

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL  
APPROVING ARCHITECTURAL AND SITE APPROVAL  
PERMIT ASA-2017-03 TO ALLOW ADDITIONS AND RENOVATIONS  
AT 23500 CRISTO REY DRIVE**

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SECTION I: PROJECT DESCRIPTION

Application No.: ASA-2017-03  
Applicant: Mary Elizabeth O'Connor  
Property Owner: Rancho San Antonio Retirement Housing Corporation  
Location: 23500 Cristo Rey Drive (APN: 342-54-999)  
Proposal: Additions to the existing facilities at The Forum at Rancho San Antonio, as well as new buildings resulting in 23 new independent living units, 10 new beds and ~46,026 square feet of renovations and additions to the skilled nursing facility, ~10,500 square feet of renovations to the assisted living facility, 26 new beds in a ~39,000-square-foot new memory care building, and ~27,000 square feet of renovations and additions to the commons facilities (dining, fitness and multi-purpose room).

SECTION II: FINDINGS FOR ARCHITECTURAL AND SITE APPROVAL:

WHEREAS, the City of Cupertino received an application for an Architectural and Site Approval as described in Section I. of this Resolution; and

WHEREAS, the Planning Commission held a public hearing on March 27, 2018 and recommended that the City Council approve the application, subject to conditions; and

WHEREAS, on April 9, 2018, the City of Cupertino received a revised plan for 23 living units, reflecting a private negotiation between the Forum owners and neighboring property owners; and

WHEREAS, the reduction of living units from 25 to 23 is a de minimus revision, which does not result in any change to the necessary findings for approval; and

WHEREAS, the necessary public notices have been given as required by the Procedural Ordinance of the City of Cupertino, and the City Council has held at least one public hearing in regard to the application; and

WHEREAS, the applicant has met the burden of proof required to support said application; and

WHEREAS, the City Council finds as follows with regard to this application:

1. The proposal, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

*General Plan policies seek to support the community quality of life, including planning for changing demographics, integrating community health into land use planning, and economic vitality and fiscal stability as follows:*

- *The growing need for services for seniors are addressed through combined residential and community facilities;*
- *Onsite facilities within walking distance, proximity to open space, and vanpools reduce reliance on auto usage and increases community health;*
- *As Cupertino's population grows and ages, demands on community resources will increase. In order to maintain and enhance the community's quality of life, the City will ensure that existing businesses are encouraged to reinvest and grow in Cupertino, and that the city continues to attract new businesses and investment. The Forum is a cooperatively-owned non-profit corporation; the issues of economic vitality, attracting new investors, and long-term viability of the community to provide services to the senior community applies and is accomplished by the proposed development.*

2. The proposal is consistent with the purposes of Chapter 19.134, Architectural and Site Review, of the Cupertino Municipal Code, the General Plan, and applicable specific plans, zoning ordinances, conditional use permits, exceptions, subdivision maps, or other entitlements to use which regulate the subject property including, but not limited to, adherence to the following specific criteria:
  - a) Abrupt changes in building scale should be avoided. A gradual transition related to height and bulk should be achieved between new and existing buildings;
  - b) In order to preserve design harmony between new and existing buildings and in order to preserve and enhance property values, the materials, textures and colors of new buildings should harmonize with adjacent development by being consistent or compatible with design and color schemes, and, with the future character of the neighborhood and purposes of the zone in which they are situated. The location, height and materials of walls, fencing, hedges and screen planting should harmonize with adjacent development. Unsightly storage areas, utility installations and unsightly elements of parking lots should be concealed. The planting of ground cover or various types of pavements should be used to prevent dust and erosion,

and the unnecessary destruction of existing healthy trees should be avoided. Lighting for development should be adequate to meet safety requirements as specified by the engineering and building departments, and provide shielding to prevent spill-over light to adjoining property owners;

- c) The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures shall minimize traffic hazards and shall positively affect the general appearance of the neighborhood and harmonize with adjacent development; and
- d) With respect to new projects within existing residential neighborhoods, new development should be designed to protect residents from noise, traffic, light and visually intrusive effects by use of buffering, setbacks, landscaping, walls and other appropriate design measures.

