



A G E N D A

Meeting of the Scotts Valley City Council

Date: October 21, 2015

Time: 6:00 p.m.

CITY OF SCOTTS VALLEY 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5602	MEETING LOCATION City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066	POSTING: The agenda was posted 10-16-15 at City Hall, SV Senior Center, SV Library and on the Internet at www.scottsvalley.org .
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Elected Officials Dene Bustichi, Mayor Donna Lind, Vice Mayor Stephany E. Aguilar, Council Member Randy Johnson, Council Member Jim Reed, Council Member	City Staff Members Steve Ando, City Manager Kirsten Powell, City Attorney Corrie Kates, Community Dev Dir/Deputy City Mgr Scott Hamby, Public Works Director John Weiss, Chief of Police Tracy Ferrara, City Clerk
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Notice regarding City Council Meetings:

The City Council meets regularly on the 1st and 3rd Wednesday of each month at 6:00 pm in the City Hall Council Chambers located at 1 Civic Center Drive, Scotts Valley, CA 95066.

Agenda and Agenda Packet Materials:

The City Council agenda and the complete agenda packet are available for review by 5:00 pm the Friday before the Wednesday meeting on the Internet at the City's website: www.scottsvalley.org and in the lobby of City Hall at 1 Civic Center Drive, Scotts Valley, CA. Pursuant to Government Code §54957.5, materials related to an agenda item, submitted after distribution of the agenda packet, are available for public inspection in the lobby of City Hall during normal business hours, Monday-Friday, 8am-12 pm and 1-5 pm. In accordance with AB 1344, such documents will be posted on the City's website at www.scottsvalley.org.

Televised Meetings:

City Council meetings are cablecast "Live" on Community Television of Santa Cruz County on Comcast Channel 25.

CALL TO ORDER 6:00 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

COMMITTEE REPORTS

(Council members are appointed to committees which are either City committees or committees dealing with other jurisdictions. This portion of the agenda allows the committee member to present oral or written reports to the Council regarding their committee assignments. It also allows the Council to make comments and give the committee member direction, as required.)

Interjurisdictional Committees:

✓	Criminal Justice Council	(Lind/Johnson)
✓	Transportation Commission	(Johnson/Lind)
✓	Metro Transit District Board	(Bustichi)
✓	County Integrated Waste Mgmt Local Task Force	(Lind/Hamby)
✓	City/School District Joint Committee	(Reed/Johnson)
✓	AMBAG	(Aguilar/Lind)
✓	LAFCO	(Lind)
✓	City Selection Committee	(Mayor)
✓	League of California Cities Delegate Program	(Aguilar)
✓	Hazardous Materials Advisory Commission	(Ron Whittle)
✓	Cultural Council	(Lind)
✓	Seniors Advisory Council	(Lind)
✓	Santa Margarita Ground Water Basin Advisory Committee	(Lind /Aguilar)
✓	Library Financing Authority/Joint Powers Boards	(Reed/Johnson)

Standing Local Committees:

✓	Traffic Safety Committee	(Lind/Aguilar)
✓	Economic Development	(Johnson/Bustichi)
✓	Affordable Housing	(Aguilar/Bustichi)
✓	Water Subcommittee	(Bustichi/Lind)
✓	Budget Subcommittee	(Mayor/Vice Mayor)
✓	Sign Subcommittee	(Aguilar/Lind)
✓	Green Building Permit Process Subcommittee	(Lind/Reed)
✓	ADA Accessibility Subcommittee	(Aguilar)

Project Specific Committees:

✓	Skypark Subcommittee	(Johnson/Bustichi)
✓	Gateway South Commercial	(Reed/Johnson)
✓	Library Construction Subcommittee	(Bustichi/Reed)
✓	Glenwood Trails Subcommittee	(Aguilar/Reed)

CITY MANAGER REPORT

PUBLIC COMMENT TIME

(This is the opportunity for individuals to make and/or submit written or oral comments to the Council on any items within the purview of the Council, which are **NOT** part of the Agenda. No action on the item may be taken, but the Council may request the matter be placed on a future agenda.)

ALTERATIONS TO CONSENT AGENDA

(Council can remove or add items to the Consent Agenda.)

CONSENT AGENDA

(The Consent Agenda is comprised of items which appear to be non-controversial. Persons wishing to speak on any item may do so by raising their hand to be recognized by the Mayor.)

- A. Approve City Council meeting minutes of 10-14-15, 10-7-15
- B. Approve check register – 10-9-15, 10-2-15
- C. Approve the following appointments to the ADA Accessibility Committee:
 - (1) Appointment of Nancy Hofmann by Council Member Johnson
 - (2) Appointment of Kendra Kannegaard by Council Member Reed
- D. Approve inventory of surplus vehicles and firewood and authorize the Purchasing Officer to dispose of such items in accordance with Section 2.70.130 of the Scotts Valley Municipal Code
- E. Approve the Agreement for Professional Services with Monterey Peninsula Engineering (MPE) is for the construction of the site improvements at the Skypark Bocce Ball Courts and authorize City Manager to execute the agreement

ALTERATIONS TO REGULAR AGENDA

(Council can remove or add items to the Regular Agenda.)

REGULAR AGENDA

(Persons wishing to speak on any item may do so by raising their hand to be recognized by the Mayor.)

- 1. Senior Center Annual Presentation (Oral Report)
- 2. Discussion of beekeeping ordinance (Planning/Fodge)

PUBLIC HEARING (To be heard at 6:30 p.m.)

- 3. Consider approval of purchase agreements, promissory notes, and deeds of trust for sale of properties on Erba Lane, APN 022-481-18 and a portion of APN 22-481-19 (CityManager/Ando)
 - ➔ Open public hearing
 - ➔ Close public hearing
 - ➔ Approve Resolution No. 1899.1
 - ➔ Approve Resolution No. 1899.2
- 4. Consider approval Planning Commission's recommendation of approval for a Planned Development consisting of 19 townhomes and related improvements on two vacant lots (2.6 acres) located on Scotts Valley Drive, APN'S 022-162-69 & 74 (Planning/Bateman)
 - ➔ Open public hearing
 - ➔ Close public hearing
 - ➔ Approve Resolution No. 1910
 - ➔ Approve first reading and introduction of Ordinance No. 16-ZC-224

- Approve Resolution No. 1910.1
- Approve Resolution No. 1910.2
- Approve Resolution No. 1910.3

REGULAR AGENDA

(For Regular Agenda items following the public hearing. Regularly scheduled subjects of discussion on the Regular Agenda include:)

5. Consider approval of additional funding for the Emergency Winter Shelter Program (CityManager/Ando)
6. Future Council agenda items
(This portion of the Regular Agenda allows the Council to determine items to be placed on a future agenda and to choose a date, if so desired.)

ADJOURNMENT

The City of Scotts Valley does not discriminate against persons with disabilities. The City Council Chambers is an accessible facility. If you wish to attend a City Council meeting and require assistance such as sign language, a translator, or other special assistance or devices in order to attend and participate at the meeting, please call the City Clerk's office at (831) 440-5602 five to seven days in advance of the meeting to make arrangements for assistance. If you require the agenda of a City Council meeting be available in an alternative format consistent with a specific disability, please call the City Clerk's Office. The California State Relay Service (TTY/VCO/HCO to Voice: English 1-800-735-2929, Spanish 1-800-855-3000; or, Voice to TTY/VCO/HCO: English 1-800-735-2922, Spanish 1-800-855-3000), provides Telecommunications Devices for the Deaf and Disabled and will provide a link between the TDD caller and users of telephone equipment.

PROCEDURAL INFORMATION FOR THE PUBLIC

THE FOLLOWING IS THE PROCEDURE COUNCIL SHOULD TAKE IN APPROVAL OF A RESOLUTION:

1. Move the Resolution number for approval.
2. Second the motion.
3. Vote by body, a roll call vote is not required.

THE FOLLOWING IS THE PROCEDURE COUNCIL SHOULD TAKE IN INTRODUCTION/ADOPTION OF AN ORDINANCE:

1. Move the Ordinance number for introduction (or adoption).
2. Move the Ordinance be introduced by title only and waive the reading of the text.
3. Read the Ordinance title.
4. Second the motion.
5. Vote by body, a roll call vote is not required.

THE FOLLOWING IS THE PROCEDURE COUNCIL SHOULD TAKE IN PUBLIC COMMENT/PUBLIC HEARINGS:

Unless otherwise determined by the presiding officer of the meeting:

1. Three minutes allowed per individual to speak.
2. Five minutes allowed per individual representing a group of three or more.



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MINUTES

Meeting of the Scotts Valley City Council

Date: October 7, 2015

POSTING:

The agenda was posted on 10-2-15
at City Hall, the SV Senior Center, and
the SV Library, by the City Clerk.

CALL TO ORDER 6:07 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

Present:

Mayor Bustichi
Vice Mayor Lind
Council Member Aguilar
Council Member Johnson
Council Member Reed

City Manager Ando
City Attorney Powell
Comm Dev Dir/Deputy City Mgr Kates
Public Wks Director Hamby
Police Lieutenant Walpole
Senior Planner Fodge
City Clerk Ferrara

Arrived 6:17 pm

COMMITTEE REPORTS

CM Johnson reported that he and Mayor Bustichi, as members of the Economic Development Subcommittee, along with the Community Development Director, attended the International Conference of Shopping Centers (ICSC) Conference in San Diego and attended meetings related to the Town Center.

Mayor Bustichi reported that the Water Subcommittee met to discuss rates for recycled water that may be sold and/or given away outside of the City limits, or outside of the Water District limits, and stated that this may be coming to a future Council meeting for discussion. The Subcommittee also discussed potentially servicing the Pasatiempo Golf Course with tertiary water.

Mayor Bustichi reported that the Santa Cruz Metropolitan Transit District (SCMTD) Board met and discussed electric busses and the potential cost of adding electric busses to their fleet. He stated that there are some grant programs from the State and Federal governments, and they will be applying for grants and establishing a set-aside fund. He reported that they also discussed the Santa Cruz County Regional Transportation Commission's potential tax measure and the configuration of the tax measure.

CITY MANAGER REPORT

- I received a notice from the San Lorenzo Valley Water District regarding a public hearing on November 19 at 7 pm in their Board Room to discuss a proposed Drought Recovery and Water Capital Surcharge of \$1 per unit. A unit is 748 gallons. Because of the drought, water usage has dropped 25% since 2013. The corresponding drop in revenue has impacted their operations and capital projects. The surcharge would be used to fund operations and several capital projects that have already begun.
- Public Works staff walked Carbonero and Camp Evers creeks yesterday with a Fish and Wildlife representative as part of the process to get a permit for entering the waterways to clear debris in preparation for upcoming winter rains. The City should have the permit by the end of October. Staff has scheduled Cal Fire crews to work with City crews to do this work the week of October 26.
- This Saturday, Davey tree will be trimming trees on north bound Mount Hermon Road between Glen Canyon Road and La Questa Drive. The trees in this area have created a large canopy that hang over the north bound lanes of Mt. Hermon Road and could cause a problem during the rainy season if not maintained. City crews will provide traffic control for this work. This work is being done on a Saturday to avoid causing traffic congestion that would typically occur during weekday traffic.
- Work for the emergency intertie water main project is being done on Graham Hill Road between Lockwood Lane and Roaring Camp today and tomorrow. Westbound traffic on Graham Hill Road is being detoured down Lockwood Lane. So far there have been no problems.
- Friday, October 23 will be the movie in the park, sponsored by the Scotts Valley Parks and Recreation Advocates. It will be Monsters University. There will be food trucks there if you want to have dinner there starting at 4:30. The movie will start at 6:30.
- The Scotts Valley Police Department will once again be celebrating Red Ribbon Week, the national anti-drug campaign, the week of October 23 through October 31. People are encouraged to wear a red ribbon in support of Red Ribbon Week. Police will host their annual BBQ on Friday, October 23rd at MacDorsa Park at noon.

PUBLIC COMMENT

Peter Leroe-Muñoz, City of Gilroy Council Member, spoke on behalf of the Silicon Valley Turkey Trot and distributed fliers. He stated that the Turkey Trot 2015 is a 5K Run/Walk, 10K Run, and Kids Fun Run for ages 2-7, which is held on November 26, 2015, and benefits local charities in Santa Cruz, Santa Clara, and San Mateo Counties. Additional information and registration is available at www.svturkeytrot.com.

ALTERATIONS TO CONSENT AGENDA

M/S: Lind/Johnson

To approve the Consent Agenda.

Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

Consent Agenda:

- A. Approve City Council meeting minutes of 9-16-15
- B. Approve check register – 9-22-15, 9-21-15
- C. Approve out of state travel for Council Member Aguilar to attend the National League of Cities 2015 Congress of Cities and Exposition in Nashville, Tennessee, November 3-7, 2015, in conjunction with her role as the 2015 President of the League of California Cities, with all associated costs to be reimbursed by the League of California Cities
- D. Approve the Memorandum of Understanding between the City of Scotts Valley and the Mid Management Association for the term July 1, 2015 through June 30, 2017
- E. Approve Resolution No. 1551.24 establishing salary levels and establishing the management compensation benefit package for the Scotts Valley Management Team through June 30, 2017
- F. Approve Contract for Professional Services between the City of Scotts Valley and Pacific Crest Engineering in the amount of \$1,000 for geotechnical and related review of a submitted building permit application

**ALTERATIONS TO
REGULAR AGENDA**

M/S: Lind/Johnson

To approve the Regular Agenda.

Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

REGULAR AGENDA

1. **Consider authorizing staff to send the Draft 2015-2023 Housing Element Update to the California Department of Housing and Community Development for the streamlined 60-day review period and to initiate a concurrent public review period**

SP Fodge presented the written staff report and responded to questions from Council. She also stated that Arlene Granadosin, representing Kimley-Horn Associates, the City's consultant, was available for questions from Council.

Tim Willoughby, representing Affordable Housing Now, provided a letter with ideas and input for the City's Housing Element, and spoke in support of affordable housing.

Joy Hemz, Scotts Valley resident, spoke in support of affordable housing in Scotts Valley and asked that mobilehomes be looked at more thoroughly in order to keep them affordable.

M/S: Lind/Aguilar

To authorize staff to send the Draft 2015-2023 Housing Element Update to the California Department of Housing and Community Development for the streamlined 60-day review period and to initiate a concurrent public review period.

Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

2. **Consider approval of participation in the Prescription Discount Card Program with the League of California Cities**

CM Ando presented the written staff report and responded to questions from Council.

M/S: Aguilar/Johnson

To authorize the City Manager to enroll the City of Scotts Valley in the National League of Cities Prescription Discount Card Program in partnership with the League of California Cities. Carried 5/0 (AYES: Aguilar, Bustichi, Johnson, Lind, Reed)

3. **Future Council agenda items** None.

CONVENE TO CLOSED SESSION

The City Council convened to closed session at 7:13 p.m. to discuss the following items:

- (1) Pursuant to Government Code Section 54956.8, the City Council met in closed session to confer with their legal counsel regarding real property negotiations, APN 022-212-22.
- (2) Pursuant to Government Code Section 54956.8, the City Council met in closed session to confer with their legal counsel regarding real property negotiations. Location/APN's: The City of Scotts Valley ocean outfall pipeline starting at the City's wastewater facility, APN 021-061-25 and through Hocus Pocus Park, APN 021-061-45 which runs along Whispering Pines Drive, to Estrella Drive, to Lockewood Lane to Graham Hill Road with turnouts located off of Sims Road and Deer Path Road onto APN 060-011-02, the Pasatiempo Golf Club.
- (3) Pursuant to Government Code Section 54957, the City Council met in closed session for City Manager Performance Evaluation.

RECONVENE TO OPEN SESSION

The City Council reconvened to open session at 8:05 p.m.

REPORT ON ACTION TAKEN DURING CLOSED SESSION

Mayor Bustichi announced that there was nothing to report.

ADJOURNMENT The meeting adjourned at 8:05 p.m.

Approved: _____
Dene Bustichi, Mayor

Attest: _____
Tracy A. Ferrara, City Clerk

MINUTES

Special Closed Session Meeting of the Scotts Valley City Council

Date: October 14, 2015

POSTING:

The agenda was posted on 10-13-15
at City Hall, the SV Senior Center, and
the SV Library, by the City Clerk.

CALL TO ORDER 5:30 p.m.

ROLL CALL

Present: Dene Bustichi, Mayor Steve Ando, City Manager
 Donna Lind, Vice Mayor Kirsten Powell, City Attorney
 Stephany E. Aguilar, City Council Member
 Randy Johnson, City Council Member

Absent: Jim Reed, City Council Member

CONVENE TO CLOSED SESSION

The City Council convened to closed session at 5:30 p.m. to discuss the following item:

- (1) Pursuant to Government Code Section 54957, the City Council met in closed session for City Manager Performance Evaluation.

RECONVENE TO OPEN SESSION

The City Council reconvened to open session at 6:20 p.m.

REPORT ON ACTION TAKEN DURING CLOSED SESSION

Mayor Bustichi announced that there was nothing to report.

ADJOURNMENT The meeting adjourned at 6:20 p.m.

Approved: _____
Dene Bustichi, Mayor

Attest: _____
Tracy A. Ferrara, City Clerk

DATE: 10-21-2015

MINUTES

Special Meeting of the Scotts Valley City Council

Date: October 14, 2015

POSTING:

The agenda was posted on 10-9-15
at City Hall, the SV Senior Center, and
the SV Library, by the City Clerk.

CALL TO ORDER 6:30 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

Present:

Mayor Bustichi
Vice Mayor Lind
Council Member Aguilar
Council Member Johnson

City Manager Ando
City Attorney Powell
Comm Dev Dir/Deputy City Mgr Kates
Public Wks Director Hamby
Police Chief Weiss
City Clerk Ferrara

Absent:

Council Member Reed

PUBLIC HEARINGS

1. **Consideration of Urgency Ordinance No. 189.1 to extend a moratorium on the establishment of new commercial operations engaged in the sale of firearms, ammunition, and/or explosive devices within the City of Scotts Valley**

CDD Kates presented the written staff report and responded to questions from Council.

PUBLIC HEARING OPENED - 6:34 PM

Dave Koslow, San Jose resident, expressed concerns about the process followed for this item and he does not believe that it is an urgency situation.

Perry Ralston, owner of Perry's Sporting Goods, stated that he does not believe that this is an urgency situation.

Martin Spierings, Scotts Valley resident, spoke in support of the moratorium extension.

Robert DeForge, owner of Scotts Valley Armory, spoke in support of the moratorium extension and requested that gun shop owners be included in future discussions regarding this matter.

Laura Rockow, Scotts Valley resident, spoke in support of the moratorium extension.

Kerrie Pipal, Scotts Valley resident, spoke in support of the moratorium extension.

PUBLIC HEARING CLOSED - 6:45 PM

M/S: Aguilar/Lind

To approve Urgence Ordinance No. 189.1 to extend a moratorium on the establishment of new commercial operations engaged in the sale of firearms, ammunition, and/or explosive devices within the City of Scotts Valley for ten months and fifteen days, and waive the reading thereof.

Carried 4/0/1 (AYES: Aguilar, Bustichi, Johnson, Lind; ABSENT: Reed)

ADJOURNMENT

The meeting adjourned at 6:53 p.m.

Approved: _____

Dene Bustichi, Mayor

Attest: _____

Tracy A. Ferrara, City Clerk

BANK	VENDOR	CHECK#	DATE	AMOUNT
BA	GENERAL CHECKING ACCOUNT			
000705	ADVOCACY, INC	105583	10/09/15	372.75
000881	ALVAREZ INDUSTRIES INC.	105584	10/09/15	2,236.00
000627	ALVAREZ/JOSE F.	105585	10/09/15	33.30
000563	APPI	105586	10/09/15	420.00
001009	ARD/KRISTIN	105587	10/09/15	30.00
003319	ARMSTRONG/KILEY	105588	10/09/15	490.00
001948	ART STORE	105589	10/09/15	242.87
000998	ASSOCIATED SERVICES CO.	105590	10/09/15	98.61
000097	AT&T	105591	10/09/15	9.40
002011	B & B SMALL ENGINE	105592	10/09/15	59.95
000205	BACK TO EDEN INC	105593	10/09/15	950.00
001071	BAYSIDE OIL II INC	105594	10/09/15	45.00
001822	BC LABORATORIES INC.	105595	10/09/15	192.00
000236	BLUEPRINT EXPRESS	105596	10/09/15	14.88
000021	BOWMAN & WILLIAMS	105597	10/09/15	19,239.53
000437	BRASS KEY LOCKSMITH	105598	10/09/15	821.08
001216	C & N TRACTORS	105599	10/09/15	48.61
003174	CAPITAL ONE COMMERCIAL	105600	10/09/15	1,519.15
000435	CATTERA/MARK F.	105601	10/09/15	75.00
000037	CRYSTAL SPRINGS WATER CO	105602	10/09/15	63.40
000389	DASSEL'S PETROLEUM INC	105603	10/09/15	4,466.75
000207	DEPARTMENT OF JUSTICE	105604	10/09/15	74.00
000488	DIENTES COMMUNITY DENTAL	105605	10/09/15	323.75
001362	DUNCAN AUTO TECH	105606	10/09/15	105.54
003290	EVOQUA WATER TECHNOLOGIE	105607	10/09/15	252.00
001597	FLEMING/JOSEPHINE	105608	10/09/15	2,362.50
000338	GRAHAM CONTRACTORS INC	105609	10/09/15	17,500.00
000057	HACH COMPANY	105610	10/09/15	959.75
003449	HOSPICE OF SANTA CRUZ CO	105611	10/09/15	200.00
001333	LARA/ JESUS D	105612	10/09/15	184.02
000698	LAS ANIMAS CONCRETE & BU	105613	10/09/15	526.28
000873	LEDYARD COMPANY	105614	10/09/15	140.22
000284	LOGAN & POWELL, LLP	105615	10/09/15	12,622.44
002077	LOGICAL DESIGN INC	105616	10/09/15	4,794.13
003022	MALLORY SAFETY & SUPPLY	105617	10/09/15	165.38
000195	MESITI-MILLER ENGINEERIN	105618	10/09/15	21,337.80
002078	METRO MOBILE COMMUNICATI	105619	10/09/15	60.00
003171	MICHALAK/GENE	105620	10/09/15	110.00
000218	MID VALLEY SUPPLY	105621	10/09/15	903.00
001418	MONTEREY REGIONAL	105622	10/09/15	3,494.70
000086	MOTION INDUSTRIES INC.	105623	10/09/15	822.82
001868	MUNIMETRIX SYSTEMS CORP	105624	10/09/15	499.00
.14949	NEW LEAF COMMUNITY MARKE	105625	10/09/15	90.00
001988	O'REILLY AUTOMOTIVE, INC	105626	10/09/15	26.08
000101	PACIFIC GAS & ELECTRIC C	105627	10/09/15	183.31
001955	PACIFIC TRUCK PARTS, INC	105628	10/09/15	571.23
001787	PETRINI'S GARDENING SERV	105629	10/09/15	75.00
001930	PORT SUPPLY	105630	10/09/15	259.71

