
City of Clearlake, State of California
Approving Conditional Use Permit CUP 2022-11,
Categorical Exemption CE 2022-10
to allow the Development and Operation of an
Adult Residential Care Facility**

WHEREAS, Gary Shimotsu, representative of *Be April Importante (property owner)*, is applying for a Conditional Use Permit (CUP 2022-11) and associated environmental filing, Categorical Exemption (CE 2022-10) in accordance with Section 18-18.020 to allow the development and operation of a Residential Care Facility in the “MDR” Medium Density Residential Land Use District, and

WHEREAS, the following application have been made in accordance with Section 18-18.020 of the City Municipal Code, and;

WHEREAS, the application have been processed in accordance with the City’s Environmental Review Guidelines; and

WHEREAS, the project is Categorical Exempt from Environmental Review Pursuant to Article 19, Categorical Exemptions of the State of California Environment Quality Act (CEQA) Statute and Guidelines under Section 15332 (Class 32) In-Fill Development Projects; and

WHEREAS, adequate public noticing was made for the project in accordance with the Municipal Code; and

WHEREAS, the City’s Zoning designates the project site as “MDR” Medium Density Residential as conditioned, the proposed use and design would be consistent with the General Plan; and

WHEREAS, the General Plan designates the project site as “MDR” Medium Density Residential as conditioned, the proposed use and design would be consistent with the General Plan; and

WHEREAS, the project is subject to obtaining a conditional use permit from the Planning Commission in accordance with Section 18-18.020 of the City’s Municipal Code regarding a Residential Care Facility. Therefore, in accordance Section 18-18.020 of the Zoning Code regarding use permits, the Planning Commission finds that these uses as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to the property, improvements or potential development in the vicinity with respect to aspects including, but not limited to, the following:

- a) The nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures.
- b) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic and the adequacy of proposed off-street parking and loading,
- c) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor,
- d) Treatment given, as appropriate, to such aspects as landscaping, open spaces, parking areas, loading areas, service areas, lighting, and signs.

and;

WHEREAS, with the incorporated conditions of approval, referenced as Exhibit A herein, the project complies with the Clearlake Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the City of Clearlake – Planning Commission of the City of Clearlake that the project is hereby approved, subject to approved Conditions of Approval (Exhibit A).

PASSED AND ADOPTED on this 23rd day of August 2022 by the following vote:

ATTEST:

City of Clearlake Planning Commission Chair

City of Clearlake Clerk/Deputy Clerk

EXHIBIT A

**CITY OF CLEARLAKE CONDITIONS OF
APPROVAL
CONDITIONAL USE PERMIT CUP 2022-11
CATEGORICAL EXEMPTION CE 2022- 10**

RESIDENTIAL CARE FACILITY

Pursuant to the approval of the Planning Commission on August 23rd, 2022, there is hereby granted to **Be April Importante a Conditional Use Permit CUP 2022-11 & a Categorical Exemption, CE 2022-10** with the following conditions of approval to allow the development and operation of a Residential Care Facility located at **14139 Konocti Street, Clearlake, CA 95422 further described as APN: 039-066-25-000** (former APN: 039-066-24-000) is subject to the following terms and conditions of approval.

SECTION A: GENERAL CONDITIONS:

1. The use hereby permitted shall substantially conform to the Site Plan(s), and Project Description and any conditions of approval imposed by the above Conditional Use Permit as shown on the approved site plan for this action dated **August 23rd, 2022**.
2. **Prior to operation**, the permit holder shall meet and operate in full compliance with fire safety rules and regulations of the Lake County Fire Protection District.
3. **Prior to operation and/or development**, the applicant shall secure and maintain all required permits from the City of Clearlake (*Building Department, Planning and Public Works*), Lake County Fire Protection District, Lake County Air Quality Management District, Lake County Water Resources Department, Lake County Environmental Health Department, Lake County Special Districts, local water district and/or all applicable Federal, State and local agency permits.
 - *If said permit is from another agency other than the City of Clearlake, the applicant shall submit a copy of the permit(s) to verify they have fulfilled this requirement.*
4. **Prior to Operation**, the applicant shall apply and obtain a Business License from the City of Clearlake.
5. All graffiti shall be removed on any part of the property within 48 hours of its appearance.
6. The applicant shall always retain a copy of the approved conditions of approval on premises.
7. The operation shall not exceed the maximum occupancy as prescribed by the California Building Code.
8. Any modifications and/or additions to a use requiring use permit approval shall itself be subject to use permit approval. The addition of an allowed use to a premise occupied by a conditionally allowed use shall require use permit approval of the type required for the existing use. The Community Development Director shall determine when such an addition and/or change is of such a minor or incidental nature that the intent of these regulations can be met without further use permit control.
9. The operator shall be responsible to pay all sales, use, business and other applicable taxes, and all license, registration, and other fees and permits required under federal, state, and local laws.