*The proposal is consistent with the purposes of Chapter 19.134, Architectural and Site Review, of the Cupertino Municipal Code, the General Plan, and applicable specific plans, zoning ordinances, conditional use permits, exceptions, subdivision maps, or other entitlements to use which regulate the subject property because:*

- *The General Plan land use designation for the property is quasi-public/institutional. The existing and proposed use that provides independent living, assisted living and skilled nursing including memory care for seniors, is consistent with the General Plan;*
- *There are no applicable specific plans;*
- *The subject property is zoned Planned Development District – Institutional (“P(I)”). Therefore, as an institutional development, the proposal is an allowed use consistent with the P zoning district.*

*The proposed development will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan and the purpose of the City’s zoning ordinances as follows:*

- *Building layouts, placement and design are compatible with the surrounding environment. Careful attention is paid to transitions and building locations. Living units adjacent to the Oak Valley neighborhood are located closer to Cristo Rey for increased setbacks to property line within the range of 29-52 feet, resulting in structure separation ranging between 49-72 feet.*
- *There is a buffer area between resident/visitor traffic on Cristo Rey and the proposed living units that multi-tasks as a back-out area and visitor parking spaces.*
- *Proposed colors, materials, and forms are consistent with the existing development.*
- *Scale and interrelationships of old and new development complement each other. Buildings are grouped to create spatial unity. For example, the independent living units maintain a one-story and/or low density profile in acknowledgment of adjacent*

*existing units on site and nearby single family homes off site. Taller duplex units are located within the interior of the site, shown as proposed on Sereno Court, and adjacent to similarly scaled units. The larger community and service facilities are also located within the interior of the site, meet the height limits as defined within Community Form Diagram Figure LU-2, and maintain similar scale to existing buildings such that they are not perceived from off site.*

**SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.**

**1. APPROVED EXHIBITS**

Approval recommendation is based on the architectural, civil, and landscape plan set dated April 3, 2018, Submittal #4 Alt. 23 Villas, consisting of 162 sheets labeled "The Forum Senior Community Update," prepared by SmithGroupJJR, RHAA Landscape Architecture and BKF Engineers; arborist report dated April 20, 2017, prepared by HortScience; Environmental Impact Report and technical appendices dated circulated on December 15, 2017, prepared by Placeworks and Response to Comments dated February 8, 2018, prepared by Placeworks; except as may be amended by conditions in this resolution.

**2. ACCURACY OF PROJECT PLANS**

The applicant/property owner is responsible to verify all pertinent property data including but not limited to property boundary locations, building setbacks, property size, building square footage, any relevant easements and/or construction records. Any misrepresentation of any property data may invalidate this approval and may require additional review.

**3. CONCURRENT APPROVAL CONDITIONS**

The conditions of approval contained in file nos. DP-2017-01, EA-2017-01, ASA-2017-03 and TR-2018-06 are concurrently enacted, and shall be applicable to this approval.

**4. ANNOTATION OF THE CONDITIONS OF APPROVAL**

The conditions of approval set forth shall be incorporated into and annotated on the first page of the building plans.

**5. FINAL ARCHITECTURAL DETAILS AND EXTERIOR BUILDING MATERIALS**

The final building design and exterior treatment plans shall be reviewed and approved by the Director of Community Development prior to issuance of building permits and through an in-field mock-up of colors prior to application. The final building exterior plan shall closely resemble the details shown on the original approved plans.

**6. CONSULTATION WITH OTHER DEPARTMENTS**

The applicant is responsible to consult with other departments and/or agencies with regard to the proposed project for additional conditions and requirements. Any misrepresentation of any submitted data may invalidate an approval by the Community Development Department.

**7. INDEMNIFICATION**

Except as otherwise prohibited by law, the applicant shall indemnify and hold harmless the City, its City Council, and its officers, employees and agents (collectively, the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against one or more of the indemnified parties or one or more of the indemnified parties and the applicant to attack, set aside, or void this Resolution or any permit or approval authorized hereby for the project, including (without limitation) reimbursing the City its actual attorneys' fees and costs incurred in defense of the litigation. The applicant shall pay such attorneys' fees and costs within 30 days following receipt of invoices from City. Such attorneys' fees and costs shall include amounts paid to counsel not otherwise employed as City staff and shall include City Attorney time and overhead costs and other City staff overhead costs and any costs directly related to the litigation reasonably incurred by City.

**8. NOTICE OF FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS**

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

NOW, THEREFORE, BE IT RESOLVED that after careful consideration of the environmental analysis, maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on PAGE 2 thereof,

1. The application for Application no. ASA-2017-03 is hereby approved; and

That the subconclusions upon which the findings and conditions specified in this Resolution are based and contained in the Public Hearing record concerning Application no. ASA-2017-03 as set forth in the Minutes of the City Council Meeting of April 17, 2018 and are incorporated by reference as though fully set forth herein.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 17<sup>th</sup> day of April, 2018 by the following vote:

<u>Vote</u>	<u>Members of the City Council</u>
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AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Grace Schmidt, City Clerk

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Darcy Paul, Mayor, City of Cupertino