Check Register

BANK	VENDOR	CHECK#	DATE	AMOUNT	
BA	GENERAL CHECKING ACCOUNT				
	003469 RECREATION ACCESSIBILITY	105631	10/09/15	2,075.00	
	002043 ROYAL WHOLESALE ELECTRIC	105632	10/09/15	468.95	
	000109 SAN LORENZO LUMBER CO.	105633	10/09/15	31.73	
	000130 SCOTTS VALLEY FIRE DISTR	105634	10/09/15	3,049.50	
	000130 SCOTTS VALLEY FIRE DISTR	105635	10/09/15	3,360.34	
	000131 SCOTTS VALLEY MEDICAL	105636	10/09/15	512.00	
	000710 SENIOR NETWORK SERVICES,	105637	10/09/15	352.00	
	.14950 SERRITENO/MARIANO	105638	10/09/15	200.00	
	001270 SHIVELY DDS/MARTIN H	105639	10/09/15	117.00	
	003085 SHRED-IT USA INC	105640	10/09/15	69.13	
	000405 SILVERSTEIN/THOMAS	105641	10/09/15	3,061.85	
	000143 SUMMIT UNIFORMS	105642	10/09/15	3,682.29	
	001085 SYCAL ENGINEERING INC	105643	10/09/15	480.00	
	001589 TELECOMMUNICATIONS	105644	10/09/15	4,440.00	
	001249 TORRES, MARCELA A	105645	10/09/15	280.00	
	001560 TRITON CONSTRUCTION	105646	10/09/15	75.00	
	001366 U.S. BANCORP OFFICE	105647	10/09/15	1,257.46	
	000754 UPS STORE/THE	105648	10/09/15	28.22	
	000154 WINCHESTER AUTO STORES	105649	10/09/15	480.82	
	003166 WISDOM/ANGIE	105650	10/09/15	555.00	
	001625 YOSHIDA DDS/NOREEN	105651	10/09/15	132.00	
	GENERAL CHECKING ACCOUNT			124,779.23	***

GL540R

FUND RECAP:

FUND	DESCRIPTION	DISBURSEMENTS
001	GENERAL	67,381.80
004	RECREATION	6,176.00
009	PARKS & REC FACILITIES	2,075.00
010	WASTEWATER OPERATIONS	10,827.44
011	TERTIARY TREATMENT PLANT	1,151.75
014	WASTEWATER EQMT REPLACE RES	17,500.00
023	SVRDA SUCCESSOR AGENCY	182.00
025	GENERAL TRUST	11,025.00
028	SENIOR CENTER	1,658.08
077	SKYPARK MAINT ASSESS DIST	950.00
112	DENTAL INS INTERNAL SERV	529.00
123	COMMUNITY FACILITY CENTER	1,021.76
150	GENERAL CAPITAL IMPROVEMENTS	4,301.40
TOTAL ALL FUNDS		124,779.23

BANK RECAP:

BANK	NAME	DISBURSEMENTS
BA	GENERAL CHECKING ACCOUNT	124,779.23
TOTAL ALL BANKS		124,779.23

BANK	VENDOR	CHECK#	DATE	AMOUNT
BA	GENERAL CHECKING ACCOUNT			
003123	A T &T	105467	10/02/15	932.35
003123	A T &T	105468	10/02/15	739.20
003429	ACHESON/AMBER	105469	10/02/15	223.22
001097	ACORN COURT APARTMENTS	105470	10/02/15	3,522.64
003457	ADAMS/TROY	105471	10/02/15	226.00
000620	ALVAREZ/TONY	105472	10/02/15	20.00
000447	AMERICAN PUBLIC WORKS AS	105473	10/02/15	5.00
000563	APPI	105474	10/02/15	1,677.45
003182	ARROW SIGN COMPANY	105475	10/02/15	12,918.00
003282	ARTS COUNCIL OF SC COUNT	105476	10/02/15	35.00
001350	ASSISTED LIVING PROJECT	105477	10/02/15	1,087.00
000097	AT&T	105478	10/02/15	392.71
000861	BANK OF AMERICA	105479	10/02/15	102.00
000565	BANK OF NEW YORK MELLON/	105480	10/02/15	1,700.00
000614	BATTERIES PLUS	105481	10/02/15	30.44
001373	BAY TREE, LLC	105482	10/02/15	3,620.38
001822	BC LABORATORIES INC.	105483	10/02/15	192.00
001551	BEEMER SHOP	105484	10/02/15	62.39
001066	BEHAVIORAL HEALTH CARE I	105485	10/02/15	128.00
001593	BENEDICT DDS/NANETTE	105486	10/02/15	100.00
003260	BILES DDS MA/DAVID	105487	10/02/15	396.20
000236	BLUEPRINT EXPRESS	105488	10/02/15	14.88
000500	BOLANOS/DORENE	105489	10/02/15	20.00
000437	BRASS KEY LOCKSMITH	105490	10/02/15	1,250.81
002075	CENTRAL COAST MEDIA COAL	105491	10/02/15	4,000.00
002091	COMCAST	105492	10/02/15	133.98
000761	COMMUNITY BRIDGES	105493	10/02/15	2,226.75
001428	COURT APPOINTED SPECIAL	105494	10/02/15	809.00
000037	CRYSTAL SPRINGS WATER CO	105495	10/02/15	46.00
003043	CSG CONSULTANTS, INC	105496	10/02/15	2,311.12
.14951	CWEA	105497	10/02/15	164.00
001896	D & G SANITATION	105498	10/02/15	92.01
000207	DEPARTMENT OF JUSTICE	105499	10/02/15	178.00
000776	DISCOUNT SCHOOL SUPPLY	105500	10/02/15	5,150.13
003298	DISCOVERY DOOR	105501	10/02/15	44.98
001362	DUNCAN AUTO TECH	105502	10/02/15	1,442.11
001537	DYNAMIC PRESS	105503	10/02/15	1,211.94
000054	EWING IRRIGATION PRODUCT	105504	10/02/15	417.40
001991	FASTENAL	105505	10/02/15	34.25
003253	FIRST ALARM	105506	10/02/15	110.67
000375	FIRST ALARM SECURITY & P	105507	10/02/15	110.00
001042	GOLDEN GATE PETROLEUM	105508	10/02/15	3,247.18
001828	GONZALES/GABE	105509	10/02/15	20.00
000895	GRANITE CONSTRUCTION CO	105510	10/02/15	147.06
003006	GRIFFIN DDS/PHILIP T	105511	10/02/15	196.60
000057	HACH COMPANY	105512	10/02/15	3,693.24
001873	HARRIS/BUCK	105513	10/02/15	1,580.00
000615	HOHMANN/PATRICK J.	105514	10/02/15	281.00

BANK	VENDOR	CHECK#	DATE	AMOUNT
BA	GENERAL CHECKING ACCOUNT			
000283	HOSE SHOP	105515	10/02/15	3,200.64
.14952	ICC	105516	10/02/15	135.00
002024	IDVILLE	105517	10/02/15	611.10
001925	INDUSTRIAL CHEM LABS &	105518	10/02/15	206.36
001903	JONES/KIMARIE	105519	10/02/15	20.00
003074	KATES/CORRIE	105520	10/02/15	270.86
003292	KIMLEY-HORN & ASSOCIATES	105521	10/02/15	8,908.38
003292	KIMLEY-HORN & ASSOCIATES	105522	10/02/15	15,163.31
000066	KING'S PAINT & PAPER	105523	10/02/15	198.04
001486	LEWIS/OWEN	105524	10/02/15	491.00
003321	LOPEZ/RENE	105525	10/02/15	20.00
003403	MAR-KEN INTERNATIONAL PO	105526	10/02/15	520.00
001591	MARKELL/ROD	105527	10/02/15	1,974.00
000050	MELROSE/TAMERA	105528	10/02/15	109.00
003171	MICHALAK/GENE	105529	10/02/15	220.00
000083	MISSION UNIFORM SERVICE	105530	10/02/15	1,672.17
000967	MONTEREY BAY SYSTEMS	105531	10/02/15	2.21
000494	MONTEREY BAY UNIFIED AIR	105532	10/02/15	1,180.00
001418	MONTEREY REGIONAL	105533	10/02/15	4,435.50
001575	MULLIGAN/MARY	105534	10/02/15	259.00
000323	NBS GOVERNMENT FINANCE G	105535	10/02/15	2,454.81
000463	NOB HILL FOODS	105536	10/02/15	216.52
001872	NORTH CENTRAL LABORATORI	105537	10/02/15	503.80
001615	OLIN CORP-CHLOR ALKALI	105538	10/02/15	2,183.40
000089	OLIVE SPRINGS QUARRY INC	105539	10/02/15	2,071.63
003099	OZONIA NORTH AMERICA	105540	10/02/15	3,451.60
000101	PACIFIC GAS & ELECTRIC C	105541	10/02/15	41,941.57
000098	PALACE ART & OFFICE	105542	10/02/15	4,023.49
003152	PETERSON POWER SYSTEMS,	105543	10/02/15	1,251.00
001787	PETRINI'S GARDENING SERV	105544	10/02/15	300.00
000723	PIED PIPER INC./THE	105545	10/02/15	161.00
000102	PITNEY BOWES	105546	10/02/15	147.44
000785	PITNEY BOWES INC	105547	10/02/15	42.51
003323	POMPETTE/NICOLE	105548	10/02/15	20.00
001039	POSTON/ED	105549	10/02/15	407.00
001503	PRUDENTIAL INSURANCE CO/	105550	10/02/15	612.85
003230	REDWOOD TOXICOLOGY LAB	105551	10/02/15	16.00
000171	RIVERSIDE LIGHTING INC	105552	10/02/15	166.69
002043	ROYAL WHOLESALE ELECTRIC	105553	10/02/15	189.29
003407	SAN JOSE BMW VESPA	105554	10/02/15	371.55
000135	SAN LORENZO VALLEY WATER	105555	10/02/15	30.64
001364	SANTA CRUZ COUNTY	105556	10/02/15	33,351.60
001044	SANTA CRUZ COUNTY OFFICE	105557	10/02/15	616.00
000126	SANTA CRUZ FIRE EQUIPMEN	105558	10/02/15	419.43
000128	SCARBOROUGH LUMBER	105559	10/02/15	2,888.65
001431	SCHWARZ/JERRY	105560	10/02/15	170.40
001558	SCOTT DDS/KEVIN RAY	105561	10/02/15	171.00
000319	SCOTTS VALLEY CAR WASH	105562	10/02/15	151.84

BANK	VENDOR	CHECK#	DATE	AMOUNT	
BA	GENERAL CHECKING ACCOUNT				
	000130 SCOTTS VALLEY FIRE DISTR	105563	10/02/15	5,630.00	
	000133 SCOTTS VALLEY SPRINKLER	105564	10/02/15	169.93	
	003085 SHRED-IT USA INC	105565	10/02/15	69.13	
	002053 STEPFORD	105566	10/02/15	5,313.00	
	001487 STEVENSON'S LANDSCAPING	105567	10/02/15	250.00	
	003062 SUN RIDGE SYSTEMS INC	105568	10/02/15	580.00	
	000882 SUPERIOR ALARM COMPANY	105569	10/02/15	444.00	
	001085 SYCAL ENGINEERING INC	105570	10/02/15	6,561.66	
	000153 THOMSON REUTERS-WEST	105571	10/02/15	312.00	
	001933 THURINGER/JOE	105572	10/02/15	20.00	
	003468 TRI-COUNTY TROPHY & ENGR	105573	10/02/15	113.36	
	001560 TRITON CONSTRUCTION	105574	10/02/15	150.00	
	003435 ULTRAMAX	105575	10/02/15	4,766.40	
	000714 VOLUNTEER CENTER	105576	10/02/15	634.25	
	001211 WALNUT AVE WOMEN'S CENTE	105577	10/02/15	532.75	
	001342 WELCH/JAMES	105578	10/02/15	20.00	
	003008 WILLIAMS/JESSE	105579	10/02/15	20.00	
	000154 WINCHESTER AUTO STORES	105580	10/02/15	1,350.03	
	003166 WISDOM/ANGIE	105581	10/02/15	1,243.90	
	002021 ZOOM	105582	10/02/15	508.39	
	GENERAL CHECKING ACCOUNT			223,660.17	***

Check Register

BANK	VENDOR	CHECK#	DATE	AMOUNT
REPORT TOTALS:				223,660.17

RECORDS PRINTED - 000273

SCOTTS VALLEY ACCOUNTS PAYABLE
CITY OF SCOTTS VALLEY
10/02/2015 16:35:34
GL060S-V07.27 RECAPPAGE

Check Register

GL540R

FUND RECAP:

FUND	DESCRIPTION	DISBURSEMENTS
001	GENERAL	90,379.38
002	RECYCLING/ENVIRONMENTAL	4,000.00
004	RECREATION	11,020.63
008	TRAFFIC IMPACT MITIGATION	18,708.45
009	PARKS & REC FACILITIES	2,454.81
010	WASTEWATER OPERATIONS	51,941.44
011	TERTIARY TREATMENT PLANT	6,928.23
014	WASTEWATER EQMT REPLACE RES	5,861.66
019	AFFORDABLE HOUSING	1,974.00
023	SVRDA SUCCESSOR AGENCY	7,143.02
025	GENERAL TRUST	15,163.31
028	SENIOR CENTER	2,331.86
035	GREEN BUILDING FUNDING	979.92
050	PINEWOOD EST LNDSCP MAINT DT	41.17
077	SKYPARK MAINT ASSESS DIST	34.34
112	DENTAL INS INTERNAL SERV	1,275.20
123	COMMUNITY FACILITY CENTER	1,284.74
150	GENERAL CAPITAL IMPROVEMENTS	2,138.01
TOTAL ALL FUNDS		223,660.17

BANK RECAP:

BANK	NAME	DISBURSEMENTS
BA	GENERAL CHECKING ACCOUNT	223,660.17
TOTAL ALL BANKS		223,660.17

City of Scotts Valley

INTEROFFICE MEMORANDUM

DATE: October 21, 2015
TO: Honorable Mayor and City Council
FROM: Tracy A. Ferrara, City Clerk
SUBJECT: APPOINTMENTS TO ADA ACCESSIBILITY COMMITTEE

Summary of Issue:

With the reorganization of the ADA Accessibility Committee, appointments are required to fill the newly established positions. The following Council Members have received applications and requested appointments as follows:

- (1) Council Member Johnson has requested the appointment of Nancy Hofmann.
- (2) Council Member Reed has requested the appointment of Kendra Kannegaard.

Fiscal Impact:

None.

Staff Recommendation:

Council's approval of this item on the Consent Agenda will ratify the appointments.

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CITY OF SCOTTS VALLEY

APPLICATION FOR APPOINTMENT TO
CITY COMMISSION, COMMITTEE OR BOARD

This application should be completed and returned to the City Clerk by any person desiring appointment to a City Commission, Committee or Board. A separate application must be submitted for each advisory body to which you seek appointment.

I would like to be appointed to serve on the:

ADA ^{sub-}Committee

NAME:

Nancy Hofmann

DATE:

Aug 27, 2015

HOME ADDRESS:

SV

TELEPHONE:

(831) 335-9394

TELEPHONE:

(Residence)

Email:

nrhofmann@hotmail.com

(Business)

How long have you lived in the City of Scotts Valley?

5+ yrs.

Occupation:

retired teacher

Employer:

self/retired

Briefly describe your interests, education, and/or experience as they relate to this position.

user/owner of a certified service dog; special ed teacher
for 25 yrs (Home + Hospital teacher) for SC/SV/SLV city schools;
working with students who are medically/psychologically
unable to attend public school; 24 yrs in private practice
as clinical hypnotherapist specializing in medical conditions;

Explain how you believe you can contribute toward the effectiveness of this position.

can research topics; am a great networker!
can make time for ADA concerns; team player;
can think "outside" the box.

Other cultural or civic activities:

currently teaching ESL for The Literacy Program
in Santa Cruz;

Date of Application:

Aug 27, 2015

Signature:

N. Hofmann

(OVER>>>>)



CITY OF SCOTTS VALLEY

APPLICATION FOR APPOINTMENT TO
CITY COMMISSION, COMMITTEE OR BOARD

This application should be completed and returned to the City Clerk by any person desiring appointment to a City Commission, Committee or Board. A separate application must be submitted for each advisory body to which you seek appointment.

I would like to be appointed to serve on the: ADA Committee

NAME: Kendra Kannegaard DATE: October 5, 2015

HOME ADDRESS: Scotts Valley, CA 95066

Hm Phone: (831) 438-0521 Cell Phone: (831) 706-0885 Work Phone: _____

Email: Kendra.Kannegaard@gmail.com

How long have you lived in the City of Scotts Valley? 21 years

Occupation: Teachers Aide at Brook Knoll Employer: Scotts Valley School District

Briefly describe your interests, education, and/or experience as they relate to this position.

At the age of 17 I had a large Spinal cord tumor removed & as a result I have ~~no~~ been in a wheelchair ever since. I would love to use my first hand knowledge of what it's like to be handicapped to help improve our city & make it more accessible for everyone.

Explain how you believe you can contribute toward the effectiveness of this position. ↑

Other cultural or civic activities:

I work as an aide in the Moderate to severe handicap class at Brook Knoll & absolutely love it.

I am also the director of the fall plays & spring musicals at SVHS & love being a part of the local theatre scene.

Date of Application: 10-5-15 Signature: Kerk Kanyel

(OVER>>>>)

City of Scotts Valley INTEROFFICE MEMORANDUM

DATE: October 21, 2015
TO: Honorable Mayor and City Council
FROM: Steve Ando, City Manager
SUBJECT: **Declaring Inventory of Surplus Vehicles and Firewood**

SUMMARY OF ISSUE

Section 2.70.130 of the City's Ordinance establishing a purchasing procedure requires that all City departments shall submit to the Purchasing Officer, at such times and in such a manner as may be described, reports showing all supplies, materials, and/or equipment which are no longer used or which have become obsolete or no longer usable by the City. The Purchasing Officer shall have the authority to sell, exchange or trade supplies, materials, and/or equipment which can no longer be used by any City department, or which are unsuitable for City use, or trade the same for new supplies, material and/or equipment.

The attached list is for vehicles and firewood. The firewood is from the large oak tree near City Hall in MacDorsa Park that was cut down earlier this year.

If Council approves the recommendation, the vehicles on the attached list will be sold at an auction at the City's Corporation Yard.

FISCAL IMPACT

An unknown amount of unbudgeted revenue to the General Fund as a result of the sale of surplus equipment.

STAFF RECOMMENDATION

It is recommended that the City Council declare the attached inventory of vehicles and firewood as surplus and authorize the Purchasing Officer to dispose of such items in accord with Section 2.70.130 of the Scotts Valley Municipal Code.

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Inventory of Surplus Vehicles and Firewood.	2
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**INVENTORY OF SURPLUS VEHICLES AND FIREWOOD
OCTOBER 21, 2015**

1. 2010 Zero DS Duel Sport Electric Bike
2. 2005 Ford Crown Victoria
3. 2011 Ford Crown Victoria
4. 1996 Chevy Caprice
5. 1985 Ford F-700 Meyer Ram Jet
6. 1985 Ford LN8000 Dump Truck
7. 1988 Ford LN8000 Dump Truck
8. 1999 Ford Crown Victoria
9. 2000 Dodge Intrepid
10. 1990 Plymouth SW Van
11. 1998 Ford F-250
12. Oak Firewood

**CITY OF SCOTTS VALLEY
CITY COUNCIL STAFF REPORT**

DATE: October 21, 2015
TO: Honorable Mayor and City Council
FROM: Scott Hamby, Public Works Director
SUBJECT: SKYPARK BOCCE BALL COURT IMPROVEMENT PROJECT

SUMMARY OF ISSUE

The attached Agreement for Professional Services with Monterey Peninsula Engineering (MPE) is for the construction of the site improvements at the Skypark Bocce Ball Courts. The general nature of work includes grading, storm drain pipe installation, relocation of three benches, and pouring new sidewalk. This project is consistent with the City's Capital Improvement Program and is recommended by the Parks and Recreation Commission.

The lowest qualified bid for the project is \$24,000. This is over the \$18,000 budgeted in the CIP because it was found that more grading and sidewalk work is needed than originally planned. The City received four quotes for the project which are listed below:

- | | |
|----------------------|-------------|
| 1. MPE | \$24,000.00 |
| 2. Johnson & Company | \$31,697.60 |
| 3. Anderson Pacific | \$34,005.00 |
| 4. Durden Const. | \$48,721.00 |

FISCAL IMPACT

\$24,000 of available Park Development Impact Fees, Fund 9.

STAFF RECOMMENDATION

Authorize City Manager to execute the attached agreement with Monterey Peninsula Engineering for construction of the Skypark Bocce Ball Improvement Project.

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Agreement for Professional Services	2
Improvement plans	3

CITY OF SCOTTS VALLEY AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement for Professional Services ("Agreement") is made and entered into as of **October 21, 2015**, by and between the City of Scotts Valley, a municipal corporation, hereinafter referred to as "CITY", and **Monterey Peninsula Engineering** hereinafter referred to as "CONSULTANT".

RECITALS

- A. CITY desires to retain Consultant for certain professional services as set forth in this Agreement.
- B. CONSULTANT is specially trained, experienced and competent to perform the special services which will be required by this Agreement.
- C. CONSULTANT possesses the skill, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.

NOW, THEREFORE, in consideration of the recitals and the mutual promises contained herein, CITY and CONSULTANT agree as follows:

AGREEMENT

1. **Employment of CONSULTANT:** CITY agrees to, and hereby does, retain and employ CONSULTANT to perform the professional services as outlined in the Scope of Work attached hereto and incorporated herein as Exhibit "A". CONSULTANT'S work product shall be performed pursuant to generally accepted standards of practice in effect at the time of performance.

2. **Responsible Personnel:** CITY has relied upon the professional training and ability of CONSULTANT to perform the services hereunder as a material inducement to enter into this Agreement. Primary personnel responsible for the completion of the work described in this Agreement shall be **Bart Bruno, Project Manager, whose address is P.O. Box 2317, Monterey, CA 93942; telephone: (831) 384-4081; Email: bart@mpe2000.com.**

3. **Scope of Work:** CONSULTANT shall perform the services as specified in Exhibit A in a professional manner. *ALL TERMS OF EX A SHALL BE MADE PART OF THIS CONTRACT. ANY CONFLICT BETWEEN EX A & THIS AGREEMENT, EX A SHALL CONTROL* **FB**

4. **Time of Performance:** The services of CONSULTANT are to commence upon execution of this Agreement and shall continue until all authorized work is approved by the CITY. All such work shall be completed as soon as possible. Time is of the essence in the performance of this Agreement. No waiver by either party hereto of the nonperformance or any breach of any term, provision, or condition of this Agreement, or any default hereunder shall be considered to be or operate as a waiver of any subsequent nonperformance, breach or default.

5. **Compensation:** CONSULTANT shall accept compensation for services performed as set forth in Section 3 in an amount not to exceed **\$24,000**. Such compensation shall be paid upon the completion of the services set forth in Section 3.