10. The applicant is responsible for ensuring that all project workers including third party vendors are informed of, understand, and agree to abide by the approved plans and project conditions.
11. All conditions are necessary to protect the general health, safety and welfare of the public. If any condition of this entitlement is held to be invalid by a court, the whole entitlement shall be invalid. The Director specifically declares that it would not have approved this entitlement unless all of the conditions herein are held as valid.

SECTION B. AESTHETICS:

1. **Prior to building permit issuance and/or commencing construction**, the following shall be submitted for review and approval by the City:
 - Subject to Community Development Department approval an Exterior Lighting Plan. Lighting poles, if used, should not exceed 15 feet in height. All lighting shall be shield and directed downwards and adhere to all Federal, State and local agency requirements, including the dark-sky requirements found at <https://www.darksky.org/>. All lighting shall not project beyond the project parcel boundaries
 - Subject to Community Development Department approval a Final Signage Plan for all existing and proposed signs. The sign plan shall comply with the City's Municipal Code/Design Requirements. No bunting strips, banners, flags, whirligigs or other attention-getting devices shall be displayed on site without Director approval.
 - Subject to Community Development Department approval a Landscaping and Irrigation Plans. Plans shall demonstrate compliance with the City's Municipal Code regarding landscaping.
 - Subject to Community Development Department approval a detailed Trash Enclosure Plan. The plans shall show that the enclosure will be constructed of block with an attractive cap and the gates should incorporate solid metal materials painted to match the building colors. The gates should be mounted on separate posts mounted inside the enclosure. A hose bib should be located next to the enclosure for maintenance.
 - *Trash receptacles shall be located at convenient locations outside the establishment and operators of the business shall remove all trash daily.*
 - *All refuse generated by the facility shall be stored in the approved disposal/storage containers, and appropriately covered. Removal of waste shall be on a weekly basis to avoid excess waste. All trash receptacles/containers shall always remain covered to prevent fugitive odors and rodent infestation.*

SECTION C. AIR QUALITY:

1. Construction activities shall be conducted with adequate dust suppression methods, including watering during grading and construction activities to limit the generation of fugitive dust or other methods approved by the Lake County Air Quality Management District. Prior to initiating soil removing activities for construction purposes, the applicant shall pre-wet affected areas with at least 0.5 gallons of water per square yard of ground area to control dust.
2. Driveways, access roads and parking areas shall be surfaced in a manner so as to minimize dust. The applicant shall obtain all necessary encroachment permits for any work within the right-of-way. All improvement shall adhere to all applicable federal, State and local agency requirements.

