

## RESOLUTION NO. 20-109

### RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS GRANTING A USE PERMIT FOR A MAJOR IMPACT FACILITY

WHEREAS, the applicant, STEVE CHOU, filed an application for a major use permit with the Mendocino County Department of Planning and Building Services to allow for a major impact facility (Skilled Nursing Facility), 2.8± miles south of Ukiah town center, on the west side of South State Street (CR 104A), at the intersection of South State Street and Whitmore Lane (CR 210C), located at 131 Whitmore Lane, Ukiah (APN 184-044-10); General Plan SR; Zoning R1-6K[FP][AZ]; Supervisorial District 5; (the "Project"); and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on, April 16, 2020, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project and the Planning Commission made a recommendation of approval to the Board of Supervisors; and

WHEREAS, in accordance with applicable provisions of law, the Board of Supervisors held a public hearing on August 18, 2020, at which time the Board of Supervisors heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Board of Supervisors has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Board of Supervisors regarding the Project.

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors make the following findings based on the evidence in the record:

1. **General Plan & Zoning Consistency Findings:** By separate action, the subject property has been rezoned to Suburban Residential with Flood Plain and Airport Zone Combining Districts (S-R[FP][AZ]) is consistent with the existing General Plan designation of Suburban Residential (SR), per MCC, Division I, §20.220.005, the General Plan-Zoning Compatibility Chart and Mendocino County General Plan Table 3-1. The request is allowable per Mendocino County Code §20.212 which governs amendments, alterations, and changes to established zoning districts. The exception to parking standards to reduce to 25 parking spaces is consistent with Mendocino County Code §20.180.015 and is adequate to serve the facility.
2. **Use Permit Findings:** The major use permit request to establish a Skilled Nursing Facility (SNF) satisfies the Use Permit required findings per the Mendocino County Code §20.196.020 as follows:

*A. That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;*

The proposal to establish a Major Impact Facility, as defined by Mendocino County Code §20.020, is a conditionally permissible use in the Suburban Residential (S-R) zoning district and aligns with the stated intent of the Suburban Residential (SR) General Plan land use designation as well as MCC §20.220.005, General Plan-Zoning Compatibility Chart.

*B. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;*

The site is located on a major collector road, as defined by Appendix A of the General Plan, and is considered an in-fill development as it is locating entirely within an existing building designed and developed for the specific purpose proposed to be established therein. All utilities, including water

and sewage are currently provided for and no expansion of services is anticipated to be required. Additionally, the project site is located within the Ukiah MS4 stormwater treatment area and is therefore required to be in compliance with current stormwater drainage treatment recommendations.

*C. That such use will not, under the circumstances of that particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county; provided, that if any proposed building or use is necessary for the public health, safety or general welfare, the finding shall be to that effect;*

The proposal to reestablish a residential care facility within the existing structure on the subject property does not constitute a nuisance, nor is it considered detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood. Given the present zoning designation (R-1), it is understood that the residential care facility previously operated as a non-conforming use, and was not subject to Conditions of Approval. As part of U\_2019-0027/R\_2019-0010, Conditions of Approval are recommended to ensure that under the use permit aspects of the project do not constitute or create a nuisance. Furthermore, in Mendocino County approximately 20 percent of the population, or 17,221 persons, was over age 65 and is considered “senior”, therefore use of this existing structure as a residential care facility supports the public health, safety and general welfare of this particular demographic by providing needed medical facilities in an appropriate structure.

*D. That such use preserves the integrity of the zoning district.*

The proposed use of a Major Impact Facility would not be an allowable use within the existing zoning designation of Single Family Residential (R-1 [FP] [AZ]), therefore as allowed by MCC §20.044.020(b), the applicant requested to rezone the site to a district that would allow for reestablishment of the SNF, which is defined as a Major Impact Facility by MCC §20.020.070. As discussed in the associated staff report, the desired zoning designation of Suburban Residential (SR[FP[AZ]) is compatible with the existing General Plan designation per MCC §20.220.005. The proposed use preserves the integrity of the Suburban Residential zoning district, as public facilities and services are desired per MCC §20.044.005. A Skilled Nursing Facility offers critical services to a vulnerable segment of the Mendocino County population, and is considered a Civic Use Type per MCC §20.044.020. Furthermore, the project is accessed via a publicly-maintained road network and transit system, and is within a public service district for both water and sewer. The project preserves the integrity of the surrounding zoning district by aligning with the County's General Plan, and has been conditioned to address potential nuisances that were not previously applicable when the facility operated as a non-conforming Major Impact Facility under the R-1 designation;

3. **Environmental Protection Findings:** The proposed rezone is Statutorily Exempt per CEQA Guidelines section 15183, governing General Plan-compliant projects and the use permit project is Categorically Exempt under CEQA Guidelines section 15301, regarding Existing Facilities.
4. **Ukiah Valley Area Plan (UVAP):** The proposed project is consistent with the Ukiah Valley Area Plan and promotes Policies LU 1.2a, LU 1.4a, and LU 1.3.