Payments to CONSULTANT shall be made upon invoices submitted by CONSULTANT to CITY for review and approval. Invoices will be paid by CITY within ~~a reasonable time~~ after said approved invoices are received. **30 DAYS**

6. **Indemnity:** CONSULTANT shall hold harmless, indemnify and defend CITY, its elective and appointive boards, commissions, officers, agents, servants, volunteers, and employees from and against any and all claims, costs, damages, liability, losses, or suits (including court costs and attorney fees) for personal injury (including death), property damage and any other damages of any sort whatsoever, arising out of, or alleged to have arisen out of, the willful or negligent acts, errors, or omissions of CONSULTANT or CONSULTANT'S contractors, subcontractors, agents, or employees in the performance of this Agreement. This indemnity shall not apply to a) claims brought by CONSULTANT for default of this Agreement, or (b) claims brought by CITY or any third party where the underlying injury or damage is finally determined by a court of competent jurisdiction to arise solely from the negligent or willful misconduct of CITY.

CITY shall hold harmless and indemnify CONSULTANT from any damage which may be caused to the CITY's computer network system.

7. **Termination:** This Agreement may be terminated by the CITY immediately for cause or by either party without cause upon fifteen days' written notice of termination. Upon termination, CONSULTANT shall be entitled to compensation for services performed up to the effective date of termination.

CONSULTANT shall accept, for itself, as full payment for services rendered and all work to be done and performed hereunder and in complete satisfaction of all claims against CITY by reason of voluntary abandonment or suspension of work or termination of the Agreement, the sum determined on an hourly basis in accordance with the provisions of this Agreement, or any modification or amendment thereto, plus all direct expenses incurred, including those expenses incurred which are directly attributable to the incomplete portion of the work which could not be canceled.

In the event of termination, CONSULTANT shall deliver as a condition to the payment of the compensation provided for above, or otherwise make available to CITY, all research data, reports, estimates, summaries, and other such information and materials as may have been accumulated by CONSULTANT in performing this Agreement, whether completed or in process in accordance with Section 8 of this Agreement.

8. **Documents:** Notes, studies, charts, computations, electronic files, and other data and information obtained by CONSULTANT for this project shall, upon receipt of payment for services rendered, be made available to CITY by CONSULTANT at CITY'S request and shall become the property of CITY. In the event CITY alters the document, CITY agrees CONSULTANT shall have no responsibility whatsoever for any claim arising out of, or alleged to have arisen out of, use of the altered document,

All plans, studies, documents, charts, computations, and electronic files prepared by and for CONSULTANT, its officers, employees and agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the CITY upon payment to CONSULTANT for such work, and the CITY shall have the sole right to use such materials in its discretion without further compensation to CONSULTANT or to any other party. CONSULTANT shall, at CONSULTANT'S expense, provide such reports, plans, studies, documents and other writings to CITY upon written request.

9. **Independent Contractor:** CONTRACTOR is an independent contractor retained by CITY to perform the work described herein. ALL personnel employed by CONSULTANT are not and shall not be deemed to be employees of CITY. CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to CITY'S employees, and CONSULTANT hereby expressly waives any claim it may have to such rights. CONSULTANT shall comply with all state and federal laws pertaining to employment and compensation of its employees and its agents, including the provision of Workers' Compensation.

10. **Licenses:** CONSULTANT represents and warrants to CITY that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of CONSULTANT to practice its profession. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of CONSULTANT to practice its profession. Consultant shall maintain a City of Scotts Valley business license.

11. **Assignment:** The parties recognize that a substantial inducement to CITY for entering into this Agreement is the professional reputation, experience and competence of CONSULTANT. Assignments of any or all rights, duties or obligations of the CONSULTANT under this Agreement will be permitted only with the express consent of the CITY. CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the CITY. If the CITY consents to such subcontract, CONSULTANT shall be fully responsible to CITY for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between CITY and subcontractor nor shall it create any obligation on the part of the CITY to pay or to see to the payment of any monies due to any such contractor other than as otherwise required by law.

12. **Binding on Successors:** This Agreement is binding on the heirs, successors and assigns of the parties hereto.

13. **Amendment:** This Agreement may be amended, modified or changed by the parties, provided that said Agreement, modification or change is in writing and approved by the authorized representative of the parties.

14. **Applicable Law and Attorney's Fees:** This Agreement shall be construed and enforced in accordance with the laws of the State of California, and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Santa Cruz. Should any legal action be brought by a party for breach of this Agreement or to enforce any provision of the Agreement, the prevailing party of such action shall be entitled to recover its reasonable litigation expenses, including attorney fees.

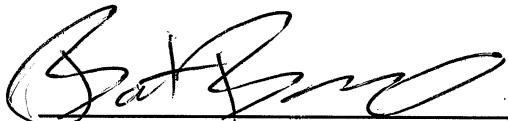
15. **Entire Agreement:** This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or understandings, whether oral or written, between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein. The drafting and negotiation of this Agreement have been participated in by each of the parties and/or their counsel, and for all purposes this Agreement shall be deemed to have been drafted jointly by all parties.

16. **Waiver:** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this agreement.

17. **Severability:** If any term or portion of this Agreement shall be held by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

WITNESS WHEREOF this Agreement is executed by CITY and by CONSULTANT on this 21st day of October, 2015, at Scotts Valley, California.

CONSULTANT:



Bart Bruno, Project Manager
Monterey Peninsula Engineering

CITY OF SCOTTS VALLEY:

Stephen H. Ando, City Manager

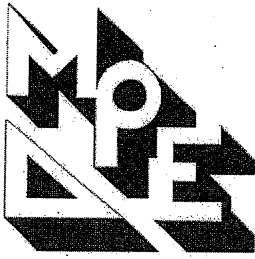
APPROVED AS TO FORM:

ATTEST:

Kirsten M. Powell, City Attorney

Tracy Ferrara, City Clerk

EXHIBIT A



MONTEREY PENINSULA ENGINEERING

CONTRACTORS & ENGINEERS
P.O. BOX 2317
MONTEREY, CA 93942
(831) 384-4081

September 30, 2015

Scott Hamby
City of Scotts Valley
701 Lundy Lane
Scotts Valley, CA 95066

Re: Scotts Valley Bocce Ball Court Improvements

M.P.E. proposes to provide all labor, equipment, and materials to perform all new work illustrated on the Sky Park Bocce Ball Court Site Improvement Plan, dated August 27, 2015, by Bowman & Williams Consulting Civil Engineers.

Our proposal includes the following items of work only:

- Remove and relocate existing benches (3 EA)
- Remove trees (3 EA)
- Grade site as shown on plans
- Install storm drain pipe (60 LF) and catch basins (3 EA)
- Construct trench drains (2 EA; 90 LF total length)
- Place and compact 6" baserock under concrete slabs (20 TN)
- Form, pour, and finish concrete slabs (7 CY)

For the Total Cost of: \$24,000.00

M.P.E. specifically excludes the following:

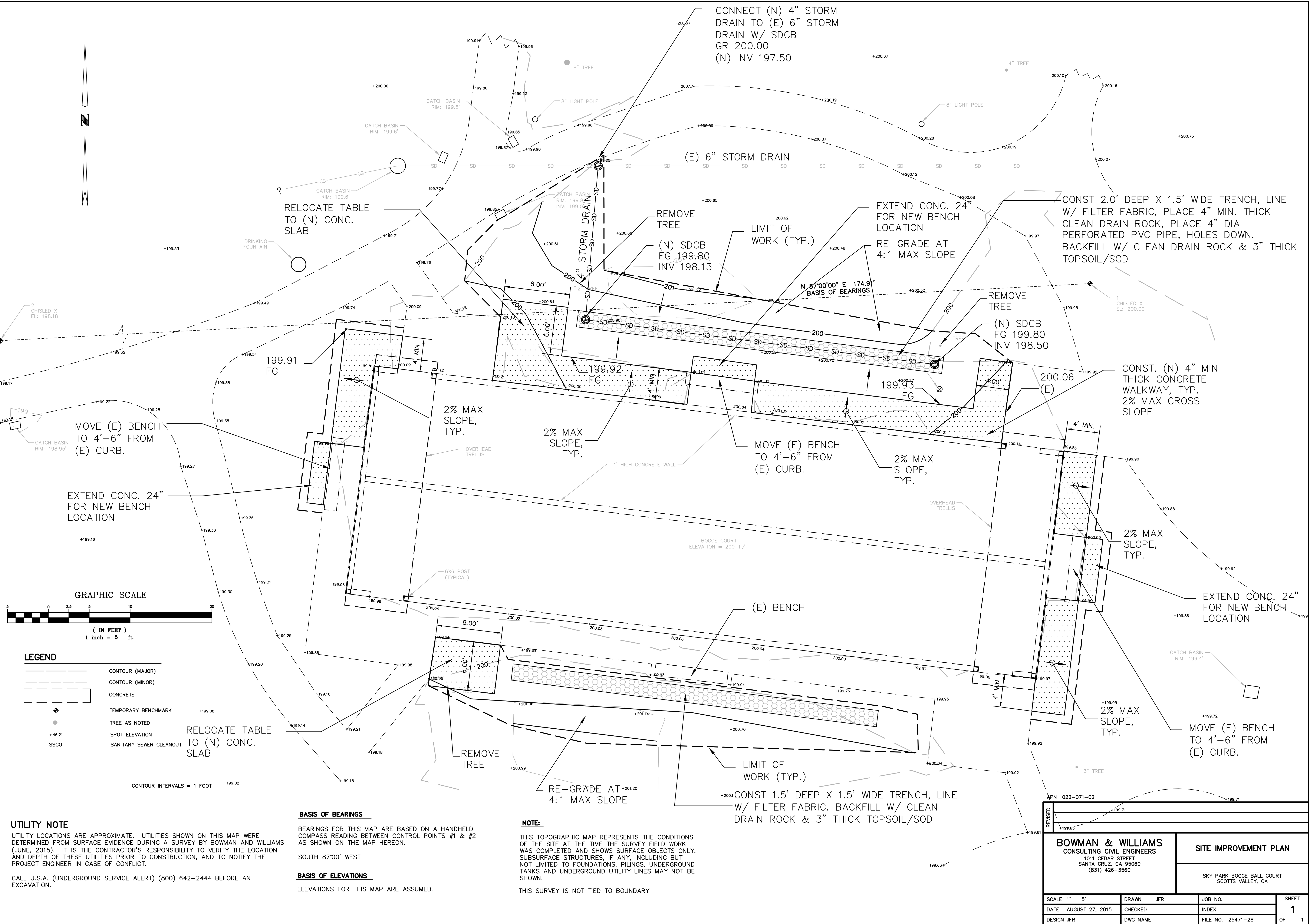
- Handling of unsuitable subgrade material
- Asphalt paving
- Repairs to existing asphalt/concrete pathway due to construction traffic *unless caused by negligence of MPE.*
- Engineering, permits, and fees
- All bonds, as-builts, and construction staking
- All construction testing
- SWPPP installation and/or maintenance
- Any items not specifically listed above

If you have any questions, please feel free to contact me by phone at (831) 384-4081, or by email at bart@mpe2000.com.

Sincerely,

Bart Bruno
Project Manager

J:\B&W\25471\25471 City of Scotts Valley City Engineer\25471-28 Skypark Bocce Ball Court\DWG\25471-28.dwg, 6/27/2015 2:17:16 PM, DWG To PDF.pc3



City of Scotts Valley

INTER-OFFICE MEMORANDUM

DATE: October 21, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Michelle Fodge, Senior Planner

APPROVED: Steve Ando, City Manager

SUBJECT: DISCUSSION ON THE CITY'S BEEKEEPING ORDINANCE AND
REVIEW OF PLANNING COMMISSION FEEDBACK

SUMMARY OF ISSUE

The City's current beekeeping ordinance allows one (1) hive box/drawer (box) for parcels 10,000 to 39,999 square feet in size and two (2) boxes for parcels 40,000 square feet or larger. In August 2014, after the City issued the first beekeeping permit on appeal, new information became known that a minimum of two (2) or more boxes are needed for the hive to be successful.

In Fall 2014, Council Member Aguilar asked staff to prepare changes to the City's Beekeeping Ordinance to allow the appropriate number of boxes for successful beekeeping. Staff waited to prepare the draft changes to allow time for the beekeeping permit to activate in Spring 2015 and establish in Summer 2015, in order to assess any and all other impacts from the beekeeping activity.

On October 15, 2015, staff asked the Planning Commission for feedback and discussion on the current ordinance – not the issued beekeeping permit. The Planning Commission heard information from two residents. One resident explained beekeeping practices and that the current limit to one (1) box is not enough to carry bees through winter, while two-and-one-half (2.5) to three (3) boxes are helpful to harvest honey and not disturb the hive. The other resident asked questions about the permit process and expressed concerns about the beekeeping permit. The Commission explained that the discussion is limited to the ordinance.

The Planning Commission discussed how to balance the needs of beekeepers and neighbors and recommended:

- Increased setbacks from property lines, with a possible reduction when adjoining property owners give permission;
- Increased number of hive boxes/drawers; and,
- Clarification on which terms should be used to describe where bees are contained ("hive" versus "hive box" or "drawer").

DISCUSSION

The following three topics were prepared for the Planning Commission. Their feedback to the City Council is shown in *italics*.

1. Purpose of Beekeeping Permit and Required Finding to Issue a Permit:

The purpose of the beekeeping permit is two-fold: to provide appropriate review and consideration of small scale beekeeping by the Community Development Director; and, to ensure that beekeeping in single-family residential zones will not be detrimental or injurious to property and improvements and to the health, safety, and welfare of persons residing or working in the neighborhood of the proposed use. As such, the ordinance includes a finding which gives the City discretion in issuing beekeeping permits where it deems appropriate. ***The Planning Commission has no recommended changes or feedback.***

2. Development Standards: The current ordinance has four development standards, listed verbatim below. To issue a beekeeping permit, the four standards must be met, **and** the required finding above must be made.

- a. One bee colony and/or hive box will be allowed in single-family residential parcels which are greater than ten thousand square feet in size. Single-family residential parcels which are greater than forty thousand square feet may have up to two bee colonies and/or hive boxes;
- b. No bee colony and/or hive box shall be located closer than twenty-five feet from any side or rear property line or adjacent residence or business; ***The Planning Commission recommends a minimum setback (distance) of 50 feet from adjoining properties, unless the adjoining property owners provide written permission of a closer setback, based on Section d.(1) in the City of Saratoga's ordinance on page 28 of this report.***

Staff Analysis: The recommended 50 feet setback is twice the distance of the 25 feet setback previously approved by the City Council. For parcels that are less than 100 feet wide, the 50 feet setback will be difficult to meet. Requiring the beekeeper to get permission from adjoining property owners for reduced setbacks may be difficult and may create problems.

- c. Bee colonies and/or hive boxes shall be located in the rear of the property to the extent practical and feasible, as determined by the community development director; and,
- d. All properties on which a bee colony and/or hive box are kept must provide for adequate water sources on the property. regarding the number of hive boxes (drawers), general location on the property, setbacks from property lines, and water sources.

3. **Number of Hive Boxes (Drawers):** When staff prepared the current ordinance, staff researched other cities' ordinances regarding beekeeping regulations. Staff also spoke to a representative from the California State Beekeepers Association, a private organization. The results showed that there were two main factors in cities' ordinances: the number of bee hives allowed, and the setbacks required from property lines and other residences and businesses. Typical ordinances allowed no more than two bee hives while some cities only allowed one bee hive regardless of parcel size. Setbacks ranged between 25 feet to 1,000 feet.

In discussions with U.C. Davis bee experts, staff has confirmed that a minimum of two (2) or more hive boxes/drawers are needed for a hive to be successful, regardless of parcel size. ***The Planning Commission recommends:***

- a. ***Maximum of two (2) hive boxes/drawers for single-family residential parcels with sizes between 10,000 to 39,999 square feet, and,***
- b. ***Maximum of five (5) hive boxes/drawers for such parcels that are 40,000 square feet or greater in size.***

Staff Analysis: The current ordinance defines "hive box" as "any box, or receptacle or container made or prepared for the use of bees, or similar container of which bees have taken possession. A hive box is usually called a "Langstroth deep or super", and is roughly 19.75 inches long, 16.5 inches wide, and 9.5 inches tall. It contains 10 frames of foundation on which the bees build comb for producing brood and food."

There are other types of hive boxes such as the "top bar hive", which is shorter than the common Langstroth hive. Allowing different dimensions for hive boxes and setting a maximum height may give beekeepers more flexibility in beekeeping and addressing neighbor concerns.

FISCAL IMPACT

Depending on the City Council direction to staff regarding the City's current beekeeping ordinance, fiscal impact will vary.

STAFF RECOMMENDATION

Staff requests feedback from City Council in preparing draft changes to the City's current beekeeping ordinance.

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3.	City Council Meeting Minutes, August 4, 2010.	10
4.	City Council Staff Report, August 4, 2010.	12

City of Scotts Valley PLANNING COMMISSION STAFF REPORT

Date: October 15, 2015

Applicant: City of Scotts Valley

Location: City-wide in Single-Family Residential Zoning Districts

General Plan: Single-family Residential consisting of these densities:
Medium, Low, Estate, Rural, and Mountain

Zoning: R-1-10, R-1-20, R-1-40, R-R-2.5, and R-MT-5

Request: Discussion and feedback on the City's Beekeeping Ordinance for City Council discussion on October 21, 2015.

Staff Planner: Michelle Fodge, Senior Planner at (831) 440-5632 or mfodge@scottsvalley.org

SUMMARY OF ISSUE

In August 2010, the City adopted a beekeeping ordinance to allow limited beekeeping in single-family residential neighborhoods. The attached current ordinance allows only one (1) hive box/drawer with specific dimensions for parcels 10,000 square feet or greater in size, and up to two (2) hive boxes/drawers for parcels 40,000 square feet or greater.

After the City issued the first beekeeping permit on appeal in August 2014, new information became known that a minimum of two (2) or more hive boxes/drawers are needed for a successful hive no matter the parcel size. In Fall 2014, Council Member Aguilar asked staff to prepare changes to the City's Beekeeping Ordinance to allow the appropriate number of hive boxes/drawers for successful beekeeping.

Staff waited to prepare draft changes to the current ordinance to allow time for the first beekeeping permit to activate in April 2015 and establish during this Summer. Before staff prepares draft changes to the current ordinance, staff has prepared topics for Planning Commission discussion and feedback to the City Council, who will discuss this matter at a regularly scheduled meeting to be held on October 21, 2015.

BACKGROUND

Previous Planning Commission and City Council staff reports and meeting minutes on the beekeeping ordinance are attached for history.

DISCUSSION

Staff has prepared the following discussion items for Planning Commission feedback which will be provided to the City Council.

1. **Purpose of Beekeeping Permit and Required Finding to Issue a Permit:**
The purpose of the beekeeping permit is two-fold: to provide appropriate review and consideration of small scale beekeeping by the Community Development Director; and, to ensure that beekeeping in single-family residential zones will not be detrimental or injurious to property and improvements and to the health, safety, and welfare of persons residing or working in the neighborhood of the proposed use. As such, the ordinance includes a finding which gives the City discretion in issuing beekeeping permits where it deems appropriate. ***Are there any recommended changes or feedback to the City Council?***
2. **Development Standards:** The current ordinance has four development standards regarding the number of hive boxes (drawers), general location on the property, setbacks from property lines, and water sources. To issue a beekeeping permit, the four standards must be met, **and** the required finding must be made. ***Are there any recommended changes or feedback to the City Council?***
3. **Number of Hive Boxes (Drawers):** When staff prepared the current ordinance, staff researched other cities' ordinances regarding beekeeping regulations. Staff also spoke to a representative from the California State Beekeepers Association, a private organization. The results showed that there were two main factors in cities' ordinances: the number of bee hives allowed, and the setbacks required from property lines and other residences and businesses. Typical ordinances allowed no more than two bee hives while some cities only allowed one bee hive regardless of parcel size. Setbacks ranged between 25 feet to 1,000 feet.

In discussions with U.C. Davis bee experts, staff has confirmed that a minimum of two (2) or more hive boxes/drawers are needed for a hive to be successful, regardless of parcel size. ***Are there any recommended changes or feedback to the City Council?***

STAFF RECOMMENDATION

Staff recommends that the Planning Commission provide feedback on the issues for City Council discussion scheduled at a regular meeting to be held on October 21, 2015.

ATTACHMENTS

PAGE

1.	Beekeeping Ordinance.	4
2.	City Council Meeting Minutes, August 4, 2010.	6
3.	City Council Staff Report, August 4, 2010.	9

17.46.125 - Beekeeping permits issued by the community development director.

A. Authority and Purpose.

1. The purpose of the beekeeping permit is to provide appropriate review and consideration of small scale beekeeping under the direction of the community development director or their designee, and to ensure that beekeeping on certain-sized parcels in single-family residential zones will not be detrimental or injurious to property and improvements and to the health, safety, and welfare of persons residing or working in the neighborhood of the proposed use.
2. Beekeeping requires review and approval of a beekeeping permit before any beekeeping on the subject property.

B. Definitions. The terms used herein have the following meanings:

"Apiary" means a place where bees, hive boxes, and related appliances wherever the same are kept, located, or found, especially a colony of bees kept for their honey.

"Bee colony" is a group of bees which consist of the queen, the drones, and the worker which live in a hive box or similar receptacle.

"Beekeeping" (or apiculture, from Latin *apis*, bee) is the maintenance of honey bee colonies, commonly in hives, by humans. A beekeeper (or apiarist) keeps bees in order to collect honey and beeswax, for the purpose of pollinating vegetation, or to produce bees for sale to other beekeepers.

"Bees" means honey-producing insects of the species *apis mellifica*, including the adults, eggs, larvae, pupae or other immature states thereof, together with such materials as are deposited into hives by the adults, except honey and rendered beeswax. Bees are a monophyletic lineage within the superfamily Apoidea, presently classified by the unranked taxon name Anthophila.

"Hive" is the same definition as bee colony.

"Hive box" means any box, receptacle, or container made or prepared for the use of bees, or similar container of which bees have taken possession. A hive box is usually called a Langstroth deep or super, and is roughly 19.75 inches long, 16.5 inches wide, and 9.5 inches tall. It contains ten frames of foundation on which the bees build comb for producing brood and food. A hive box needs some kind of top board, some kind of bottom board, and an entrance which is usually incorporated in the bottom board.

C. Applications and Submittal Requirements.

1. Application for a beekeeping permit shall be made on a form prescribed for this purpose by the city and shall be filed with the planning department, accompanied by the filing fee.
2. The application shall be accompanied by such maps, site plans, and other drawings, or information required or necessary to enable the community development director to make the determinations as set forth herein. The application form provided by the planning department shall provide a list of submittal requirements.
3. The filing fee for an application shall be as set forth by resolution of the city council.