3. Any disposal of vegetation removed as a result of lot clearing shall be lawfully disposed of, preferably by chipping and composting, or as authorized by the Lake County Air Quality Management District and the Lake County Fire Protection District.
4. During construction activities, the applicant shall remove daily accumulation of mud and dirt from any roads adjacent to the site.
5. All refuse generated by the facility shall be stored in approved disposal/storage containers, and appropriately covered. Removal of waste shall be on a weekly basis to avoid excess waste. All trash receptacles/containers shall remain covered at all times to prevent fugitive odors and rodent infestation. An odor control plan shall be submitted for review and approval by the City in accordance with the Zoning Code. Odor control shall be maintained to an acceptable level at all times.
6. Construction activities that involve pavement, masonry, sand, gravel, grading, and other activities that could produce airborne particulate should be conducted with adequate dust controls to minimize airborne emissions. A dust mitigation plan may be required should the applicant fail to maintain adequate dust controls.
7. If construction or site activities are conducted within Serpentine soils, a Serpentine Control Plan may be required. Any parcel with Serpentine soils must obtain proper approvals from LCAQMD prior to beginning any construction activities. Contact LCAQMD for more details.
8. All engines must notify LCAQMD prior to beginning construction activities and prior to engine use. Mobile diesel equipment used for construction and/or maintenance shall be in compliance with State registration requirements. All equipment units must meet Federal, State, and local requirements. All equipment units must meet RICE NESHAP/ NSPS requirements including proper maintenance to minimize airborne emissions and proper record-keeping of all activities, all units must meet the State Air Toxic Control Measures for CI engines and must meet local regulations.
9. Site development, vegetation disposal, and site operation shall not create nuisance odors or dust. During the site preparation phase, the district recommends that any removed vegetation be chipped and spread for ground cover and erosion control. Burning of debris/construction material is not allowed on commercial property, materials generated from the commercial operation, and waste material from construction debris, must not be burned as a means of disposal.
10. Significant dust may be generated from increased vehicle traffic if driveways and parking areas are not adequately surfaced. Surfacing standards should be included as a requirement in the use permit to minimize dust impacts to the public, visitors, and road traffic. At a minimum, the district recommends chip seal as a temporary measure for primary access roads and parking. Paving with asphaltic concrete is preferred and should be required for long term occupancy. All areas subject to semi-truck / trailer traffic should require asphaltic concrete paving or equivalent to prevent fugitive dust generation. Gravel surfacing may be adequate for low use driveways and overflow parking areas; however, gravel surfaces require more maintenance to achieve dust control, and permit conditions should require regular palliative treatment if gravel is utilized. White rock is not suitable for surfacing (and should be prohibited in the permit) because of its tendency to break down and create excessive dust. Grading and re-graveling roads should

utilizing water trucks, if necessary, reduce travel times through efficient time management and consolidating solid waste removal/supply deliveries, and speed limits.

11. Construction activities that involve pavement, masonry, sand, gravel, grading, and other activities that could produce airborne particulate should be conducted with adequate dust controls to minimize airborne emissions. A dust mitigation plan may be required should the applicant fail to maintain adequate dust controls.
12. All areas subject to semi-truck / trailer traffic should require asphaltic concrete paving or equivalent to prevent fugitive dust generation. Gravel surfacing may be adequate for low use driveways and overflow parking areas; however, gravel surfaces require more maintenance to achieve dust control, and permit conditions should require regular palliative treatment if gravel is utilized. White rock is not suitable for surfacing (and should be prohibited in the permit) because of its tendency to break down and create excessive dust. Grading and re-graveling roads should utilize water trucks if necessary, reduce travel times through efficient time management and consolidating solid waste removal/supply deliveries, and speed limits
13. Any demolition or renovation is subject to the Federal National Emissions Standard for Hazardous Air Pollutants (NESHAP) for asbestos in buildings requires asbestos inspections by a Certified Asbestos Consultant for all major renovations and all demolition. An Asbestos Notification Form with the Asbestos inspection report must be submitted to the district at least 14 days prior to beginning any demolition work. The applicant must contact the district for more details and proper approvals. Regardless of asbestos content or reporting requirements all demolition and renovation activities should use adequate water/ amended water to prevent dust generation and nuisance conditions.

SECTION D - CULTURAL/TRIBAL RESOURCES:

1. **During construction activities and/or ground disturbance**, if any subsurface archaeological remains are uncovered, all work shall be halted within 100 feet of the find and the applicant shall retain a qualified cultural resources consultant from the City's approved list of consultants to identify and investigate any subsurface historic remains and define their physical extent and the nature of any built features or artifact-bearing deposits. Significant historic cultural materials may include finds from the late 19th and early 20th centuries including structural remains, trash pits, isolated artifacts, etc.
2. The cultural resource consultant's investigation shall proceed into formal evaluation to determine their eligibility for the California Register of Historical Resources. This shall include, at a minimum, additional exposure of the feature(s), photo-documentation and recordation, and analysis of the artifact assemblage(s). If the evaluation determines that the features and artifacts do not have sufficient data potential to be eligible for the California Register, additional work shall not be required. However, if data potential exists – e.g., there is an intact feature with a large and varied artifact assemblage – it will be necessary to mitigate any Project impacts. Mitigation of impacts might include avoidance of further disturbance to the resources through Project redesign. If avoidance is determined to be infeasible, pursuant to CEQA Guidelines Section 15126.4(b)(3)(C), a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If an artifact must be removed during Project excavation or testing, curation may be an

appropriate mitigation. This language of this mitigation measure shall be included on any future grading plans and utility plans approved by the City for the Project.