5. **Mendocino County Airport Comprehensive Land Use Plan (ACLUP):** The Airport Land Use Commission's publically noticed hearing on March 19, 2020 at which this request was to be presented for a consistency determination, was cancelled. Staff's review of the project found that the reestablishment of the subject property and structure for use as a Skilled Nursing Facility was consistent with the in-fill development requirements, per Chapter 2.1.6 of the Mendocino County Airport Comprehensive Land Use Plan. As noted in Chapter 1.4.4, the Airport Land Use Commission must respond to a local agency's request for a consistency determination on a project within 60 days of referral (Section 21676(d)). If the Commission fails to make the determination within that period, the proposed action shall be deemed consistent. ALUC\_2020-0002, which was the project number assigned to this consistency request was submitted on February 21, 2020. Regardless of the Commission's failure to act, the proposed action must also comply with other applicable local, state, and federal regulations and laws. As conditioned, the Applicant shall record an avigation easement, overflight easement or deed notice recorded and submit it to Mendocino County Planning and Building Department for review.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby grants the requested Use Permit, subject to the Conditions of Approval in Exhibit "A", attached hereto; provided, however, that the Use Permit shall become effective as of the effective date of the ordinance adopting the rezone of the subject property from Single Family Residential with Flood Plain and Airport Zone Combining Districts (R1:6K[FP][AZ]) to Suburban Residential with Flood Plain and Airport Zone Combining Districts (SR:6K[FP][AZ]).

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board of Supervisors as the custodian of the documents and other materials which constitutes the record of proceedings upon which the Board of Supervisors' decision herein is based. These documents may be found at the Office of the Clerk of the Board of Supervisors, 501 Low Gap Road, Room 1010, Ukiah, CA 95482.

The foregoing Resolution introduced by Supervisor Brown, seconded by Supervisor Williams, and carried this 18th day of August, 2020, by the following vote:

AYES:	Supervisors Brown, McCowen, Haschak, Gjerde, and Williams
NOES:	None.
ABSENT:	None.

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO  
Clerk of the Board

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JOHN HASCHAK, Chair  
Mendocino County Board of Supervisors

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Deputy

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

APPROVED AS TO FORM:  
CHRISTIAN M. CURTIS  
County Counsel

BY: CARMEL J. ANGELO  
Clerk of the Board

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Deputy



## EXHIBIT A

### CONDITIONS OF APPROVAL U\_2019-0027/R\_2019-0010

APRIL 16, 2020

**APPROVED PROJECT DESCRIPTION:** Use Permit to allow for the establishment of a Skilled Nursing Facility located at 131 Whitmore Lane (APN: 184-044-10).

#### **CONDITIONS OF APPROVAL:**

**\*\*All of the below conditions are predicated on the successful rezoning of the property as approved by the Board of Supervisors.**

#### **STANDARD CONDITIONS**

1. The permit shall become effective on the 11th day after Board of Supervisors approval and shall expire and become null and void at the expiration of two years after the effective date except where use of the property in reliance on such permit has been initiated prior to its expiration.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division I of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Planning Commission or Board of Supervisors.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required permits from the Building Inspection Division of the Department of Planning and Building Services for all construction, structural modifications, establishment of signs and compliance with handicapped accessibility for the facility if required.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
  - a. The permit was obtained or extended by fraud.
  - b. One or more of the conditions upon which the permit was granted have been violated.
  - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
  - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited, or the operation of one or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

#### **AESTHETICS**

8. All future external lighting, whether installed for security, safety or landscape design purposes, shall be shielded, downcast or shall be positioned in a manner that will not shine or allow light glare to exceed the boundaries of the parcel on which it is placed. The facility shall avoid or minimize noise impacts on neighboring residential uses.

## **HYDROLOGY AND WATER QUALITY**

9. The applicant shall obtain all applicable permits required within the urban boundaries of the Stormwater Management Plan per County Code Section 16.30, typically required through building permit processing. In addition, any development in areas identified within the 100 year flood plain will require Flood Hazard Development permits through the Department of Planning and Building Services.
10. The applicant shall obtain all necessary permits and ensure all operations, including structures, adhere to the requirements of the Mendocino County Department of Environmental Health.

## **TRANSPORTATION**

11. Applicant shall construct curb, gutter, and a minimum 4.5 foot wide sidewalk along on the property frontage along South State Street (CR 104A) and Whitmore Lane (CR 210C), in accordance with Mendocino County Road and Development Standards No. A40A and A40B.
12. An ADA compliant concrete curb return and pedestrian ramp shall be constructed at the corner of South State Street (CR 104A) and Whitmore Lane (CR 210C).
13. Road Improvements shall be constructed in accordance with improvement plans prepared by a Civil Engineer and approved by the Mendocino County Department of Transportation. Current improvement plan checking and inspection fees apply.
14. Applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation for any work within County rights-of-way.

## **PUBLIC SERVICES**

15. The applicant shall comply with any requirements or recommendations of the Ukiah Valley Fire District. Written verification shall be submitted from Fire District to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Fire District prior to occupancy of the building.

## **AIRPORT LAND USE COMMISSION**

16. There shall be an avigation easement, overflight easement or deed notice recorded and submitted to Mendocino County Planning and Building Department for inclusion in the record, indicating compliance with Chapter 3.4.1(b) and Table 2 of the ACLUP prior to the issuance of building permits for this proposal.