D. Application Processing Procedures and Notice.

1. The application shall be subject to review by the planning department to determine if the application is complete.
2. Upon deeming the application complete, the planning department shall send a notice to the applicant, property owner, the owners and tenants of property of the five parcels located closest to the subject property, and to all members of the planning commission. The notice shall indicate the date upon which the community development director will act on the permit and the intended action to be taken by the community development director. Such notices shall be mailed, via first class mail, a minimum of fifteen days prior to date that action is to be taken.



E. Development Standards. The community development director shall determine from data submitted whether the proposed beekeeping use and any related structures proposed for the beekeeping use will meet the development standards prescribed below, as determined by the community development director.

1. One bee colony and/or hive box will be allowed in single-family residential parcels which are greater than ten thousand square feet in size. Single-family residential parcels which are greater than forty thousand square feet may have up to two bee colonies and/or hive boxes;
2. No bee colony and/or hive box shall be located closer than twenty-five feet from any side or rear property line or adjacent residence or business;
3. Bee colonies and/or hive boxes shall be located in the rear of the property to the extent practical and feasible, as determined by the community development director; and
4. All properties on which a bee colony and/or hive box are kept must provide for adequate water sources on the property.



- F. Required Findings. The application may be approved as submitted, disapproved, conditionally approved; or, the community development director may refer the requested beekeeping permit to the planning commission for consideration. The following finding shall be made by the community development director and/or planning commission: The proposed beekeeping use, location of the bee colony/hive box, its effect, and the resulting number of beekeeping permits in a neighborhood will not be detrimental or injurious to property and improvements, and to the health, safety, and welfare of persons residing or working in the neighborhood of the proposed use.
- G. Appeals. Appeal from the determination by the community development director shall be to the planning commission in accordance with the procedures and subject to the provisions set forth in Section 17.50.060 of this chapter.
- H. Penalty. Every person violating any provision of this section shall be guilty of a misdemeanor and subject to Title 4 of the Municipal Code.

(Ord. 16.130, § 4, 8-18-2010)

VM Bustichi reported that the Town Center Subcommittee met with the group interested in developing the Town Center. He reported that the Subcommittee will be reviewing financial information submitted by this group to help determine the viability of the project. He stated that the Subcommittee is also working with a consultant regarding the preparation of an EDA grant application to help with infrastructure costs at the Town Center.

VM Bustichi reported that the Santa Cruz County Regional Transportation Commission (SCCRTC) will be meeting on August 5 at 9:00 am in the Scotts Valley Council Chambers to vote on a few resolutions for some federal money that the SCCRTC is trying to get to purchase the rail line.

PUBLIC COMMENT

CM Lind announced that the Scotts Valley Chamber of Commerce Art & Wine Festival will be held August 14 and 15 at Skypark.

ALTERATIONS TO CONSENT AGENDA

M/S: Aguilar/Bustichi
To approve the Consent Agenda.
Carried 4/0/1 (ABSENT: Johnson)

Consent Agenda:

- A. Approve Joint City Council/RDA meeting minutes of 7-21-10
- B. Approve check register – 7-12-10
- C. Approve agreement for professional services between the City of Scotts Valley and Paul Rieth for Assistant Chief Plant Operator services

ALTERATIONS TO REGULAR AGENDA

M/S: Bustichi/Aguilar
To approve the Regular Agenda.
Carried 4/0/1 (ABSENT: Johnson)

REGULAR AGENDA

PUBLIC HEARINGS

1. Consider adoption of a zoning ordinance amendment to allow limited beekeeping on certain-sized parcels in single-family residential zones city-wide (File No. AZO10-002)

SP Fodge presented the written staff report and responded to questions from Council.

PUBLIC HEARING OPENED - 6:32 PM

Chris Miller requested that the cost be kept as low as possible since there is an imminent need for beekeeping.

Todd Thieman, Skypark resident, spoke in favor of beekeeping in Scotts Valley, however, he questioned the cost of the permit and the limit on hives.

PUBLIC HEARING CLOSED - 6:34 PM

ICDD Westman stated that the fee of \$124 is to cover one hour of staff time to process the application.

M/S: Bustichi/Aguilar

To approve Resolution No. 1853 approving negative declaration ND10-002 to allow limited beekeeping on certain-sized parcels in single-family residential zones city-wide, establishing a fee for beekeeping permits, and approving zoning ordinance amendment AZO10-002 in Ordinance No. 16.130.

Carried 4/0/1 (ABSENT: Johnson)

M/S: Aguilar/Bustichi

To approve first reading and introduction of Ordinance No. 16.130 amending Chapter 17.04 and adding Section 17.46.125 of Title 17, zoning, of the Scotts Valley Municipal Code to allow a maximum of up to two bee colonies/hive boxes on certain sized single-family residential parcels city-wide; zoning ordinance amendment AZO10-002, and waive the reading thereof.

Carried 4/0/1 (ABSENT: Johnson)

2. Consideration of Planning Commission recommendation of approval to the City Council to amend Title 17.56 (Signs) of the Scotts Valley Municipal Code

SP Bateman presented the written staff report and responded to questions from the City Council.

CM Aguilar recommended postponing voting on this item for two weeks based on the letter received from the Santa Cruz County Association of Realtors, Inc.

ICDD Westman stated that in emails from the Realtors Association, they had requested that this item be postponed until the second meeting in September.

The majority of the Council decided not to postpone this item due to its impact on political signs at the upcoming November election.

PUBLIC HEARING OPENED - 6:43 PM

Dale Fendorf, Santa Cruz County Association of Realtors, Inc., stated that their request for postponement was because they have not had the opportunity to review this item as a group due to the timing of the Association meetings.

PUBLIC HEARING CLOSED - 6:55 PM

CM Aguilar recommended the following amendments to the Ordinance:

Page 8, Item b.i.: The sign shall be up to a maximum size of 20 square foot, a minimum set back of 40 5 feet from the property line and outside of the right of way, non-illuminated and, if freestanding, not more than 12 feet in height.

City of Scotts Valley
INTER-OFFICE MEMORANDUM

DATE: August 4, 2010

TO: Mayor Reed and Members of the City Council

FROM: Michelle Fodge, Senior Planner 

APPROVED: Steve Ando, City Manager

SUBJECT: A PUBLIC HEARING TO CONSIDER ADOPTION OF A ZONING ORDINANCE AMENDMENT TO ALLOW LIMITED BEEKEEPING ON CERTAIN-SIZED PARCELS IN SINGLE-FAMILY RESIDENTIAL ZONES CITY-WIDE (FILE NO. AZO10-002)

SUMMARY OF ISSUE

The City's current Zoning Ordinance includes definitions for agriculture and animal keeping but does not specifically mention bees. To address City residents' interest in keeping bees, the City Council directed staff in March 2010 to prepare a Zoning Ordinance Amendment to allow limited beekeeping (see pages 23-24, *City Council Meeting Minutes*).

On July 15, 2010, the Planning Commission reviewed the draft ordinance and recommended approval as proposed to the City Council (see pages 10-11, *Planning Commission Meeting Minutes* and pages 12-22, *Staff Report*), with a question about the permit fee. The proposed amendments include a staff-level permit process, neighbor notification, appeal process, and fee to cover costs (see pages 6-9, *Ordinance No. 16-130*).

DISCUSSION

Staff have prepared the following discussion for City Council consideration:

1. **Planning Commission Review and Establishing a Permit Fee:** The City Council needs to establish a fee for the beekeeping permit. The Planning Commission questioned if the recommended fee of one hour of planning staff time was too high, which is currently \$124 and may increase about \$2 each year. The Commission recommended that: (1) the fee be set at the hourly planning staff rate; and, (2) that the fee be revisited in one year and possibly reduced to \$100 or less if costs are recovered.

2. **Consistency with the City's General Plan with the Zoning Ordinance:** The proposed amendments were analyzed for consistency with the City's General Plan and Zoning Ordinance. General Plan Land Use Objective LO-24 calls for compatibility between residential development and surrounding uses. The amendment will be consistent with the General Plan in that limited beekeeping will be allowed via a streamlined staff-level permit process, which will allow for site-specific conditions as appropriate to protect adjacent uses.

Regarding consistency with the Zoning Ordinance, the amendments will be consistent with the purposes and objectives of the single-family residential zones in that beekeeping is similar to permitted uses such as having pets and family animal raising.

3. **Update from Santa Cruz County Agricultural Commission (SCCAC):** The SCCAC tracks and monitors bees used for agriculture. Recently, the SCCAC confirmed that they do not have the resources to track residential beekeeping. Therefore, the proposed amendment does not require notifying or involving the SCCAC.

PUBLIC NOTICE AND COMMENT

1. **Public Hearing Notices:** On July 22, 2010, public hearing notices were posted at City Hall, the public library, and the Senior Center. At the time of completing this staff report, the City has not received any public phone calls about the proposed amendment.
2. **Written Correspondence Received:** To date, the City has not received any correspondence. If any comments are received, staff will provide the City Council and public a copy at the City Council public hearing.

ENVIRONMENTAL REVIEW

The project is subject to the California Environmental Quality Act (CEQA) and the CEQA Guidelines, which requires environmental documentation. Staff completed a check list (Initial Study) for the project, which revealed that the proposed amendments will not have a significant adverse impact on the environment.

Staff prepared a Negative Declaration (ND10-002) (*see attached Negative Declaration*). The Negative Declaration was distributed and made available for a 20-day public comment period between June 24 - July 13, 2010.

REQUIRED FINDINGS

The Planning Commission believes that the required findings can be made to approve the Negative Declaration ND10-002, to establish the beekeeping permit fee, and to approve Zoning Ordinance Amendment AZO10-002, as listed in the attached Resolution (*see pages 4-5, Resolution No. 1853*).

FISCAL IMPACT

Depending on the permit fee, minimal, if any, impact is expected. The permit fee is expected to cover staff time to review the permit application, prepare neighborhood notification, prepare any appropriate conditions of approval, and issue the permit.

RECOMMENDATION

The Planning Commission recommends that the City Council conduct a public hearing on the proposed amendments and:

1. Approve Negative Declaration ND10-002, the required environmental document prepared for the proposed amendments, by adopting Resolution No. 1853;
2. Establish a beekeeping permit fee by adopting Resolution No. 1853; and,
3. Approve Zoning Ordinance Amendment AZO10-002 to allow limited beekeeping on certain-sized single-family residential parcels City-wide, by introducing a first reading of Ordinance No. 16-130 and waiving a second reading thereof.

ATTACHMENTS

PAGE NO.

Resolution No. 1853, Action item approving ND10-002 & establishing a permit fee . . .	4
Ordinance No. 16-130, Action item approving AZO10-002	6
1. Planning Commission Meeting Action Minutes, July 15, 2010	10
2. Planning Commission Staff Report, July 15, 2010	12
3. City Council Meeting Minutes, March 17, 2010	23
4. City Council Staff Report, March 17, 2010	25
5. Initial Study/Negative Declaration	* Attached

* *Please note that the Negative Declaration is only provided in the City Council packets. However, the document is available for public review in the Planning Department at City Hall Monday-Thursday 8:00AM-12:00PM, or by appointment by calling (831) 440-5630.*

City of Scotts Valley Planning Commission ACTION MINUTES

DATE/TIME:

Thursday, July 15, 2010
6:00 p.m.

MEETING LOCATION:

One Civic Center Drive
Scotts Valley

POSTING: Agenda was posted at City Hall, Library, and Sr. Center on July 9, 2010

CALL TO ORDER: *The Planning Commission Chair called the meeting to order.*

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE: *The Planning Commission Chair lead the pledge of allegiance.*

ROLL CALL: *Planning Department staff conducted roll call of the Planning Commission. Commissioners Patterson, Bassett, Bowen and Chair Muth present. Commissioner Heald absent.*

ORAL COMMUNICATIONS: *This portion of the agenda is reserved for discussion by the public of items which are not on the agenda. No action may be taken by the Commission. It is in the best interest of the person speaking to the Commission to be concise and to the point. All speakers are requested to sign their names at the podium so that their names may be accurately recorded in the minutes of the meeting. NONE*

ALTERATIONS TO CONSENT AGENDA: *The Commission may remove or add items on the Consent Agenda. NONE*

CONSENT AGENDA: *These items will be acted upon in one motion unless they are removed from the consent agenda for discussion by the Commission. NONE.*

ALTERATIONS TO REGULAR OR PUBLIC HEARING AGENDA: *The Commission may remove, add, or re-arrange items on the Public Hearing or Regular agenda. NONE*

PUBLIC HEARING ITEM:

1. **Address:** City-wide
Applicant: City of Scotts Valley
Applications: AZO10-002 and ND10-002
Project Description: Consideration of Planning Commission review and recommendation of approval to the City Council of a Negative Declaration and Zoning Ordinance Amendment to: (1) add definitions to Section 17.04.040, Definition of "A" terms, Section 17.04.050, Definition of "B" terms, Section 17.04.110, Definition of "H" terms, and Section 17.04.150, Definition of "L" terms;

and, (2) add a new Section 17.46.125, Beekeeping Permits Issued by the Community Development Director, which will allow limited beekeeping on certain-sized parcels in single-family residential zones.

Staff Planner: Michelle Fodge (831) 440-5632 or mfodge@scottsvalley.org
Motion to approve Resolution No. 1616 recommending approval of ND10-002 and AZO10-002. Vote: 4/0/1

2. Address: City-wide

Applicant: City of Scotts Valley

Applications: AZO10-001 and ND10-003

Project Description: Consideration of Planning Commission review and recommendation of approval to the City Council of a Negative Declaration and Zoning Ordinance Amendment to the City of Scotts Valley Municipal Code Section (SVMC) 17.46 (Signs). The amendment would replace SVMC Section 17.46.080 (Exempt Signs) with a new Section 17.46.080 called "Temporary Signs". The amendments also include minor changes to Section 17.46 of the SVMC to make the document internally consistent.

Staff Planner: Taylor Bateman (831) 440-5630 or tbateman@scottsvalley.org
Motion to approve Resolution No. 1617 recommending approval of ND10-003 and AZO10-001. Vote: 4/0/1

REGULAR AGENDA: None.

DISCUSSION ITEMS: None.

FUTURE AGENDA ITEMS: None.

WRITTEN COMMUNICATIONS - FOR INFORMATION ONLY: *City Council Minutes are provided if available.* NONE.

ADJOURNMENT: *Adjournment shall be no later than 11:00 p.m. unless extended by a four fifths vote of all Planning Commission members or a unanimous vote of the members present (Section 2.21.020)*

PLEASE NOTE: The City of Scotts Valley does not discriminate against persons with disabilities. The City Council Chambers is an accessible facility. If you wish to attend a Planning Commission meeting and require assistance such as sign language, a translator, or other special assistance or devices in order to attend and participate in the meeting, please call the Community Development office at (831) 440-5630 five to seven days in advance of the meeting to make arrangements for assistance.

If you require the agenda of a Planning Commission meeting be available in an alternative format consistent with a specific disability, please contact the Community Development Department office. The California State Relay Service (TDD to voice: 1-800-735-2929 or voice to TDD: 1-800-735-2922) provides Telecommunications Devices for the Deaf and will provide a link between the TDD caller and users of telephone equipment.

**City of Scotts Valley
PLANNING COMMISSION
STAFF REPORT**

Date: July 15, 2010

Applicant: City of Scotts Valley

Applications: Zoning Ordinance Amendment AZO10-002
Negative Declaration ND10-002

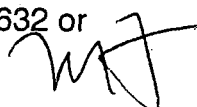
Location: City-wide in Single-Family Residential Zoning Districts

General Plan: Single-family Residential consisting of these densities:
Medium, Low, Estate, Rural, and Mountain

Zoning: R-1-10, R-1-20, R-1-40, R-R-2.5, and R-MT-5

Environmental Status: A Negative Declaration was prepared in accordance with the California Environmental Quality Act and Guidelines and was distributed for public review from June 24-July 13, 2010.

Request: Consideration of Planning Commission review and recommendation of approval to the City Council of a Negative Declaration ND10-002 and Zoning Ordinance Amendment AZO10-002 to allow limited beekeeping on certain-sized parcels in single-family residential zones.

Staff Planner: Michelle Fodge, Senior Planner at (831) 440-5632 or mfodge@scottsvalley.org 

STAFF RECOMMENDATION

Staff recommends that the Planning Commission:

1. Conduct a public hearing to receive public input on the proposed additions to Chapter 17.04, Definitions, and new addition of Section 17.46.125, Beekeeping Permit Issued by the Community Development Director;
2. Provide any comments or changes for the City Council's consideration; and,
3. Adopt the attached Resolution recommending approval of Zoning Ordinance Amendment AZO10-002 to the City Council.

SUMMARY OF ISSUE

The City's current Zoning Ordinance includes definitions for agriculture and animal keeping but does not mention bees. In December 2009, in response to City residents' interest in beekeeping, the City Council directed staff to research whether beekeeping should be allowed or not. 017

In March 2010, the City Council reviewed staff's analysis and directed staff to prepare a Zoning Ordinance Amendment to allow limited beekeeping in single-family residential zones (see pages 12-13, *City Council Meeting Minutes*).

Changes to the Zoning Ordinance require Planning Commission review and recommendation to the City Council. Therefore, staff requests the Commission's review and comments on the attached Exhibit A (see pages 7-11, Ordinance 16-130).

BACKGROUND

The chronology below summarizes key events.

December 16, 2009 Under the public comment part of the City Council meeting, a Scotts Valley resident requested that the City amend the zoning regulations to clearly identify whether or not bee hives are allowed in Scotts Valley. At that time, the Council directed staff to come back with information about how the ordinance should be amended to clearly allow or not allow bees in Scotts Valley.

March 17, 2010 Staff prepared information for the City Council to consider (see pages 14-26, *City Council Staff Report*). Staff researched other cities' ordinances regarding bees. The results showed that there were two main factors in cities' ordinances: the number of bee hives allowed, and the setbacks required from property lines and other residences and businesses. Typical ordinances allowed no more than two bee hives while some cities only allowed one bee hive regardless of parcel size. Setbacks ranged between 25 feet to 1,000 feet.

City Council reviewed staff's analysis and heard comments from City residents in favor of beekeeping. To provide the greatest flexibility to the largest number of people, the Council directed staff to prepare a Zoning Ordinance Amendment to allow limited beekeeping in single-family residential zones when certain criteria are met (see pages 12-13, *City Council Meeting Minutes*).

June 24-July 13, 2010 Staff prepared the required environmental review document to amend the City's Zoning Ordinance (see attached *Negative Declaration*).

SITE DESCRIPTION

The Zoning Ordinance Amendment (project) will apply to City-wide single-family residential properties that meet the development standards.

PROJECT DESCRIPTION

1. **Purpose:** The purpose of the project and beekeeping permit is to:
 - a. Provide appropriate review and consideration of small scale beekeeping by the Community Development Director; and,
 - b. Ensure that beekeeping in single-family residential zones will not be detrimental or injurious to property and improvements and to the health, safety, and welfare of persons residing or working in the neighborhood of the proposed use.
2. **Beekeeping Permit Process:** The proposed process will be similar to the City's current tree removal permit process, in that, beekeeping applications will be reviewed by the Planning Department. Notification to adjacent property owners and tenants will be required. The Community Development Director's decision may be appealed to the Planning Commission, whose decision may be appealed to the City Council. For more details see pages 9-10.
3. **Development Standards:** For a beekeeping permit to be approved, the following requirements must be met:
 - a. One (1) bee colony and/or hive box may be allowed in the rear yards of residential parcels which are greater than 10,000 square feet in size. Parcels which are greater than 40,000 square feet may have up to two (2) bee colonies and/or hive boxes;
 - b. No bee colony and/or hive box shall be located closer than 25 feet from any side or rear property line or adjacent residence or business; and,
 - c. All properties on which a bee colony and/or hive box are kept must provide for adequate water sources on the property.

DISCUSSION

The City Attorney has reviewed the proposed Zoning Ordinance Amendment. Staff have prepared the following discussion for Planning Commission consideration:

1. **Consistency with the City's General Plan:** The project was analyzed for consistency with the City's General Plan. The broad Land Use Objective LO-24 calls for compatibility between residential development and surrounding uses. Staff believes that the project is consistent with the General Plan in that the project will allow limited beekeeping via a streamlined staff-level review process, while protecting adjacent uses.
2. **Consistency with the Zoning Ordinance:** The project will be consistent with the purposes and objectives of the single-family residential zones in that beekeeping is similar to the permitted use of having pets in the R-1-10, R-1-20,019

and R-1-40 zoning districts, and family animal raising in the R-R-2.5 and R-MT-5 zoning districts.

3. **Update from Santa Cruz County Agricultural Commission (SCCAC):**
Previously, SCCAC said that they wanted to be notified any time a bee hive is moved in or out of Scotts Valley. Tracking and monitoring different kinds of bees moving into the Santa Cruz area has become important because of diseases. Since then, SCCAC confirmed that they do not have the resources to track residential beekeeping. However, SCCAC is available as a resource to contact if beekeepers have any questions.

ENVIRONMENTAL REVIEW

The project is subject to the California Environmental Quality Act (CEQA) and the CEQA Guidelines, which requires environmental documentation. Staff completed an check list (Initial Study) for the project, which revealed that the project will not have a significant adverse impact on the environment. Staff prepared a Negative Declaration (ND10-002) (see *attached Negative Declaration*). The Negative Declaration was distributed and made available for a 20-day public comment period between June 24 - July 13, 2010.

PUBLIC NOTICE AND COMMENT

1. **Public Hearing Notices:** On June 24, 2010, public hearing notices were posted at City Hall, the public library, and the Senior Center, and the Santa Cruz County Clerk of Board, pursuant to State law. At the time of completing this staff report, the City has not received any public phone calls about the project.
2. **Written Correspondence Received:** To date, the City has not received any correspondence. If any comments are received, staff will provide the Planning Commission and public a copy at the Planning Commission public hearing.

REQUIRED FINDINGS

Based on staff's analysis, staff believes that the required findings can be made as listed in the attached Resolution.

ATTACHMENTS

PAGE NO.

Resolution recommending approval of AZO10-002 (Action Item)	5
Exhibit A - Ordinance No. 16-130	7
1. City Council meeting minutes, March 17, 2010	12
2. City Council Staff Report, March 17, 2010	14
3. Initial Study/Negative Declaration	* Attached

* Please note that the Negative Declaration is only provided in the Planning Commission packets. However, the file is available for public review in the Planning Department at City Hall Monday-Thursday 8:00AM-12:00PM, or by appointment by calling (831) 440-5630.

CA Powell presented the written staff report and responded to questions from Council.

PUBLIC HEARING OPENED - 6:58 PM

No one came forward.

PUBLIC HEARING CLOSED - 6:59 PM

CM Aguilar requested an addition to the ordinance that all aspects, both positive and negative, will be evaluated.

CA Powell stated that Section 2, paragraph 2, line 4 could be amended as follows:

"...district(s), if any, for such uses; the impacts and benefits of permitting medical marijuana..."