3. If human remains are encountered, no further disturbance shall occur within 100 feet of the vicinity of the find(s) until the Lake County Coroner has made the necessary findings as to origin (California Health and Safety Code Section 7050.5). Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Lake County Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Native American Heritage Commission must then identify the "most likely descendant(s)", which parties agree will likely be the Koi Nation based upon the Tribe's ancestral ties to the area and previous designation as MLD on projects in the geographic vicinity. The landowner shall engage in consultations with the most likely descendant (MLD). The MLD will make recommendations concerning the treatment of the remains within 48 hours as provided in Public Resources Code 5097.98.
4. The developer/landowner shall relinquish ownership of all sacred items, burial goods and all archaeological artifacts that are found on the project area to the Koi Nation for proper treatment and disposition.

SECTION E - GEOLOGY AND SOILS:

1. **Prior to any ground disturbance and/or operation (if applicable)**, the applicant shall submit Erosion Control and Sediment Plans to the Community Development Department for review and approval. *The project shall incorporate Best Management Practices (BMPs) consistent with the City Code and the State Storm Water Drainage Regulations to the maximum extent practicable to prevent and/or reduce discharge of all construction or post-construction pollutants into the local storm drainage system.*
2. **Prior to any ground disturbance (if applicable)**, the applicant shall submit and obtain a Grading Permit from the Community Development in accordance with the City of Clearlake Municipal code(s).
3. The applicant shall monitor the site during the rainy season including post-installation, application of BMPs, erosion control maintenance, and other improvements as needed. Said measures shall be maintained for life of the project and replace/repared when necessary.

SECTION F- HAZARD/HAZARDOUS MATERIALS:

1. All hazardous waste shall not be disposed of on-site without review or permits from Environmental Health Department, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.
2. The storage of potentially hazardous materials shall be located at least 100 feet from any existing water well. These materials shall not be allowed to leak into the ground or contaminate surface waters. Collected hazardous or toxic materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such materials.
3. Any spills of oils, fluids, fuel, concrete, or other hazardous construction material shall be immediately cleaned up. All equipment and materials shall be stored in the staging areas away from all known waterways.

4. The storage of hazardous materials equals to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division. Industrial waste shall not be disposed of on site without review or permit from Lake County Environmental Health Division or the California Regional Water Quality Control Board. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site.
5. All equipment shall be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. Hazardous materials and contaminated soil shall be stored, transported, and disposed of consistent with applicable local, state, and federal regulations
6. Hazardous Waste must be handled according to all Hazardous Waste Control Laws. Any generation of a hazardous waste must be reported to Lake County Environmental Health within thirty days.
7. All employees and/or staff members shall be properly trained in and utilize Personnel Protective Equipment in accordance with all federal, state and local regulations regarding handling any biological and/or chemical agents.
8. Hazardous waste must be handled according to all Hazardous Waste Control and Generator regulations. Waste shall not be disposed of onsite without review or permits from EHD, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.

SECTION G -NOISE/VIBRATIONS:

1. All construction activities including engine warm-up shall be limited to weekdays and Saturday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents.
2. Permanent potential noise sources such as, generators used for power shall be designed and located to minimize noise impacts to surrounding properties.
3. During construction noise levels shall not exceed 65 decibels within fifty (50) feet of any dwellings or transient accommodations between the hours of 7:00 AM and 6:00 PM. This threshold can be increased by the Building Inspector or City Engineer have approved an exception in accordance with Section 5-4.4(b)(1) of the City Code. An exception of up to 80 decibels may be approved within one hundred (100) feet from the source during daylight hours. Project is expected to result in less than significant impacts with regard to noise and vibration.