M/S: Aguilar/Lind

To approve the adoption of Urgency Ordinance No. 16.128.1 extending a moratorium of medical marijuana dispensaries for ten months and fifteen days, with the above amendment, and waive the reading thereof. Carried 5/0

REGULAR AGENDA
(Resumed)

3. Discussion: Revision to the City of Scotts Valley's Zoning Ordinance to allow for bees (apiaries)

ICDD Westman presented the written staff report and responded to questions from Council.

CM Aguilar recommended clarifying the wording to the proposed ordinance revision, Section 17.46.125, E.1., to make the language more restrictive as defined by the ordinance.

ICDD Westman stated that staff can clarify the language.

CM Aguilar requested an addition to the ordinance that the Agricultural Commission provide a copy of their report to the City.

Julie Kuo, SV resident, spoke in favor of the revision to the zoning ordinance.

Tom Houso, SV resident, spoke in favor of the revision to the zoning ordinance. He recommended including the definition of a hive in the ordinance.

Albert Warren, SV resident, spoke in favor of the revision to the zoning ordinance.

Brian Piazza, spoke in favor of the revision to the zoning ordinance. He stated that a hive is approximately 50,000 bees and requested that the Council fully evaluate this revision to the zoning ordinance.

Liz Engfer, spoke in favor of the revision to the zoning ordinance.

Mayor Reed expressed concerns about 25 foot setback as it relates to bee allergies. He recommended lot sizes of 40,000 square feet or greater, or a larger setback.

VM Bustichi stated that he would like to see a use permit process and fees so that a public hearing can be held to obtain input from surrounding neighbors. He stated that he would also like to see commercial property included in ordinance.

ICDD Westman stated that because the use permit process is expensive (approximately \$1,000) and lengthy, she would recommend a similar process to that used for tree removal. She reviewed process for tree removal and stated that neighbors receive notices once an application has been received. She stated that the appealing authority would be the Planning Commission and then the City Council if necessary. She recommended a fee of \$50 to apply, and if someone wants to appeal, there would be additional fees.

Mayor Reed questioned what the City's legal parameters for denying a request or an appeal would be.

CA Powell stated that those parameters are available under the current Zoning Ordinance, Section 17.50.020

CM Johnson stated that he is opposed to this revision to the zoning ordinance.

CM Lind stated that she is in favor of the proposed revision to the zoning ordinance and the agreed with the notification process.

Mayor Reed stated that he is in favor of the proposed revision to the zoning ordinance and the agreed with the notification process.

4. Consideration of bike race event

CM Ando presented the written staff report and responded to questions from Council.

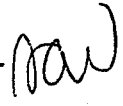
Mark Davis, SV resident on behalf of Third Pillar Racing, gave a PowerPoint presentation regarding the proposed Grand Prix bicycle race/event proposed for May 15, 2010 and responded to questions from Council. He stated that additional information is available at: www.thirdpillarracing.com/scottsvally

Chief Weiss, Scotts Valley Police Department, brought forward information regarding the impacts to local businesses in this area, reviewed traffic concerns, and responded to questions from Council. He stated that they are concerned about public safety should the road not be closed completely.

City of Scotts Valley INTEROFFICE MEMORANDUM

DATE: March 17, 2010

TO: Honorable Mayor and City Council

FROM: Susan Westman, Interim Community Development Director 

SUBJECT: DISCUSSION OF REVISING THE CITY OF SCOTTS VALLEY'S ZONING ORDINANCE TO ALLOW FOR BEES (APIARIES)

SUMMARY OF ISSUE

Under public comment at the December 16, 2009 City Council meeting, a Scotts Valley resident requested that the City amend the zoning regulations to clearly identify whether or not bees hives are allowed in Scotts Valley. At that time, the Council directed staff to come back with information about how the ordinance should be amended to clearly allow or not allow bees in Scotts Valley. The current zoning regulations do have a definition for agriculture and the keeping of animals in various zoning districts, but it does not specifically mention bees.

Staff has reviewed other cities ordinances regarding bees. The results of that review show that there are two main factors in cities' ordinances. The two factors are the number of hives allowed, and setbacks required from property lines and from other residences and businesses. Typically, in residential districts, no more than two hives are ever allowed, and in some jurisdictions they are limited to one hive regardless of the size of the parcel. Setbacks from property lines or other residential units are typically in the twenty- five foot range, with some going as close as 20 feet, and some as far as 1,000 feet.

Jurisdiction	Lot Size	Number of Hives	Setbacks
City of Santa Cruz	R-1 District (10,000 sq ft)	Two hives	Twenty feet from property line. Use permit required.
Los Gatos & Monte Sereno	Does not specify	Does not specify	No closer than 1,000 feet from nearest residences or other use. 300 feet from public street.
Saratoga	Does not specify	Does not specify	No closer than 500 feet from nearest residence or other facility. No closer than 300 feet to public road.

Jurisdiction	Lot Size	Number of Hives	Setbacks
City of Los Altos	Requires 5,000 sq ft of lot size for each hive	Requires 5,000 sq ft of lot size for each hive.	Does not specify
Capitola	Does not have any specific regulations allowing bee hives		
Watsonville	Allowed in all residential zones, ordinance written in 1980	Two hives	25 feet from any other residence
Monterey	The keeping of bees is prohibited		
Palo Alto	Only in agricultural zoning district	Two hives	25 feet from property line

Scotts Valley does not have any land zoned for agricultural uses. There are three residential zoning districts which have lot sizes of 40,000 sq ft or larger. Rather than limit bees to specific residential zoning districts, it would be staff's recommendation to allow bees in residential districts, but establish setback requirements, number of hives and minimum lot sizes. This would give the greatest flexibility to the largest number of people.

The majority of the cities allow bees in their R-1 and up zoning districts. To create an R-1 lot in Scotts Valley, the minimum size is 10,000 sq ft.

Staff's recommendation for allowing bee hives in Scotts Valley would be to make two changes to the City's zoning regulations. First would be to add a definition of bee keeping in the definition section of the zoning ordinance. That definition would read as follows.

"Bees means honey-producing insects of the species *apis mellifica*, including the adults, eggs, larvae, pupae or other immature states thereof, together with such materials as deposited into hives by the adults, except honey and rendered bees wax. The location and number of bee hives or apiary hives shall be established in Section 17.46.125 of the Scotts Valley Zoning Ordinance."

The second would be to add a Section 17.46.125, which would outline the requirement for having a bee hive. Again, Scotts Valley does not have any agricultural zones within the City limits. Staff would recommend limiting the number of bee hives to one in residential districts with a minimum lot size of 10,000 sq ft. For lots which are 40,000 sq ft or larger, two hives could be allowed. In no case should hives be located closer than 25 feet from any property line or neighboring residence. These conditions will allow bee hives where appropriate, but will also provide protection for adjacent residential uses.

Staff did have several discussions with the Santa Cruz County Agricultural Commission, which is located in Watsonville. The Santa Cruz County Agricultural Commission would very much like to see the requirement that they be notified any time a hive is moved in or out of Scotts Valley. The tracking of bees has become very important because of diseases and monitoring the different kinds of bees moving into the Santa Cruz area.

Proposed Ordinance Revision

Section 17.46.125 Beekeeping

A. "Apiary" means bees, hives and appliances wherever the same are kept, located or found.

B. As used in this section, "bees" means honey-producing insects of the species *apis mellifica*, including the adults, eggs, larvae, pupae or other immature states thereof, together with such materials as are deposited into hives by the adults, except honey and rendered beeswax.

C. Hive means any receptacle or container made or prepared for the use of bees, or a box or similar container of which bees have taken possession.

D. Location means any premises upon which an apiary is located.

E. Notice required when moving apiaries. No apiary shall be moved into the City of Scotts Valley, or within the confines of the City of Scotts Valley, without notice in writing being given to the Santa Cruz County Agricultural Commission five (5) days prior to the date movement is begun, stating:

1. The number of colonies of bees to be moved into or within the City of Scotts Valley.
2. The location of the property in the City of Scotts Valley to which bees are to be moved, and the name and address of the owner of the property or person in possession thereof.
3. The distance of the proposed location of the apiary from the nearest public road intersection.

F. Location of apiary.

1. One (1) bee hive will be allowed on residential parcels which are greater than 10,000 square feet in size. Parcels which are greater than 40,000 square feet may have up to two (2) hives.

2. No hive shall be located closer than 25 feet from any property line or adjacent residence or business.

G. Penalty. Every person violating any provision of this section shall be guilty of a misdemeanor.

FISCAL IMPACT:

Not applicable.

STAFF RECOMMENDATION:

The City Council provide direction to staff. If the City Council directs staff to move forward with making these changes to the Zoning Ordinance, the first step would be taking the changes to the Planning Commission for a recommendation back to the City Council.

TABLE OF CONTENTS:

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1. Code Sections from other jurisdictions 4

City of Santa Cruz

24.12.650 BEES (APIARIES).

In an R-1 District, there may be kept on any lot no more than two hives of bees.

1. No hive shall be kept or maintained closer than twenty feet from all property lines.
2. An administrative use permit shall be required.

(Ord. 85-05 § 1 (part), 1985).

Town of Los Gatos (Monte Sereno is the same)

ARTICLE VIII. BEEKEEPING

Sec. 4.80.005. "Apiary" defined.

As used in this article, "apiary" means [REDACTED], hives and appliances wherever the same are kept, located or found.

(Ord. No. 1971, § II, 2-22-94)

Sec. 4.80.010. "[REDACTED]" defined.

As used in this article, "[REDACTED]" means honey-producing insects of the species *apis mellifica*, including the adults, eggs, larvae, pupae or other immature states thereof, together with such materials as are deposited into hives by their adults, except honey and rendered beeswax.

(Ord. No. 1971, § II, 2-22-94)

Sec. 4.80.015. "Hive" defined.

As used in this article, "hive" means any receptacle or container made or prepared for the use of [REDACTED], or a box or similar container of which [REDACTED] have taken possession.

(Ord. No. 1971, § II, 2-22-94)

Sec. 4.80.020. "Location" defined.

As used in this article, "location" means any premises upon which an apiary is located.

(Ord. No. 1971, § II, 2-22-94)

Sec. 4.80.025. Notice required when moving apiaries.

No apiary shall be moved into the Town or within the confines of the Town without notice in writing being given to the agricultural commissioner of the County within five (5) days from the date movement is begun, stating:

- (a) The number of colonies of [REDACTED] to be moved into or within the Town.
- (b) The location of the property in the Town to which [REDACTED] are to be moved, and the name and address of the owner of the property or person in possession thereof.
- (c) The distance of the proposed location of the apiary from the nearest public road intersection.

(Ord. No. 1971, § II, 2-22-94)

Sec. 4.80.030. Location of apiary.

No apiary shall be located:

- (a) At a distance less than one thousand (1,000) feet from the nearest residence, church, school, public building, corral or water area in the corral unless the owner or persons in possession thereof has given written permission to the location of said apiary at a closer distance.
 - (b) On any lands without the written consent of the owner or person in possession thereof.
 - (c) Closer than three hundred (300) feet from any public road.
- (Ord. No. 1971, § II, 2-22-94)

Sec. 4.80.035. Water supply.

A water supply adequate in quantity for the apiary should be provided and maintained.

(Ord. No. 1971, § II, 2-22-94)

Sec. 4.80.040. Identification of premises.

Every person maintaining any apiary on premises other than their own residence shall identify the apiary by affixing and maintaining signs thereto showing the name of owner or person in possession of the apiary, the owner or person's address and telephone number, or a statement that the owner or person has no phone. These signs shall be prominently placed and maintained on each entrance side of the apiary and immediately adjoining the same and lettered in black at least one (1) inch in height on a white or light background.

(Ord. No. 1971, § II, 2-22-94)

Sec. 4.80.045. Notice, correction of violation.

Any person transporting or maintaining an apiary who violates any of the provisions of this article may be given verbal or written notice by the agricultural commissioner of the County or any law enforcement officer. A written notice shall also be posted on the location for forty-eight (48) hours, and it shall be unlawful for the owner or person in possession of said apiary to fail to correct the violations within that period. The provisions of this article, however, shall not authorize the keeping of ~~bees~~ in areas where they are not otherwise allowed by law.

(Ord. No. 1971, § II, 2-22-94)

Sec. 4.80.050. Penalty, abatement.

Every person violating any provision of this article who has been given notice thereof as prescribed herein shall be guilty of a misdemeanor.

(Ord. No. 1971, § II, 2-22-94)

City of Saratoga

7-20.230. Beekeeping.

(a) Purpose. This Section is adopted to establish provisions to regulate keeping and maintaining colonies of ~~bees~~ within the City, in order to protect and promote the public health, safety, welfare, comfort and convenience, while permitting the reasonable uses of ~~bees~~ in commercial and agricultural activities.

(b) Definitions. For the purposes of this Section, and other provisions of this Code, the following words shall have the meaning respectively ascribed to them in this subsection, unless the context or the provision clearly requires otherwise:

(1) Apiary means ~~bees~~, hives and appliances wherever the same are kept, located or found.

- (2) **Bees** means honey-producing insects of the species *apis mellifica*, including the adults, eggs, larvae, pupae or other immature states thereof, together with such materials as are deposited into hives by their adults, except honey and rendered beeswax.
- (3) **Hive** means any receptacle or container made or prepared for the use of **bees**, or a box or similar container of which **bees** have taken possession.
- (4) **Location** means any premises upon which an apiary is located.
- (c) **Notice required when moving apiaries.** No apiary shall be moved into the City or within the confines of the City without notice in writing being given to the City Manager within five days from the date movement is begun, stating:
- (1) The number of colonies of **bees** to be moved into or within the City.
 - (2) The location of the property in the City to which **bees** are to be moved, and the name and address of the owner of the property or person in possession thereof.
 - (3) The distance of the proposed location of the apiary from the nearest public road intersection.
- (d) **Location of apiary.** No apiary shall be located:
- (1) At a distance less than five hundred feet from the nearest residence, church, school, public building, corral or water area in the corral unless the owner or person in possession thereof has given written permission to the location of said apiary at a closer distance.
 - (2) On any lands without the written consent of the owner or person in possession thereof.
 - (3) Closer than three hundred feet from any public road.
- (e) **Water supply.** A water supply adequate in quantity for the apiary should be provided and maintained.
- (f) **Identification of premises.** Every person maintaining any apiary on premises other than their own residence shall identify the apiary by affixing and maintaining signs thereto showing the name of owner or person in possession of the apiary, the owner or person's address and telephone number, or a statement that the owner or person has no phone. These signs shall be prominently placed and maintained on each entrance side of the apiary and immediately adjoining the same and lettered in black at least one inch in height on a white or light background.
- (g) **Notice, correction of violation.** Any person transporting or maintaining an apiary who violates any of the provisions of this Article may be given verbal or written notice by the City Manager, Animal Control Officer or deputy sheriff. A written notice shall also be posted on the location for forty-eight hours, and it shall be unlawful for the owner or person in possession of said apiary to fail to correct the violations within that period. The provisions of this Section, however, shall not authorize the keeping of **bees** in areas where they are not otherwise allowed by law.
- (h) **Penalty, abatement.** Every person violating any provision of this Section who has been given notice thereof has prescribed herein shall be guilty of a misdemeanor.
- (Ord. 71-136 § 1 (part), 1994)

City of Los Altos

5.10.010 Permitted animals in R1 districts.

A. Animals may be kept in the R1 districts in accordance with the following regulations:

1. A maximum of three dogs shall be allowed, regardless of the site area.
2. A maximum of one cat shall be allowed for each three thousand three hundred (3,300) square feet of lot area.

3. A maximum of one small animal, including pigeons, ducks, geese, chickens, peafowl, rabbits, and other animals of a similar nature, shall be allowed for each one thousand (1,000) square feet of lot area.
 4. A maximum of one medium-sized animal, including sheep, goats, and other animals of a similar nature, shall be allowed for each ten thousand (10,000) square feet of lot area; provided, however, no swine shall be allowed, regardless of site area.
 5. A maximum of two large animals, including horses, cows, donkeys, and other animals of a similar nature, shall be allowed on a site not less than two acres in area; provided, however, one additional large animal may be kept for each additional acre of the site.
 6. A maximum of one honey [REDACTED] hive shall be allowed for each five thousand (5,000) square feet of lot area; provided, however, neighbors and passersby shall be protected from flyways, and a water supply adequate in quantity shall be provided and maintained on the site.
 7. Exotic, wild, or nondomestic animals shall be allowed only after first obtaining a permit from the health officer; provided, however, the quantity of such animals shall be regulated in accordance with the provisions set forth in subsections (A)(3), (A)(4) and (A)(5) of this section.
- B. The provisions of this section shall not be retroactive; however, any person keeping in excess of the quantity of animals permitted prior to February 28, 1978, shall not be allowed to replenish the number, except in compliance with the provisions set forth in this section. In the case of honey [REDACTED] hives, however, any person keeping in excess of the quantity permitted shall be required to reduce the number to be in compliance with the provisions of this section no later than February 28, 1981, or, in the event of an annexation, within three years after the date of the annexation.

City of San Luis Obispo

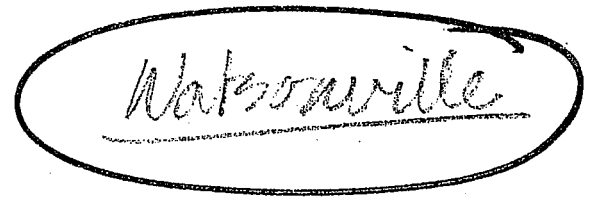
6.28.070 Bees prohibited—Exception.

No person, firm or corporation shall keep bees within the corporate limits; provided, that nothing herein contained shall be deemed to apply to keeping of bees for the purpose of study and observation in a hive or box, which is situated and kept within a school building. (Prior code § 4 120.6)

Capitola Municipal Code[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[Title 17 ZONING](#)[Chapter 17.81 GENERAL REGULATIONS](#)*Does not specifically allow bees.*[\[remove highlighting \]](#)**17.81.060 Animals.**

Every animal shall be kept in a manner so as not to offend or endanger any neighbor. Animals including fowl, reptiles, and amphibians may be kept only as provided in this section:

- A. In the agricultural district, all normally domesticated animals, including bees, are permitted.
- B. At a single-family dwelling which solely occupies a parcel of land, each household is permitted four of the following animals as pets, not for commercial purposes:
 1. Dogs, however, no more than two dogs over the age of four months may be kept;
 2. Cats;
 3. Rabbits;
 4. Guinea pigs and other smaller animals;
 5. Fowl, which doesn't quack or crow;
 6. Non-poisonous reptiles and amphibians;Any number of indoor birds may be kept, as long as no nuisance is created.
- C. In all other cases, such as apartments and mobile homes, two of the above-mentioned animals may be kept. Any number of indoor birds may be kept as long as no nuisance is created.
- D. In commercial districts, kennels and pet shops which have obtained the proper permits are excluded from complying with subsection C of this section.
- E. No pen, paddock, stable, or yard for housing animals shall be closer than twenty-five feet to any restaurant, school, or neighboring residence.
- F. No site where animals are kept shall be maintained in unsanitary conditions as determined by the health officer. (Ord. 388 § 25.05, 1975)



Chapter 14-28 ANIMALS

Sections:

- 14-28.010 General.
- 14-28.020 Animals on unenclosed premises.
- 14-28.030 (Not used).
- 14-28.040 Domestic animals.
- 14-28.050 Bees (apiaries).
- 14-28.060 Horses, ponies, donkeys, or mules.

14-28.010 General.

It is hereby determined that the public health, safety, welfare, and convenience require the establishment of certain specific regulations relating to the care and keeping of animals.

(Ord. 506-80 C-M, eff. September 11, 1980)

14-28.020 Animals on unenclosed premises.

It shall be unlawful for any person to stake out, herd, or graze any animal, except cats or licensed dogs, upon any unenclosed lot or land in any manner so that such animal may be or go beyond the boundary of such lot or land or stray within fifty (50') feet of any residence located on an adjacent property.

(Ord. 506-80 C-M, eff. September 11, 1980)

14-28.030 (Not used).

14-28.040 Domestic animals.

In an R-District, or in conjunction with any residential use in any other district, there may be kept on any lot a total of not more than six (6) domestic animals as defined in this title, not more than three (3) of which may be dogs.

(a) Such animals and poultry shall under no circumstances be permitted to run at large but shall be at all times confined with a suitable house or coop with enclosed runway.

(b) Such house or coop and runway shall at all times be maintained in a clean and sanitary condition so as to be at all times free from offensive odors or other nuisance features.

(c) No part of any such house, coop, or runway shall be located less than twenty-five (25') feet from any dwelling or place of business.

(Ord. 506-80 C-M, eff. September 11, 1980)

14-28.050 Bees (apiaries).

In any R-District there may be kept on any lot not more than two (2) hives of bees.

(a) No hive shall be kept or maintained closer than twenty-five (25') feet from any dwelling or place of business.

(Ord. 506-80 C-M, eff. September 11, 1980)

14-28.060 Horses, ponies, donkeys, or mules.

Susan Westman

From: Tracy Ferrara [tferrara@scottsvalley.org]
Sent: Friday, January 22, 2010 12:13 PM
To: swestman@scottsvalley.org
Subject: Fw: False testimony regarding beehive request

From: Chris Taylor [mailto:chrisifc@comcast.net]
To: 'Jim Reed' [mailto:jimreeds@gmail.com], dene@bustichi.com, seajems@pacbell.net, rlj12@comcast.net, dlindslind@earthlink.net, sando@scottsvalley.org, tferrara@scottsvalley.org
Sent: Thu, 21 Jan 2010 18:33:05 -0800
Subject: False testimony regarding beehive request

January 21, 2010

To: All City Council Members and City Manager

From: Chris Taylor, 300 Piper Cub Court, Scotts Valley, CA 95066 / 831-438-9735

Regarding: Beehives in Scotts Valley – False testimony made to City Council

Dear City of Scotts Valley Representatives,

At the City Council Meeting held on December 16th, 2009, Mr. Todd Thiemann spoke for three minutes, asking that he be allowed to keep a beehive in his Skypark backyard. Todd Thiemann is my direct neighbor and I believe that he is out to hurt my family. Further, I believe that he is attempting to do so by using the City Council as his weapon. Please let me explain....

Tracy, in the City Manager's office, just emailed me the audio portion of the City Council Meeting. I was shocked by what I heard. Todd Thiemann claimed to the City Council that he simply wanted his son to be able to experience the joys of raising bees. Let me now tell you the truth.

Todd Thiemann misrepresented the facts when he spoke to you. He implied that his son lives with him. However, his son lives with his mother, not his father. What Todd Thiemann failed to tell you is that he has recently gone to WAR with me, and this is really why he wants a beehive. Last summer (before Todd Thiemann went to WAR with me), he told me that he wanted a beehive as a personal hobby. At that time I told him that my wife was highly allergic to bee stings and that just one bee sting could kill her! To my amazement, he still tried to get approval from the City, but I and other neighbors requested that the City not approve his requests.

Fortunately, the City denied his request and he let the matter rest. That is until I reported him to County Vector Control for the second time, for failing to maintain his backyard pond. Once I did that he went to WAR

with me, and now he's trying to make us move by getting a beehive, knowing that just one sting could kill my wife.

How the WAR came about:

Prior to Todd Thiemann moving into 304 Piper Cub Court several years ago, I use to put mosquito bait in my pond and my then existing neighbors pond too (just as one neighbor might mow his neighbor's lawn too, just to be neighborly). When Todd Thiemann moved in I continued to do this every other month, up until about 9 months ago. About two years ago Todd Thiemann asked me to no longer bait his pond. However, I continued to do so when I noticed that he was failing to do so.

Everything below happened in 2009:

Two years later, which would be about 9 months ago, Todd Thiemann accused me of continuing to bait his pond (which was true), and told me to never do it again (why it took him two years to figure it out I don't know). But, he seemed pretty serious, so I stopped. He assured me that he would maintain his own pond. However, within a short time we had a major mosquito problem. Then one day I overheard Todd Thiemann tell his "visiting" son (who asked his dad about the disgusting condition of the pond) that he didn't want to use mosquito bait or bleach to clean the pond, because he was an organic gardener. When his own son mentioned using mosquito fish, his father told him no, because fish can attract raccoons. Upon hearing this, I immediately called County Vector Control for the first time.

County Vector Control gave Todd Thiemann a stern warning and Todd Thiemann assured County Vector Control that he would maintain his pond. However, he failed to do so. In November/December of 2009, I had Todd Thiemann's permission to take a fencing contractor into his backyard to give us both an estimate on replacing the mutual portion of our fence. While in Todd Thiemann's backyard I inspected his pond and saw a few mosquito larva. So, I called County Vector Control again and they came out and made Todd Thiemann put mosquito fish in his pond.

It was at this point that Todd Thiemann went to WAR with me (November/December of 2009). First, he called the Scotts Valley Police Department and attempted to file a criminal trespass complaint against me for entering his backyard all those prior years, when I put mosquito bait in his pond. Fortunately, the police officer assigned to the case decided not to arrest me! Then, less than one month later at your December 16th City Council Meeting, Todd Thiemann launched another attack by requesting permission to get a beehive (with the full knowledge and belief on his part that my wife could die from one single bee sting)!

I believe Todd Thiemann's true intent, when it comes to getting permission to have a beehive, is to try to get us to move.

I have tried to make peace with Todd Thiemann. Via email: I have offered we go out for an ice cream and talk it all out. I've suggested we seek a mediator. I have even told him that as a former police officer myself, I've seen where WAR can lead too and that it should be avoided as all costs.

My wife too has tried to make peace with Todd Thiemann. On December 31st, my wife actually walked over to his house, knocked on his door and pleaded for peace. Todd Thiemann told her that he too wanted peace. Now I find out that he was just telling my wife what she wanted to hear, shown by the fact that secretly he has plans to try to get a beehive!

I've come to the conclusion that Todd Thiemann doesn't want peace; he's out to get me and my family; and I believe that he is trying to use the City Council to do it! Todd Thiemann is thus very dangerous in my opinion.

Now that you know the rest of the story, please reconsider granting his request.

-end-

PUBLIC HEARING

AGENDA ITEM NO. 3

DATE: 10-21-2015

MEETING OF THE SCOTTS VALLEY CITY COUNCIL

TIME/DATE: WEDNESDAY, OCTOBER 21, 2015, 6:30 P.M.

PLACE: City Council Chambers, City Hall
1 Civic Center Drive
Scotts Valley, CA 95066

SUBJECT: CONSIDERATION OF SALE OF PROPERTY LOCATED ACROSS THE STREET FROM THE SCOTTS VALLEY FIRE DEPARTMENT ON ERBA LANE IN SCOTTS VALLEY, BEARING ASSESSOR'S PARCEL NUMBER 022-481-18 TO SV HOUSING, LLC

WARNING NOTICE:

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this Notice or in written correspondence delivered to the City of Scotts Valley (1 Civic Center Drive, Scotts Valley) at, or prior to, the close of the public review period.

All interested persons are invited to attend the foregoing Public Hearing or send their written protests to the City Clerk, City Hall, One Civic Center Drive, Scotts Valley, CA 95066.

The City of Scotts Valley does not discriminate against persons with disabilities. The City Council Chambers is an accessible facility. If you wish to attend a City Council meeting and you will require assistance, such as sign language, a translator, or other special assistance or devices in order to attend and participate at the meeting, please call the City Clerk's Office at (831) 440-5600 five to seven days in advance of the meeting to make arrangements for assistance. The California State Relay Service (TDD to Voice 800-735-2929; Voice to TDD 800-735-2922) provides Telecommunications Devices for the Deaf and will provide a link between the TDD caller and users of regular telephone equipment.

Stephen H. Ando, City Manager

Posted at City Hall, SV Library,
SV Senior Center: 10/09/15

City of Scotts Valley INTEROFFICE MEMORANDUM

DATE: October 21, 2015

TO: Honorable Mayor and City Council

FROM: Steve Ando, City Manager

SUBJECT: **Approval of purchase agreements, promissory notes, and deeds of trust for sale of properties on Erba Lane, APN # 022-481-18 and a portion of 022-481-19**

SUMMARY OF ISSUE

Larry Abitbol of Bay Photo Lab approached the City regarding the purchase of two adjoining properties on Erba Lane property across the street from the Scotts Valley Fire Department. He would like to purchase the properties to build housing on that site for his employees. The close proximity to Bay Photo on Disc Drive would be ideal for his employees.

One property was purchased by the former Scotts Valley Redevelopment Agency (RDA) and is now held by the Scotts Valley Successor Housing Agency. With the dissolution of the RDA, the City Council also acts as the Scotts Valley Housing Agency. The other parcel is owned by the City's General Fund. Therefore, for one of the two resolutions the Council will be acting as the Scotts Valley Successor Housing Agency.

Purchase agreements, promissory notes, and deeds of trust have been prepared for Council's consideration and approval. The main terms of the purchase agreements are as follows:

Sale price:	\$510,000 (Successor Housing Agency Parcel) \$240,000 (General Fund Parcel)
Down payment:	\$50,000 for each parcel
Interest rate:	3.25%, paid quarterly
Term:	10 years with no prepayment penalty
Due diligence period:	90 days with one 30-day extension with City Manager's approval
Escrow:	To close 30 days after purchaser approval during due diligence period

The Successor Housing Agency parcel was purchased with affordable housing funds. Therefore, the City must hold a public hearing prior to approving the purchase agreement. A summary report required by Health and Safety Code Section 33433 has been prepared detailing the terms of purchase and is attached to this report. Because this property was purchased with affordable housing funds, the proceeds from the sale have to be deposited into the Successor Housing Agency fund and used in accordance with the requirements of the Redevelopment Law.

The purchase prices were established by an appraisal performed by a certified real estate appraiser and reflect the fair market value of the properties.

FISCAL IMPACT

The proceeds from the sale of the parcel purchased with affordable housing funds of the former RDA will go into a separate fund for the Successor Housing Agency. These monies can only be used for affordable housing purposes in accordance with AB 341.

The proceeds from the sale of the parcel owned by the General Fund will go unrestricted into the General Fund.

STAFF RECOMMENDATION

1. That Council hold the public hearing required by Health & Safety Code section 33433 and approve Resolution No. 1899.1, approving the sale of property purchased with affordable housing funds.
2. That Council approve Resolution No. 1899.2, approving the sale of property purchased by the General Fund.
3. That Council approve the attached purchase agreements, promissory notes, and deeds of trust, and authorize the City Manager to execute them.

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RESOLUTION NO. 1899.1

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY, CALIFORNIA, ACTING AS THE CITY'S SUCCESSOR HOUSING AGENCY, AUTHORIZING THE CITY MANAGER OF THE CITY OF SCOTTS VALLEY TO SIGN THAT CERTAIN REVISED SALE AND PURCHASE AGREEMENT BETWEEN THE CITY AND SV HOUSING, LLC FOR THE SALE OF THAT CERTAIN REAL PROPERTY LOCATED ON ERBA LANE (APN NO. 022-481-18)

WHEREAS, the City of Scotts Valley (the "City") acquired property within the City for the purpose of developing or facilitating the development of affordable housing within the City; and

WHEREAS, the City acquired that certain property located on Erba Lane (APN No. 022-481-18) for such purpose (the "Property"); and

WHEREAS, with the elimination of redevelopment in the State, the City's ability to develop housing has been greatly diminished; and

WHEREAS, the City desires to now sell the Property; and

WHEREAS, SV Housing, LLC ("Buyer"), is interested in acquiring the Property to develop it for high density housing consistent with the City's General Plan; and

WHEREAS, on February 4, 2015, pursuant to Resolution No. 1899, the City Council authorized the sale of the Property to Buyer; and

WHEREAS, prior to execution of the purchase agreement, it was determined that the Property was acquired with affordable housing funds; and

WHEREAS, Government Code Section 65402(a) requires that prior to the sale of such real property by the City, the location, purpose, and extent of the acquisition shall be submitted to, and reported upon, by the planning agency as to conformity with the adopted General Plan; and

WHEREAS, the planning agency for the City for the purpose of Government Code Section 65402(a) is the Planning Commission of the City of Scotts Valley (the "Planning Commission"); and

WHEREAS, on August 13, 2015, the Planning Commission, by resolution determined that the sale of the City Property and the Housing Property was consistent with the General Plan in accordance with Government Code Section 65402(a); and

WHEREAS, the Housing Property was acquired using tax increment funds and therefore, prior to sale of those parcels, in accordance with Health & Safety Code

section 33433, the City must prepare a summary report of the terms of the sale including information demonstrating that the property is being sold for not less than either the fair market value or fair reuse value and hold a public hearing. The summary report for the Property was prepared on September 10, 2015, and has been available to the public at least two weeks before the public hearing. The public hearing was noticed on October 9, 2015.

NOW THEREFORE, the City Council of the City of Scotts Valley, California, **HEREBY RESOLVES** as follows:

1. That the aforementioned findings are approved.
2. That pursuant to Government Code Section 65402(a), the Planning Commission determined that the proposed sale of the Housing Property to Buyer for the development of the housing is in conformity with the adopted 1994 Scotts Valley General Plan and Zoning Code.
3. That the sale of the Housing Property will assist in the elimination of blight and is consistent with the City's General Plan.
4. The purchase price for the sale of the Housing Property is not less than the fair market value at its highest and best use and is consistent with an appraisal prepared by Ronald Zeller.
5. That the City Manager is authorized to execute those certain purchase agreements for the sale of the Property.

PASSED, APPROVED, AND ADOPTED this 21st day of October, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dene Bustichi, Mayor

ATTEST:

Tracy A. Ferrara, City Clerk

RESOLUTION NO. 1899.2

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY,
CALIFORNIA, AUTHORIZING THE CITY MANAGER OF THE CITY OF SCOTTS
VALLEY TO SIGN THAT CERTAIN SALE AND PURCHASE AGREEMENT BETWEEN
THE CITY AND SV HOUSING, LLC FOR THE SALE OF A PORTION OF THAT
CERTAIN REAL PROPERTY LOCATED ON ERBA LANE
(A PORTION OF APN NO. 022-481-19)**

WHEREAS, the former Scotts Valley Redevelopment Agency acquired property (APN 022-481-19) within the City of Scotts Valley (City) for the purpose of developing or facilitating the development of affordable housing within the City; and

WHEREAS, the City owns certain property (a portion of APN 022-481-19) located adjacent to the above parcel (the "Property"); and

WHEREAS, both properties are needed for the development of a housing project; and

WHEREAS, with the elimination of redevelopment in the State, the City's ability to develop housing has been greatly diminished; and

WHEREAS, the City desires to now sell the Property; and

WHEREAS, SV Housing, LLC ("Buyer"), is interested in acquiring the Property to develop it for high density housing consistent with the City's General Plan; and

WHEREAS, on February 4, 2015, pursuant to Resolution No. 1899, the City Council authorized the sale of the Property to Buyer; and

WHEREAS, Government Code Section 65402(a) requires that prior to the sale of such real property by the City, the location, purpose, and extent of the acquisition shall be submitted to, and reported upon, by the planning agency as to conformity with the adopted General Plan; and

WHEREAS, the planning agency for the City for the purpose of Government Code Section 65402(a) is the Planning Commission of the City of Scotts Valley (the "Planning Commission"); and

WHEREAS, on August 13, 2015, the Planning Commission, by resolution determined that the sale of the City Property and the Housing Property was consistent with the General Plan in accordance with Government Code Section 65402(a); and

NOW THEREFORE, the City Council of the City of Scotts Valley, California,
HEREBY RESOLVES as follows:

1. That the aforementioned findings are approved.
2. That pursuant to Government Code Section 65402(a), the Planning Commission determined that the proposed sale of the City Property to Buyer for the development of the housing is in conformity with the adopted 1994 Scotts Valley General Plan and Zoning Code.
3. The purchase price for the sale of the City Property is not less than the fair market value at its highest and best use and is consistent with an appraisal prepared by Ronald Zeller.
4. That the City Manager is authorized to execute those certain purchase agreements for the sale of the City Property.

PASSED, APPROVED, AND ADOPTED this 21st day of October, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dene Bustichi, Mayor

ATTEST:

Tracy A. Ferrara, City Clerk

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT is made this 21st day of October, 2015 ("Agreement") by and between the SV Housing, LLC, a California limited liability company (hereinafter "Purchaser") and the City of Scotts Valley, a California municipal corporation (hereinafter "Seller").

1. **Definitions.** The following defined terms used in this Agreement shall have the following meaning and definition:
 - A. **"Agreement"** means this Agreement.
 - B. **"Close of Escrow" or "COE"** shall be within 120 days of the date of this agreement. In addition, COE may be extended by 30 days in accordance with Section 15.
 - C. **"Escrow Holder" and "Title Company"** shall mean Stewart Title of California, Inc.
 - D. **"Property"** means property owned by Seller containing approximately 33,152 square feet (gross area) located directly across from the Scotts Valley Fire Department on Erba Lane, Scotts Valley, California, APN 022-481-18, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference.
 - E. **"Purchase Price"** means as set in Section 3(a).
2. **Agreement.** Seller agrees to sell to Purchaser and Purchaser agrees to buy from Seller the Property subject to and upon the terms and conditions hereinafter set forth, attached hereto and made a part hereof.
3. **Purchase Price.** The Purchase Price for the Property shall be \$510,000.00. Purchaser shall pay \$50,000.00 upon the COE. The remainder of the Purchase Price shall be financed by the Seller subject to the terms of the Deed of Trust and Promissory Note attached hereto as Exhibit B.
4. **Escrow.** The parties have opened an escrow account with the Title Company to consummate the purchase and sale of the Property in accordance with the terms and conditions of this Agreement. This Agreement shall constitute the escrow instructions, provided, however, Purchaser and Seller agree to execute and not to unreasonably withhold their consent to any additional provisions required by the Escrow Holder as a condition to conducting the escrow. Each party shall pay one half (½)

of the escrow fee. Taxes, rents, and insurance, if any, shall be prorated by the Escrow Holder to the date of the COE. As a condition to the COE, Purchaser shall be provided with an CLTA extended coverage owner's policy of title insurance in an amount equal to the Purchase Price, to be issued by the Escrow Holder, showing fee title to the Property vested in Purchaser, or nominee, and subject only to such liens and encumbrances as are accepted and agreed to, in writing, by Purchaser, pursuant to Section 5 below entitled "EXAMINATION OF TITLE". The premium for the title insurance policy shall be divided on a 50%/50% basis between Seller and Purchaser. Seller shall pay the cost of any City or county transfer taxes. Said title policy shall contain, at Purchaser's option and expense, endorsements insuring that the Property abuts upon, and has access to, all adjoining streets and rights of way.

Upon COE, Purchaser shall be provided with a grant deed conveying good and marketable fee title to the Property, and all rights associate therewith.

The form of the grant deed shall be subject to the approval of Purchaser. The grant deed shall convey all of the Seller's right, title and interest in and to all mineral rights, oil and/or gas in, on and below the Property and all rights of surface entry thereto for access to said mineral and oil and/or gas located in on or below the Property. The escrow holder shall also be instructed not to indicate the documentary transfer tax on the grant deed.

5. **Examination of Title.** At Buyer's expense, Purchaser shall be furnished with a Preliminary Title Report pertaining to the Property together with copies of all documents of record referenced therein and a plat map, delineating the Property, with the dimensions thereon, showing the location of easements and other matters of record. Such Preliminary Title Report shall be ordered by Seller and delivered to Purchaser immediately upon execution of this Agreement. If Purchaser shall not deliver its written approval of the Preliminary Title Report within 20 days of Purchaser's receipt thereof, including copies of all documents of record, or approval conditioned upon the removal of specific matters shown in the Preliminary Title Report, the Preliminary Title Report shall be deemed to be disapproved, or, in the event that approval is conditional and Seller fails to comply with Purchaser's conditions for approval prior to the date for COE, Purchaser may elect to terminate this Agreement and the escrow opened pursuant to this Agreement. Seller agrees to use its best efforts to cause the removal of any exception to title disapproved by Purchaser, and any monetary liens shall be paid in full by Seller at closing, except that non-delinquent real estate taxes shall be prorated as of the COE.

6. **Seller's Warranties.** Seller represents, warrants and covenants to Purchaser the following: (a) that Seller is the owner, in fee, of the Property and that the title conveyed to Purchaser will not be encumbered by any liens, easements, licenses or other rights not disclosed by the public record; (b) the person(s) executing this Agreement on behalf of Seller have the full authority to execute this Agreement; (c) no leases, rental agreements and/or service contracts are in effect with respect to the Property; (d) Seller has no knowledge, actual or constructive, of any material defect in the Property; (e) Seller has no knowledge of nor has Seller received notice of any pending or contemplated condemnation proceedings or litigation affecting the Property; (f) as of the date hereof, Seller has not received nor is Seller aware of any notification from any building, safety or health department or any other governmental agency of any existing violation of any applicable law, ordinance, rule or regulation over which such department has or claims jurisdiction and which requires any work to be done with respect thereto affecting the Property; (g) to the best of Seller's knowledge, without investigation by Seller, the Property is free from contamination from hazardous material or toxic substances and is not subject to unreasonable risk of earthquake damage. These warranties shall survive the COE and delivery of the grant deed to Purchaser for a period of two years. In addition Purchaser may terminate this Agreement and the escrow and have no further obligation to Seller in the event of any material misrepresentation or breach of warranty by Seller hereunder.
7. **Broker.** The parties acknowledge that there have not been any brokers or agents involved in this transaction.
8. **Oral and Written Agreements.** This Agreement represents the entire agreement between the parties hereto and supersedes all prior negotiations, representations, agreements, brochures and understandings, whether written or oral, with respect to the subject matter hereof and none shall be used to interpret or construe this Agreement. Any changes to this Agreement shall be in writing and shall be executed by both Purchaser and Seller.
9. **Binding Effect.** This Agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto.
10. **Notices.** Any notice provided for herein shall be given by registered or certified United States mail, postage prepaid, addressed as set forth below. Delivery shall be deemed complete upon receipt by the addressees.

PURCHASER:
SV Housing, LLC
920 Disc Drive
Scotts Valley, CA 95066

SELLER:
City of Scotts Valley
One Civic Center Drive
Scotts Valley, CA 95066

11. **Attorneys Fees.** In the event of any controversy, claim, or dispute between the parties hereto, including arbitration arising out of or relating to this Agreement, the prevailing party shall be entitled to recover, in addition to all other remedies at law or in equity, costs of any proceeding relating to such controversy, including expert witness fees and reasonable attorney's fees.
12. **Toxics.** To the best of Seller's knowledge, without any duty to investigate by Seller, the Property is not and will not, as of the closing, be in violation of any federal, state or local law, ordinance or regulation relating to hazardous substances or other environmental conditions on, under or about the Property, including, but not limited to any violation pertaining to soil and ground water conditions. Neither Seller nor, to the best of Seller's knowledge, any third party has at any time used, stored or disposed of, on, under or about the Property or transported to or from the Property any "Hazardous Substances" as defined below. To the best of Seller's knowledge there is no proceeding inquiry by any governmental authority, including, without limitation the U.S. Environmental Protection Agency of the California State Department of Health Service, with respect to the presence of such Hazardous Substances on the Property or the migration therefrom on to other property.

For the purposes of this Agreement, "Hazardous Substances" include any toxic, corrosive, inflammable or ignitable, explosive, asbestos or radioactive material, whether injurious by themselves or in combination with other materials, and including substances defined as hazardous substances, hazardous materials or toxic substances in the Acts beginning at 15 U.S. Code 2601 et. seq., 33 U.S. Code 1251 et seq., 42 U.S. Code 6901 et seq. (the Resource Conservation and Recovery Act), 42 U.S. Code 7401 et seq., 42 U.S. Code 9601 et seq. (the Comprehensive Environmental Response, Compensation and Liability Act of 1980). 49 U.S. Code 1801 et seq. (the Hazardous Materials Transportation Act), California Health & Safety Code 25100 et seq., and 25300 et seq., and California Code 1300 et seq., and the regulations and publications adopted and promulgated pursuant to such statutes. In the event any Hazardous Substances as defined above are determined to be present on, under or about the Property, Purchaser may elect to terminate this Agreement and the escrow, and the escrow holder is hereby

instructed to release any deposits or other things of value to Purchaser without further instruction. In the alternative, Purchaser can demand that Seller remediate and remove all Hazardous Substances located on the Property within 30 days of the discovery of the Hazardous Substances.

13. Tests and Studies. Seller shall furnish Purchaser copies of any reports relating to the Property including, but not limited to, all engineering studies, environmental studies, subdivision plans, general plans, specific plans, zoning information and other documents relating to the Property within the Seller's possession within five (5) days of the execution of this Agreement. Purchaser shall furnish Seller with copies of all non-proprietary studies conducted by Purchaser including, but not limited to, hazardous materials, site plans, elevations, and soils reports.

14. Right of Entry. Purchaser, upon the opening of Escrow, shall be granted right of entry on the Property for the purposes of conducting feasibility studies.

15. Representations.

A. Purchaser's Representations. In order to induce Seller to enter into this Agreement and the transactions contemplated hereunder, Purchaser hereby represents and warrants, both as of the date hereof and again as of the Closing Date, that this Agreement and all documents executed by Purchaser which are to be delivered to Seller hereunder will be duly authorized, executed and delivered by Purchaser, are and as of the Closing Date will be legal, valid and binding obligations of Purchaser and do not and as of the Closing Date will not violate any provisions of any agreement or judicial order to which Purchaser is a party or to which it is subject.

B. Seller's Representations. In order to induce Purchaser to enter into this Agreement and the transactions contemplated hereunder, Seller hereby represents and warrants as follows, both as of the date hereof and again as of the Closing Date:

- (i) Seller is the sole owner of the Property and has full power and authority to enter into and comply with the terms of this Agreement and to own and convey the Property.
- (ii) This Agreement and all documents executed by Seller which are to be delivered to Buyer hereunder will be duly authorized, executed and delivered by Seller, are and as of the Closing Date will be legal, valid and binding obligations

of Seller and do not and as of the Closing Date will not violate any provisions of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

- (iii) To the best of Seller's knowledge, the Property is not subject to any encumbrances, liens, adverse claims or other matters except as set forth in the title report.
- (iv) To the best of Seller's knowledge, there is no claim, litigation or condemnation, land use, special assessment or other governmental proceeding or investigation pending or threatened against or relating to the Property and no basis exists for any such action.
- (v) All copies of tests and studies required by Section 13 are and shall be accurate and complete copies of the originals thereof and shall, to the best of Seller's knowledge, not contain any untrue statement of a material fact or omit to state any material fact the disclosure of which is necessary to make the information contained therein not misleading.