SECTION H– TRANSPORTATION & TRAFFIC:

1. **Prior to building permit issuance and/or commencing construction**, the following shall be submitted for review and approval by the City:
 - Subject to City Engineer approval, Civil Site plans identifying existing and proposed storm drains, drainage ditches, curbs, sidewalks, gutters, and striping, as regulated by the City's

Design/Construction Standards, Off-Street Parking Regulations, and Parking Design Standards. Said design shall be found compliance with all other applicable local/federal/state laws (including ADA and CASP requirements). *Said improvements shall be along property frontage on Konocti Street and Lupoyoma Street.*

2. **Prior to operation**, all handicap parking areas, routes of travel, building access and bathrooms shall meet American with Disabilities Act (ADA) requirements and be subject to review and approval of a Certified Accessibility Access Specialist (CASP).
3. **Prior to any work and/or improvements within the right-of-way**, the applicant shall coordinate with the appropriate agency to apply for and obtain the required permit(s).

SECTION I -TIMING AND MONITORING

1. If the approved use permit is not established within one (1) year of the date of approval or such longer time as may be stipulated as a condition of approval, the use permit shall expire.
2. If a structure(s) or associated site development authorized by use permit is not issued building permits (if building permits are required) within three (3) years of the date of approval, the use permit shall expire.
3. The use permit may be transferred to new owners at the same location/use upon notifying the City Planning Department of said ownership transfer and upon the new owner's written agreement to maintain all conditions of approval.
4. Any conditions established pursuant to these regulations shall be met before the use is established, except that the Director, Planning Commission or on appeal, the City Council, may establish a schedule for certain conditions to be met after establishment of the use. Continuance of the use shall then be contingent on complying with the schedule for meeting deferred conditions.
5. This Conditional Use Permit does not abridge or supersede the regulatory powers and permit requirements of any federal, state, or local agency requirements, which may retain a regulatory or advisory function as specified by statute or ordinance. The applicant shall obtain and maintained permits as may be required from each agency.
6. The applicant shall agree to indemnify, defend, and hold harmless the City or its agents, officers and employees from and against any and all claims, actions, demands or proceeding (*including damage, attorney fees, and court cost awards*) against the City or its agents, officers, or employees to attach, set aside, void, or annul an approval of the City, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations. In providing any defense under this Paragraph, the applicant shall use counsel reasonably acceptable to the City. The City shall promptly notify the applicant of any claim, action, demands or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold the City harmless as to that action. The City may require that the applicant post a bond, in an amount determined to be sufficient, to satisfy the above indemnification and defense obligation. Applicant understands and acknowledges that City is under no obligation to defend any claim, action, demand or proceeding challenging the City's actions with respect to the permit or entitlement.

7. Upon written request received prior to expiration, the Community Development Director may grant renewals of use permit approval for successive periods of not more than one (1) year each.
 - *Approvals of such renewals shall be in writing and for a specific period.*
 - *Renewals may be approved with new or modified conditions upon a finding that the circumstances under which the use permit was originally approved have substantially changed.*
 - *Renewal of a use permit shall not require public notice or hearing unless the renewal is subject to new or modified conditions. To approve a renewal, the Community Development Director must make the findings required for initial approval.*
8. The Planning Commission may revoke or modify the use permit in the future if the Commission finds that the use to which the permit allows is detrimental to health, safety, comfort, general welfare of the public; constitutes a public nuisance; if the permit was obtained or is being used by fraud; and/or if one or more the conditions upon which a permit was granted are in noncompliance or have been violated. Applicant shall be notified of potential violations of the use permit prior to action taken by the Planning Commission.
9. Said Use Permits shall be subject to revocation or modification by the Planning Commission if the Commission finds that there has been:
 - a) *Noncompliance with any of the foregoing conditions of approval; or*
 - b) *The Planning Commission finds that the use for which this permit is hereby granted is so exercised as to be substantially detrimental to persons or property in the neighborhood of the use. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to the City of Clearlake Municipal Code. 15.*

ACCEPTANCE

I have read and understand the foregoing Conditional Use Permit and agree to each term and condition of approval and/or mitigation measure(s) thereof.

TO BE COMPLETED BY APPLICANT/AUTHORIZED AGENT

Name Applicant or Authorized Agent
(Print Name)

Signature of Applicant/Authorized Agent

Date: _____

To be Completed by Authorized Staff Only:

Staff Name

Staff Signature

Date Project Approved: _____