16. Survival of Representations. All representations, covenants and warranties of the parties contained herein or in any document, certificate or statement delivered pursuant hereto are intended to and shall remain true and correct at all times during the term of this Agreement and shall be deemed to be material. Each such representation and warranty shall survive the Closing Date and any other termination of this Agreement for a period of one (1) year; all indemnities contained herein shall survive the Closing Date and any other termination of this Agreement without such limitation.

17. Right of Entry. From the effective date of this Agreement and throughout the escrow period, Purchaser and its designated agents, employees, consultants and representatives ("Purchaser's Agents") shall be granted a right of entry on the Property to perform such soil, engineering and geological tests and other physical inspections and to make such other reports as Purchaser shall deem appropriate for any other purpose related to Purchaser's proposed development and acquisition of the Property. Any such entry onto the Property shall be at reasonable times and Purchaser shall repair any damage to the Property caused by Purchaser's entry and activities thereon. Purchaser shall indemnify and hold Seller harmless from any lien, loss, claim, liability, or expense, including

attorneys fees and costs, arising out of or in connection with Purchaser or Purchaser's Agents activities on or about the Property.

18. **Compliance with Laws.** Purchaser shall compliance with all federal, state and local laws applicable to the sale and use of the Property.
19. **Interpretation.** Words in the singular shall be deemed to include the plural and vice-versa and words in a particular gender shall be deemed to include each other gender. The captions and headings of the Articles and Sections of this Agreement are for convenience of reference only and shall not be deemed to define or limit the provisions hereof. Time shall be of the essence of every provision of this Agreement.
20. **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws, without regard to the conflicts of law provisions of such laws, of the State of California applicable to agreements made and to be performed in such state.
21. **Counterparts.** This Agreement may be executed in one or more counterparts by the parties hereto. All counterparts shall be construed together and shall constitute one agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date indicated above.

PURCHASER:
SV HOUSING, LLC

SELLER:
CITY OF SCOTTS VALLEY

By: Larry Abitbol
Its: Managing Member

By: Stephen Ando
Its: City Manager

PROMISSORY NOTE

\$460,000.00

Scotts Valley, California

FOR VALUE RECEIVED, the undersigned ("Debtor") promises to pay in lawful money of the United States of America, to the City of Scotts Valley ("Holder"), the principal sum of \$460,000.00 with interest at the rate of 3.25% per annum on the outstanding principal balance until paid, all accrued interest to be due and payable in quarterly equal installments on the 1st day of February, May, August and November of each year. Said principal sum shall be repaid by November 1, 2025 or upon the sale of the property or all subdivided lots located at Erba Lane, Scotts Valley, CA, APN 022-481-18, more particularly described in Exhibit A, whichever shall occur first.

This Note can be prepaid. Debtor reserves the right at any time to prepay all or a portion of the principal balance remaining due on the Note with no penalty.

Failure to make any payment within ten (10) days of due date shall, at Holder's option and without notice to Debtors, be deemed an event of default and shall entitle Holder at its option to declare the entire balance of the indebtedness represented by this Note immediately due and payable. Should any event of default occur under the terms of this Note, the Debtors shall pay all reasonable costs and expenses of collection, including attorneys' fees incurred by the Holder in the collection hereunder.

This Note shall be governed by the laws of the State of California. In the event that any provision of this Note shall be held invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable in accordance with their terms.

This Note is the personal obligation of the Debtor.

DEBTOR:
SV Housing, LLC

By: Larry Abitbol, Managing Member

RECORDING REQUESTED BY:

City of Scotts Valley
One Civic Center Drive
Scotts Valley, CA 95066

WHEN RECORDED MAIL TO:

City Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST

THIS DEED OF TRUST (herein "Deed of Trust") is made this ____ day of _____, 2015 among SV Housing, LLC, (herein "Borrower"), the City of Scotts Valley (herein "Trustee"), and the Beneficiary, the City of Scotts Valley, whose address is One Civic Center Drive, Scotts Valley, California (herein "Lender"). Borrower owes Lender the principal sum of \$460,000.00. This debt is evidenced by Borrower's Note dated the same date as this Deed of Trust ("Note"). The Note provides that the full debt, together with other amounts owing including interest shall be due and payable on the "Maturity Date" of the Note. The Note defines the Maturity Date as the date the first note and deed of trust become due and payable, November 1, 2025, or upon sale of the property located on Erba Lane in the City of Scotts Valley, County of Santa Cruz, California, a portion of Assessor's Parcel No. 022-481-18 as more particularly described in Exhibit A.

The loan evidenced by the Note and secured by this Deed of Trust (the "Loan") is being made for the purpose of enabling Borrower to construct housing within the City of Scotts Valley.

BORROWER, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the City of Scotts Valley, County of Santa Cruz, State of California:

_____,
which has the address of Erba Lane, Scotts Valley, CA , (herein "Property Address");

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents (subject however to the rights and

authorities given herein to Lender to collect and apply such rents), all of which shall be deemed to be and remain a part of the property covered by this Deed of Trust; and all of the foregoing, together with said property (or the leasehold estate if this Deed of Trust is on a leasehold) are hereinafter referred to as the "Property".

This Deed of Trust secures to Lender: a) the repayment of the indebtedness evidenced by the Note with interest as provided in the Note and all renewals, extensions and modifications of the Note; b) the payment of all other sums, with interest as provided by the Note, advanced in accordance herewith to protect the security of this Deed of Trust; c) the performance of the covenants and agreements of Borrower herein contained; and d) to further secure to Lender.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, and that the Property is unencumbered except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note and late charges as provided in the Note.
2. **Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Deed of Trust, and leasehold payments or ground rents, if any.
3. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided that such approval shall not be unreasonably withheld. All insurance policies and renewal thereof shall be in a form acceptable to Lender and shall include a standard mortgage

clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust. All requirements hereof pertaining to insurance shall be deemed satisfied if the Borrower complies with the insurance requirements under the First Deeds of Trust, provided Lender is named on such policies as loss payee as its interest may appear and is named as an additional insured. If lender requires, Borrower shall promptly give to Lender copies of all receipts of paid premiums renewal notices and policies.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust, subject to the rights of the holders of any mortgage deed of trust, security instrument or other lien superior in priority to this Deed of Trust.

5. **Preservation and Maintenance of Property** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property. Borrower shall perform all of Borrower's obligations under any recorded documents.

The portion of the Property that is subject to public view (including all improvements from time to time erected thereon, including paving, walkway, landscaping and ornamentation) shall be maintained in good repair and in a neat, clean and orderly conditions. In the event that there should arise at any time a condition in violation of the above maintenance standard, upon written notification from the Lender, the Borrower shall have thirty (30) days from the receipt of such notice to cure said condition. In the event Borrower fails to cure the condition within the time allowed, the Lender shall have the right to perform all acts necessary to cure such a condition, or to take other recourse at law or equity to Lender may then have and to receive from the Borrower the Lender's cost in taking such action pursuant to Paragraph 6 below.

6. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, the Lender, at Lender's option, upon notice to Borrower, may make such appearance, disburse such sums, including reasonable attorney's fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Deed of Trust, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to paragraph 5 or paragraph 6, of this agreement shall accrue interest, at the lesser of 10% or the maximum amount permitted by law, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in paragraph 5 or 6 shall require lender to incur any expense or take any action hereunder.

Borrower shall provide Lender with proof of payment of property taxes and payments under any superior liens on the Property upon request of Borrower.

7. **Inspection.** Lender may make or cause to be made reasonable entries upon and inspection of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.
8. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject and subordinate to the rights of the holder of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.
9. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

10. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Deed of Trust, but does not execute the Note, (a) is co-signing this Deed of Trust only to grant and convey said Borrower's interest in the Property of Trustee under the terms of this Deed of Trust, (b) is not personally liable on the Note or under this Deed of Trust, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Deed of Trust or the Note, without that Borrower's consent and without releasing that Borrower or modifying this Deed of Trust as to that Borrower's interest in the Property.
11. **Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Deed of Trust shall be given by delivering it or by mailing such notice by certified mail addressed as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein.
- Any notice provided for this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.
12. **Governing Law; Severability.** The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Deed of Trust. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.
13. **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and of this Deed of Trust at the time of execution or after recordation hereof.
14. **Loan Charges.** If a law which applies to this loan and which sets maximum loan charges is finally interpreted so that the interest to other

loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: 1) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and 2) any sums already collected which exceed permitted will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owing under the Note or by making a direct refund to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

15. **Acceleration; Remedies.** Upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, including the covenants to pay when due any sums secured by this Deed of Trust, Lender prior to acceleration shall give notice to Borrower as provided in paragraph 11 hereof and all senior lienholder specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date of notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or other defense of Borrower to acceleration and sale. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 15, including, but not limited to reasonable attorney's fees.

Except for a conveyance to the trustee under the First Deeds of Trust, or transfer exceptions as described on Page 1, Paragraph 1, Subsection a, if all or any part of the Property or any interest therein is sold or transferred in any manner or way, whether voluntarily or involuntarily, without the written consent of the Lender being first had and obtained. Lender shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, immediately due and payable.

If lender exercises this option, Lender shall give Borrower and all senior lien holders prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower must pay all sums secured by this Deed of Trust. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Deed of Trust without

further notice or demand on Borrower. Notwithstanding Lender's right to invoke any such remedies, Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the holders of the First Deed of Trust at least 60 days prior to written notice.

The Borrower and the Lender agree that whenever the Note or this Deed of Trust gives the Lender the right of approval or with respect to any matter affecting the Property (or the construction of any improvements thereon) or otherwise, and a right of approval or consent with regard to the same matter is also granted to the holder of the First Deed of Trust, such senior lienholder's approval or consent or failure to approve or consent, as the case may be, shall be binding on the Borrower and the Lender.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Lender or Trustee shall mail copies of such notice in the manner prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recital in the Trustee's deed shall be prima facie evidence of the truth of the statement made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorney' fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto.

16. **Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Deed of Trust due to Borrower's breach, Borrower shall have the right to have any proceeding begun by Lender to enforce this Deed of Trust discontinued at any time prior to five days before sale of the Property pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of judgement enforcing this

Deed of Trust if: (a) Borrower pays Lender all sums which would be then due under this Deed of Trust and the Note had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Deed of Trust; (c) Borrower pays all reasonable expenses incurred by Lender and Trustee in enforcing the covenants and agreement of Borrower contained in this Deed of Trust, and in enforcing Lender's and Trustee's remedies as provided in paragraph 15 hereof, including, but not limited to, reasonable attorney's fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Borrower, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

17. **Assignment of Rents; Appointment of Receiver; Lender in Possession.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 16 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable. Borrower shall not rent the Property without the prior written consent of Lender, which consent can be withheld for any reason or no reason. If Borrower rents the Property without the prior written consent of Lender, Lender may exercise its right of acceleration in accordance with paragraph 16 of this Agreement.

Upon acceleration under paragraph 16 hereof or abandonment of the Property, Lender, in person, by agent or by judicially appointed receiver shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to premiums on receiver's bonds and reasonable attorneys' fees, add them to the sums secured by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

18. **Reconveyance.** Upon payment of all sums secured by this Deed of Trust to Trustee, Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.
19. **Substitute Trustee.** Lender, at Lender's option, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the

office of the Recorder of Santa Clara County. The instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page where this Instrument is recorded and the name and address of the successor trustee. The successors trustee shall, without conveyance of the Property, succeed to all the title, powers and duties conferred upon the Trustee herein and by applicable law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.

20. **Request for Notices.** A request for notice of default and any notice of sale under any deed of trust or mortgage with power of sale encumbering the Property shall be recorded by Lender in the Office of the Recorder of Santa Clara County for the benefit of Lender under the procedure specified in Civil Code Section 2924b. Lender may declare a default under this Deed of Trust upon receipt of any notice given to Lender pursuant to Civil Code Section 2924b, and may exercise any rights available to it under this Deed of Trust.
21. **Statement of Obligation.** Lender may collect a fee not to exceed \$50 for furnishing the statement of obligation as provided by Section 2943 of the Civil Code California.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

Borrower

Borrower

STATE OF CALIFORNIA

COUNTY OF SANTA CRUZ

On _____ before me, _____,
personally

DATE

NAME, NOTARY PUBLIC

appeared _____,
proved to me on

NAME(S) OF SIGNER(S)

the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

SIGNATURE

NAME

(Reserved for official seal)

**SUMMARY REPORT PURSUANT TO SECTION 33433 OF THE CALIFORNIA
HEALTH AND SAFETY CODE ON THE PURCHASE AGREEMENT WITH
THE CITY OF SCOTTS VALLEY AND BAY PHOTO**

On March 7, 2011, the former Scotts Valley Redevelopment Agency purchased that certain property located across the street from the Scotts Valley Fire Department on Erba Lane in Scotts Valley, California, bearing Assessor's Parcel Number 022-481-18 from the City of Scotts Valley for the development of affordable housing. On March 24, 2011, with the State elimination of redevelopment agencies, the Redevelopment Agency transferred the properties to the City of Scotts Valley. However, because the properties were purchased with tax increment funds, the City must comply with Health & Safety Code section 33433 prior to entering into an agreement for the sale of the properties. Section 33433 requires that a copy of the proposed sale agreement and a summary report that describes and contains specific financing elements of the proposed transaction be available for public inspection prior to the public hearing. As required in the Code, the following information shall be included in the summary report:

(i) The cost of the agreement to the agency, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the agency, plus the expected interest on any loans or bonds to finance the agreements.

(ii) The estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the plan.

(iii) The estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants, and development costs required by the sale or lease. The purchase price or present value of the lease payments which the lessor will be required to make during the term of the lease. If the sale price or total rental amount is less than the fair market value of the interest to be conveyed or leased, determined at the highest and best use consistent with the redevelopment plan, then the agency shall provide as part of the summary an explanation of the reasons for the difference.

(iv) An explanation of why the sale or lease of the property will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation.

(v) The report shall be made available to the public no later than the time of publication of the first notice of the hearing mandated by this section.

1. Cost of the Agreement:

Pursuant to the contract, SV Housing, LLC shall pay the City Five Hundred Ten Thousand and no/100ths Dollars (\$510,000.00). APN 022-481-18 was valued at \$510,000.00 by Ronald S. Zeller in an appraisal prepared as of April 24, 2015. The City

is responsible for the payment of all city and county documentary transfer taxes, the one-half of the premium for a CLTA standard coverage Owner's Title Policy, the cost of any title endorsements obtained by Seller to remove or insure against a Title Objection, and one-half of any escrow fees.

2. The estimated value of the interest to be conveyed:

The estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the plan is \$510,000.00.

3. The estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants, and development costs required by the sale or lease.

The estimated value of the interest to be conveyed is equal to the fair market value of the interest to be conveyed determined at the highest and best use consistent with the redevelopment plan.

4. The elimination of blight:

SV Housing, LLC is purchasing the property to develop housing. This undeveloped and vacant site is approximately three-quarters of one acre and will be developed into a residential project.

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT is made this 21st day of October, 2015 ("Agreement") by and between the SV Housing, LLC, a California limited liability company (hereinafter "Purchaser") and the City of Scotts Valley, a California municipal corporation (hereinafter "Seller").

1. **Definitions.** The following defined terms used in this Agreement shall have the following meaning and definition:
 - A. **"Agreement"** means this Agreement.
 - B. **"Close of Escrow" or "COE"** shall be within 120 days of the date of this agreement. In addition, COE may be extended by 30 days in accordance with Section 15.
 - C. **"Escrow Holder" and "Title Company"** shall mean Stewart Title of California, Inc.
 - D. **"Property"** means property owned by Seller containing approximately 12,095 square feet (gross area) located directly across from the Scotts Valley Fire Department on Erba Lane, Scotts Valley, California, a portion of APN 022-481-19, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference.
 - E. **"Purchase Price"** means as set in Section 3(a).
2. **Agreement.** Seller agrees to sell to Purchaser and Purchaser agrees to buy from Seller the Property subject to and upon the terms and conditions hereinafter set forth, attached hereto and made a part hereof.
3. **Purchase Price.** The Purchase Price for the Property shall be \$240,000.00. Purchaser shall pay \$50,000.00 upon the COE. The remainder of the Purchase Price shall be financed by the Seller subject to the terms of the Deed of Trust and Promissory Note attached hereto as Exhibit B.
4. **Escrow.** The parties have opened an escrow account with the Title Company to consummate the purchase and sale of the Property in accordance with the terms and conditions of this Agreement. This Agreement shall constitute the escrow instructions, provided, however, Purchaser and Seller agree to execute and not to unreasonably withhold their consent to any additional provisions required by the Escrow Holder as a condition to conducting the escrow. Each party shall pay one half (½)

of the escrow fee. Taxes, rents, and insurance, if any, shall be prorated by the Escrow Holder to the date of the COE. As a condition to the COE, Purchaser shall be provided with an CLTA extended coverage owner's policy of title insurance in an amount equal to the Purchase Price, to be issued by the Escrow Holder, showing fee title to the Property vested in Purchaser, or nominee, and subject only to such liens and encumbrances as are accepted and agreed to, in writing, by Purchaser, pursuant to Section 5 below entitled "EXAMINATION OF TITLE". The premium for the title insurance policy shall be divided on a 50%/50% basis between Seller and Purchaser. Seller shall pay the cost of any City or county transfer taxes. Said title policy shall contain, at Purchaser's option and expense, endorsements insuring that the Property abuts upon, and has access to, all adjoining streets and rights of way.

Upon COE, Purchaser shall be provided with a grant deed conveying good and marketable fee title to the Property, and all rights associate therewith.

The form of the grant deed shall be subject to the approval of Purchaser. The grant deed shall convey all of the Seller's right, title and interest in and to all mineral rights, oil and/or gas in, on and below the Property and all rights of surface entry thereto for access to said mineral and oil and/or gas located in on or below the Property. The escrow holder shall also be instructed not to indicate the documentary transfer tax on the grant deed.

5. **Examination of Title.** At Buyer's expense, Purchaser shall be furnished with a Preliminary Title Report pertaining to the Property together with copies of all documents of record referenced therein and a plat map, delineating the Property, with the dimensions thereon, showing the location of easements and other matters of record. Such Preliminary Title Report shall be ordered by Seller and delivered to Purchaser immediately upon execution of this Agreement. If Purchaser shall not deliver its written approval of the Preliminary Title Report within 20 days of Purchaser's receipt thereof, including copies of all documents of record, or approval conditioned upon the removal of specific matters shown in the Preliminary Title Report, the Preliminary Title Report shall be deemed to be disapproved, or, in the event that approval is conditional and Seller fails to comply with Purchaser's conditions for approval prior to the date for COE, Purchaser may elect to terminate this Agreement and the escrow opened pursuant to this Agreement. Seller agrees to use its best efforts to cause the removal of any exception to title disapproved by Purchaser, and any monetary liens shall be paid in full by Seller at closing, except that non-delinquent real estate taxes shall be prorated as of the COE.

6. **Seller's Warranties.** Seller represents, warrants and covenants to Purchaser the following: (a) that Seller is the owner, in fee, of the Property and that the title conveyed to Purchaser will not be encumbered by any liens, easements, licenses or other rights not disclosed by the public record; (b) the person(s) executing this Agreement on behalf of Seller have the full authority to execute this Agreement; (c) no leases, rental agreements and/or service contracts are in effect with respect to the Property; (d) Seller has no knowledge, actual or constructive, of any material defect in the Property; (e) Seller has no knowledge of nor has Seller received notice of any pending or contemplated condemnation proceedings or litigation affecting the Property; (f) as of the date hereof, Seller has not received nor is Seller aware of any notification from any building, safety or health department or any other governmental agency of any existing violation of any applicable law, ordinance, rule or regulation over which such department has or claims jurisdiction and which requires any work to be done with respect thereto affecting the Property; (g) to the best of Seller's knowledge, without investigation by Seller, the Property is free from contamination from hazardous material or toxic substances and is not subject to unreasonable risk of earthquake damage. These warranties shall survive the COE and delivery of the grant deed to Purchaser for a period of two years. In addition Purchaser may terminate this Agreement and the escrow and have no further obligation to Seller in the event of any material misrepresentation or breach of warranty by Seller hereunder.
7. **Broker.** The parties acknowledge that there have not been any brokers or agents involved in this transaction.
8. **Oral and Written Agreements.** This Agreement represents the entire agreement between the parties hereto and supersedes all prior negotiations, representations, agreements, brochures and understandings, whether written or oral, with respect to the subject matter hereof and none shall be used to interpret or construe this Agreement. Any changes to this Agreement shall be in writing and shall be executed by both Purchaser and Seller.
9. **Binding Effect.** This Agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto.
10. **Notices.** Any notice provided for herein shall be given by registered or certified United States mail, postage prepaid, addressed as set forth below. Delivery shall be deemed complete upon receipt by the addressees.

PURCHASER:
SV Housing, LLC
920 Disc Drive
Scotts Valley, CA 95066

SELLER:
City of Scotts Valley
One Civic Center Drive
Scotts Valley, CA 95066

- 11. Attorneys Fees.** In the event of any controversy, claim, or dispute between the parties hereto, including arbitration arising out of or relating to this Agreement, the prevailing party shall be entitled to recover, in addition to all other remedies at law or in equity, costs of any proceeding relating to such controversy, including expert witness fees and reasonable attorney's fees.
- 12. Toxics.** To the best of Seller's knowledge, without any duty to investigate by Seller, the Property is not and will not, as of the closing, be in violation of any federal, state or local law, ordinance or regulation relating to hazardous substances or other environmental conditions on, under or about the Property, including, but not limited to any violation pertaining to soil and ground water conditions. Neither Seller nor, to the best of Seller's knowledge, any third party has at any time used, stored or disposed of, on, under or about the Property or transported to or from the Property any "Hazardous Substances" as defined below. To the best of Seller's knowledge there is no proceeding inquiry by any governmental authority, including, without limitation the U.S. Environmental Protection Agency of the California State Department of Health Service, with respect to the presence of such Hazardous Substances on the Property or the migration therefrom on to other property.

For the purposes of this Agreement, "Hazardous Substances" include any toxic, corrosive, inflammable or ignitable, explosive, asbestos or radioactive material, whether injurious by themselves or in combination with other materials, and including substances defined as hazardous substances, hazardous materials or toxic substances in the Acts beginning at 15 U.S. Code 2601 et seq., 33 U.S. Code 1251 et seq., 42 U.S. Code 6901 et seq. (the Resource Conservation and Recovery Act), 42 U.S. Code 7401 et seq., 42 U.S. Code 9601 et seq. (the Comprehensive Environmental Response, Compensation and Liability Act of 1980), 49 U.S. Code 1801 et seq. (the Hazardous Materials Transportation Act), California Health & Safety Code 25100 et seq., and 25300 et seq., and California Code 1300 et seq., and the regulations and publications adopted and promulgated pursuant to such statutes. In the event any Hazardous Substances as defined above are determined to be present on, under or about the Property, Purchaser may elect to terminate this Agreement and the escrow, and the escrow holder is hereby

instructed to release any deposits or other things of value to Purchaser without further instruction. In the alternative, Purchaser can demand that Seller remediate and remove all Hazardous Substances located on the Property within 30 days of the discovery of the Hazardous Substances.

13. Tests and Studies. Seller shall furnish Purchaser copies of any reports relating to the Property including, but not limited to, all engineering studies, environmental studies, subdivision plans, general plans, specific plans, zoning information and other documents relating to the Property within the Seller's possession within five (5) days of the execution of this Agreement. Purchaser shall furnish Seller with copies of all non-proprietary studies conducted by Purchaser including, but not limited to, hazardous materials, site plans, elevations, and soils reports.

14. Right of Entry. Purchaser, upon the opening of Escrow, shall be granted right of entry on the Property for the purposes of conducting feasibility studies.

15. Representations.

A. Purchaser's Representations. In order to induce Seller to enter into this Agreement and the transactions contemplated hereunder, Purchaser hereby represents and warrants, both as of the date hereof and again as of the Closing Date, that this Agreement and all documents executed by Purchaser which are to be delivered to Seller hereunder will be duly authorized, executed and delivered by Purchaser, are and as of the Closing Date will be legal, valid and binding obligations of Purchaser and do not and as of the Closing Date will not violate any provisions of any agreement or judicial order to which Purchaser is a party or to which it is subject.

B. Seller's Representations. In order to induce Purchaser to enter into this Agreement and the transactions contemplated hereunder, Seller hereby represents and warrants as follows, both as of the date hereof and again as of the Closing Date:

- (i) Seller is the sole owner of the Property and has full power and authority to enter into and comply with the terms of this Agreement and to own and convey the Property.
- (ii) This Agreement and all documents executed by Seller which are to be delivered to Buyer hereunder will be duly authorized, executed and delivered by Seller, are and as of the Closing Date will be legal, valid and binding obligations

of Seller and do not and as of the Closing Date will not violate any provisions of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

- (iii) To the best of Seller's knowledge, the Property is not subject to any encumbrances, liens, adverse claims or other matters except as set forth in the title report.
- (iv) To the best of Seller's knowledge, there is no claim, litigation or condemnation, land use, special assessment or other governmental proceeding or investigation pending or threatened against or relating to the Property and no basis exists for any such action.
- (v) All copies of tests and studies required by Section 13 are and shall be accurate and complete copies of the originals thereof and shall, to the best of Seller's knowledge, not contain any untrue statement of a material fact or omit to state any material fact the disclosure of which is necessary to make the information contained therein not misleading.

16. Survival of Representations. All representations, covenants and warranties of the parties contained herein or in any document, certificate or statement delivered pursuant hereto are intended to and shall remain true and correct at all times during the term of this Agreement and shall be deemed to be material. Each such representation and warranty shall survive the Closing Date and any other termination of this Agreement for a period of one (1) year; all indemnities contained herein shall survive the Closing Date and any other termination of this Agreement without such limitation.

17. Right of Entry. From the effective date of this Agreement and throughout the escrow period, Purchaser and its designated agents, employees, consultants and representatives ("Purchaser's Agents") shall be granted a right of entry on the Property to perform such soil, engineering and geological tests and other physical inspections and to make such other reports as Purchaser shall deem appropriate for any other purpose related to Purchaser's proposed development and acquisition of the Property. Any such entry onto the Property shall be at reasonable times and Purchaser shall repair any damage to the Property caused by Purchaser's entry and activities thereon. Purchaser shall indemnify and hold Seller harmless from any lien, loss, claim, liability, or expense, including

attorneys fees and costs, arising out of or in connection with Purchaser or Purchaser's Agents activities on or about the Property.

18. **Compliance with Laws.** Purchaser shall compliance with all federal, state and local laws applicable to the sale and use of the Property.
19. **Interpretation.** Words in the singular shall be deemed to include the plural and vice-versa and words in a particular gender shall be deemed to include each other gender. The captions and headings of the Articles and Sections of this Agreement are for convenience of reference only and shall not be deemed to define or limit the provisions hereof. Time shall be of the essence of every provision of this Agreement.
20. **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws, without regard to the conflicts of law provisions of such laws, of the State of California applicable to agreements made and to be performed in such state.
21. **Counterparts.** This Agreement may be executed in one or more counterparts by the parties hereto. All counterparts shall be construed together and shall constitute one agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date indicated above.

PURCHASER:
SV HOUSING, LLC

SELLER:
CITY OF SCOTTS VALLEY

By: Larry Abitbol
Its: Managing Member

By: Stephen Ando
Its: City Manager

ATTEST:

Tracy A. Ferrara, City Clerk

APPROVED AS TO FORM:

Kirsten Powell, City Attorney

PROMISSORY NOTE

\$190,000.00

Scotts Valley, California

FOR VALUE RECEIVED, the undersigned ("Debtor") promises to pay in lawful money of the United States of America, to the the City of Scotts Valley ("Holder"), the principal sum of \$190,000.00 with interest at the rate of 3.25% per annum on the outstanding principal balance until paid, all accrued interest to be due and payable in quarterly equal installments on the 1st day of February, May, August and November of each year. Said principal sum shall be repaid by November 1, 2025 or upon the sale of the property or all subdivided lots located at Erba Lane, Scotts Valley, CA, a portion of APN 022-481-19, as more particularly described in Exhibit A, whichever shall occur first.

This Note can be prepaid. Debtor reserves the right at any time to prepay all or a portion of the principal balance remaining due on the Note with no penalty.

Failure to make any payment within ten (10) days of due date shall, at Holder's option and without notice to Debtors, be deemed an event of default and shall entitle Holder at its option to declare the entire balance of the indebtedness represented by this Note immediately due and payable. Should any event of default occur under the terms of this Note, the Debtors shall pay all reasonable costs and expenses of collection, including attorneys' fees incurred by the Holder in the collection hereunder.

This Note shall be governed by the laws of the State of California. In the event that any provision of this Note shall be held invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable in accordance with their terms.

This Note is the personal obligation of the Debtor.

DEBTOR:
SV Housing, LLC

By: Larry Abitbol, Managing Member

RECORDING REQUESTED BY:
City of Scotts Valley
One Civic Center Drive
Scotts Valley, CA 95066

WHEN RECORDED MAIL TO:
City Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST

THIS DEED OF TRUST (herein "Deed of Trust") is made this ____ day of _____, 2015 among SV Housing, LLC, (herein "Borrower"), the City of Scotts Valley (herein "Trustee"), and the Beneficiary, the City of Scotts Valley, whose address is One Civic Center Drive, Scotts Valley, California (herein "Lender"). Borrower owes Lender the principal sum of \$190,000.00. This debt is evidenced by Borrower's Note dated the same date as this Deed of Trust ("Note"). The Note provides that the full debt, together with other amounts owing including interest shall be due and payable on the "Maturity Date" of the Note. The Note defines the Maturity Date as the date the first note and deed of trust become due and payable, November 1, 2025, or upon sale of the property located on Erba Lane in the City of Scotts Valley, County of Santa Cruz, California, a portion of Assessor's Parcel No. 022-481-19 as more particularly described in Exhibit A.

The loan evidenced by the Note and secured by this Deed of Trust (the "Loan") is being made for the purpose of enabling Borrower to construct housing within the City of Scotts Valley.

BORROWER, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the City of Scotts Valley, County of Santa Cruz, State of California:

_____,
which has the address of Erba Lane, Scotts Valley, CA , (herein "Property Address");

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents (subject however to the rights and authorities given herein to Lender to collect and apply such rents), all of which shall be

2015/2DeedofTrustErba9.30.15

deemed to be and remain a part of the property covered by this Deed of Trust; and all of the foregoing, together with said property (or the leasehold estate if this Deed of Trust is on a leasehold) are hereinafter referred to as the "Property".

This Deed of Trust secures to Lender: a) the repayment of the indebtedness evidenced by the Note with interest as provided in the Note and all renewals, extensions and modifications of the Note; b) the payment of all other sums, with interest as provided by the Note, advanced in accordance herewith to protect the security of this Deed of Trust; c) the performance of the covenants and agreements of Borrower herein contained; and d) to further secure to Lender.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property, and that the Property is unencumbered except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note and late charges as provided in the Note.
2. **Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Deed of Trust, and leasehold payments or ground rents, if any.
3. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided that such approval shall not be unreasonably withheld. All insurance policies and renewal thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of

any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust. All requirements hereof pertaining to insurance shall be deemed satisfied if the Borrower complies with the insurance requirements under the First Deeds of Trust, provided Lender is named on such policies as loss payee as its interest may appear and is named as an additional insured. If lender requires, Borrower shall promptly give to Lender copies of all receipts of paid premiums renewal notices and policies.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Deed of Trust, subject to the rights of the holders of any mortgage deed of trust, security instrument or other lien superior in priority to this Deed of Trust.

5. **Preservation and Maintenance of Property** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property. Borrower shall perform all of Borrower's obligations under any recorded documents.

The portion of the Property that is subject to public view (including all improvements from time to time erected thereon, including paving, walkway, landscaping and ornamentation) shall be maintained in good repair and in a neat, clean and orderly conditions. In the event that there should arise at any time a condition in violation of the above maintenance standard, upon written notification from the Lender, the Borrower shall have thirty (30) days from the receipt of such notice to cure said condition. In the event Borrower fails to cure the condition within the time allowed, the Lender shall have the right to perform all acts necessary to cure such a condition, or to take other recourse at law or equity to Lender may then have and to receive from the Borrower the Lender's cost in taking such action pursuant to Paragraph 6 below.

6. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, the Lender, at Lender's option, upon notice to Borrower, may

make such appearance, disburse such sums, including reasonable attorney's fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Deed of Trust, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to paragraph 5 or paragraph 6, of this agreement shall accrue interest, at the lesser of 10% or the maximum amount permitted by law, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in paragraph 5 or 6 shall require lender to incur any expense or take any action hereunder.

Borrower shall provide Lender with proof of payment of property taxes and payments under any superior liens on the Property upon request of Borrower.

7. **Inspection.** Lender may make or cause to be made reasonable entries upon and inspection of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.
8. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject and subordinate to the rights of the holder of any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust.
9. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.
10. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Deed of Trust, but does not execute the Note, (a) is co-signing this Deed of Trust only to

grant and convey said Borrower's interest in the Property of Trustee under the terms of this Deed of Trust, (b) is not personally liable on the Note or under this Deed of Trust, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Deed of Trust or the Note, without that Borrower's consent and without releasing that Borrower or modifying this Deed of Trust as to that Borrower's interest in the Property.

11. **Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Deed of Trust shall be given by delivering it or by mailing such notice by certified mail addressed as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein.

Any notice provided for this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

12. **Governing Law; Severability.** The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Deed of Trust. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.
13. **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and of this Deed of Trust at the time of execution or after recordation hereof.
14. **Loan Charges.** If a law which applies to this loan and which sets maximum loan charges is finally interpreted so that the interest to other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: 1) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and 2) any sums already collected which exceed permitted will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owing under the Note or by making a direct refund to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

15. **Acceleration; Remedies.** Upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, including the covenants to pay when due any sums secured by this Deed of Trust, Lender prior to acceleration shall give notice to Borrower as provided in paragraph 11 hereof and all senior lienholder specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date of notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or other defense of Borrower to acceleration and sale. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 15, including, but not limited to reasonable attorney's fees.

Except for a conveyance to the trustee under the First Deeds of Trust, or transfer exceptions as described on Page 1, Paragraph 1, Subsection a, if all or any part of the Property or any interest therein is sold or transferred in any manner or way, whether voluntarily or involuntarily, without the written consent of the Lender being first had and obtained. Lender shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, immediately due and payable.

If lender exercises this option, Lender shall give Borrower and all senior lien holders prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower must pay all sums secured by this Deed of Trust. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Deed of Trust without further notice or demand on Borrower. Notwithstanding Lender's right to invoke any such remedies, Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the holders of the First Deed of Trust at least 60 days prior to written notice.

The Borrower and the Lender agree that whenever the Note or this Deed of Trust gives the Lender the right of approval or with respect to any matter affecting the Property (or the construction of any improvements thereon) or otherwise, and a right of approval or consent with regard to the

same matter is also granted to the holder of the First Deed of Trust, such senior lienholder's approval or consent or failure to approve or consent, as the case may be, shall be binding on the Borrower and the Lender.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which the Property or some part thereof is located. Lender or Trustee shall mail copies of such notice in the manner prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recital in the Trustee's deed shall be prima facie evidence of the truth of the statement made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorney's fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto.

16. **Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Deed of Trust due to Borrower's breach, Borrower shall have the right to have any proceeding begun by Lender to enforce this Deed of Trust discontinued at any time prior to five days before sale of the Property pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of judgement enforcing this Deed of Trust if: (a) Borrower pays Lender all sums which would be then due under this Deed of Trust and the Note had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Deed of Trust; (c) Borrower pays all reasonable expenses incurred by Lender and Trustee in enforcing the covenants and agreement of Borrower contained in this Deed of Trust, and in enforcing Lender's and Trustee's remedies as provided in paragraph 15 hereof, including, but not limited to, reasonable attorney's fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Deed

of Trust shall continue unimpaired. Upon such payment and cure by Borrower, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

17. **Assignment of Rents; Appointment of Receiver; Lender in Possession.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 16 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable. Borrower shall not rent the Property without the prior written consent of Lender, which consent can be withheld for any reason or no reason. If Borrower rents the Property without the prior written consent of Lender, Lender may exercise its right of acceleration in accordance with paragraph 16 of this Agreement.

Upon acceleration under paragraph 16 hereof or abandonment of the Property, Lender, in person, by agent or by judicially appointed receiver shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to premiums on receiver's bonds and reasonable attorneys' fees, add them to the sums secured by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

18. **Reconveyance.** Upon payment of all sums secured by this Deed of Trust to Trustee, Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled thereto. Such person or persons shall pay all costs of recordation, if any.
19. **Substitute Trustee.** Lender, at Lender's option, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the office of the Recorder of Santa Clara County. The instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page where this Instrument is recorded and the name and address of the successor trustee. The successors trustee shall, without conveyance of the Property, succeed to all the title, powers and duties conferred upon the Trustee herein and by applicable law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.
20. **Request for Notices.** A request for notice of default and any notice of sale under any deed of trust or mortgage with power of sale encumbering the Property shall be recorded by Lender in the Office of the Recorder of

Santa Clara County for the benefit of Lender under the procedure specified in Civil Code Section 2924b. Lender may declare a default under this Deed of Trust upon receipt of any notice given to Lender pursuant to Civil Code Section 2924b, and may exercise any rights available to it under this Deed of Trust.

- 21. **Statement of Obligation.** Lender may collect a fee not to exceed \$50 for furnishing the statement of obligation as provided by Section 2943 of the Civil Code California.

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

_____,
Borrower

_____,
Borrower

STATE OF CALIFORNIA

COUNTY OF SANTA CRUZ

On _____ before me, _____,
personally

DATE

NAME, NOTARY PUBLIC

appeared _____,
proved to me on

NAME(S) OF SIGNER(S)

the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

SIGNATURE

NAME

(Reserved for official seal)

**City of Scotts Valley
INTEROFFICE MEMORANDUM**

DATE: October 21, 2015

TO: Mayor Bustichi and Members of the City Council

FROM: Kim Tschantz, Contract Planner

APPROVED: Corrie Kates, Community Development Director

SUBJECT: **A PUBLIC HEARING TO CONSIDER THE PLANNING COMMISSION'S RECOMMENDATION OF APPROVAL FOR A PLANNED DEVELOPMENT CONSISTING OF 19 TOWNHOMES AND RELATED IMPROVEMENTS ON TWO VACANT LOTS (2.6 ACRES) LOCATED ON SCOTTS VALLEY DRIVE**

SUMMARY OF ISSUE

The project site is 2.6-acre vacant site consisting of two adjoining parcels on the southeast side of Scotts Valley Drive 89 feet north from its intersection with Mt. Hermon Road (Attachment 1 – Location Map). The site is mostly forested and mostly surrounded by existing development. The property is adjacent to the Oak Creek Estates residential neighborhood. Five residential properties in that neighborhood are located to the rear of the site. Commercial uses occur to the southwest and a commercially zoned vacant property occurs to the northeast. Scotts Valley Middle School is located to the northwest on the opposite side of Scotts Valley Drive.

The proposed project is a 19-unit townhouse project consisting of 19 individual lots with one dwelling on each lot and one common owned parcel for vehicle access, parking and open space (Attachment 2 – Project Plans). While the Planning Commission recommends approval of a 20-unit project, the project applicant recently revised the project to a 19-unit project to address the concerns of a neighboring property owner. Each lot would contain a three-story townhouse unit with a rear patio. The common owned parcel, owned by the homeowners of the lots, would encompass the remainder of the site. It would include the project street, outdoor parking and open space. All residential lots (townhouses) would be accessed by the new project street that connects with Scotts Valley Drive. An emergency vehicle turn-around is proposed at the end of the new street. The project also includes 9,557 cubic yards of grading to prepare the sloping site for development.

The design locates the townhouse buildings towards the rear of the elongated site with the new street and unenclosed parking towards the front of the site near Scotts Valley Drive. This design “shields” proximate Oak Creek Estates homes from normal activity on the project street and the outdoor parking area while setting project dwellings back from traffic activity on Scotts Valley Drive. The townhouses will be constructed in the hillside so they will appear as three-stories facing Scotts Valley Drive and two stories facing Oak Creek Estates. Project landscaping includes dense tree, shrub and groundcover planting between the parking area and Scotts Valley Drive.

The two-parcel site is designated by the General Plan as “Multi-family Residential” land use and zoned R-M-6 (Multi-family Residential). The project requests the following approvals: 1) Planned Development Overlay Zoning and Permit 2) Land Division and 3) Design Review Approval. The project site is inhabited by the endangered Mt. Hermon June Beetle and will need approval of a Habitat Conservation Plan by the U.S. Fish and Wildlife Service. The USFWS is currently reviewing the HCP. Final approval of the HCP is not required prior to City Council action on the project but will be required prior to any site grading or land disturbance.

The architecture of the townhouses is sometimes referred to as contemporary industrial modern architecture. As with other townhouse projects, this project includes attached dwellings with a 1-inch airspace between each of the attached walls. The project has been designed to group the townhouses in four separate structures (referred to as “blocks” on the plans) that are separated by narrow open space areas which will include drainage improvements and will convey drainage downslope to the street and parking area, which are designed to allow infiltration. The separate blocks will reduce building mass. The 19-unit project will cover 42,227 sq. ft. (0.95 acre) with impervious surfaces. Storm runoff will be conveyed to the project street that will be designed with pervious pavement and subsurface infrastructure that allows infiltration of surface runoff. This will provide on-site retention of storm runoff for up to a 2-year storm events and adequate detention for up to 10-year storm events; thereby recharging the Santa Margarita aquifer at the same rate as present.

The project is subject to the California Environmental Quality Act (CEQA). An Initial Study has been prepared for the project (Attachment 3). It concludes all environmental impacts can be mitigated with implementation of 16 mitigation measures.

PLANNING COMMISSION REVIEW

The Planning Commission considered the project on September 10, 2015. A full discussion of the project is attached in the Planning Commission minutes, resolution and staff report (Attachments 4, 5 & 6). At the meeting the Commission discussed project traffic access options, the native tree mitigation/restoration plan, building architecture and proximity of townhouses to nearby homes. The Commission voted 4-1 recommending approval of the original 20-dwelling unit project.

Two members of the public, Jasmine Ow-Hurst and K. Thaker, spoke in favor of the project at the Planning Commission hearing. Two other people, William and Sherilyn Jager, also spoke at the hearing about their concerns of some of the units being located near their home on Lucia Lane. The Jagers' attorney also sent a letter that was received at the Planning Commission hearing (Attachment 7). Responses to concerns raised in this letter are provided in Attachment 8.

While the Commission supported the 20-unit project, the applicant, Chris Perri, met with Mr. and Mrs. Jager in late September and agreed to remove the unit closest to their home. Unit 20 on the project plans is no longer proposed.

PUBLIC COMMENT

During the public review and comment period on the Initial Study/Mitigated Negative Declaration the City received written comment letters from the Monterey Bay Unified Air Pollution control District, William Parkin, attorney for Bill and Sherilyn Jager and David and Kathryn Bartlett. These letters are attached to the Initial Study. The Initial Study was revised to provide more clarity to address comments stated in these letters. Staff responses to each comment in these letters are provided in Attachment 4 of the Planning Commission staff report (Attachment 6). The comments did not raise new issues or impacts from that discussed in the original Initial Study.

More recently, an email dated September 27, 2015 was received from Mike and Amy Hemmert regarding their belief that the project will generate additional traffic through the Oak Creek Estates neighborhood (Attachment 9). The applicant's traffic engineer analyzed this concern and concluded the project would not generate a significant effect on traffic in the neighborhood. W-Trans compared travel routes from the project site to Mt. Hermon Road and Hwy. 17 using a U-turn at Quien Sabe Road and using a route through Oak Creek Estates and concluded there is no advantage in using the Oak Creek Estates route. This is discussed in a memo from W-Trans (Attachment 10).

FISCAL IMPACT

There will not be any fiscal impact to the City. New street and landscaping improvements will be maintained by the homeowners association as the street will be private and the street and landscaping will be located on the common lot. Drainage improvements will also be maintained by the HOA.

RECOMMENDATION

The Planning Commission recommends certification of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MMRP), approval of the Planned Development Zoning, Land Division, Planned Development Permit and Design Review approval as listed below:

1. Adopt Resolution No. 1910 to Certify the Mitigated Negative Declaration and approve Mitigation Monitoring Reporting Plan; and,
2. Introduce for first reading Ordinance No. 16-ZC-224 Approving Planned Development Overlay Zoning; and,
3. Adopt Resolution No. 1910.1 to approve the Land Division; and,
4. Adopt Resolution No. 1910.2 to approve the Planned Development Permit; and
5. Adopt Resolution No. 1910.3 to approve the Design Review.

ATTACHMENTS

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Resolution No. 1910 Certifying the Mitigated Negative Declaration	6
Ordinance No. 16-ZC- 224 (first reading) Approving the Planned Development Overlay Zoning	43
Resolution No. 1910.1 Approving the Land Division	46
Resolution No. 1910.2 Approving Planned Development Permit	62
Resolution No. 1910.3 Approving the Design Review	78
1. Location Map	94
2. Project Plans	Attached
3. Initial Study	Attached
• Biotic Report prepared by Biotic Resources Group dated August 28, 2014	
• Arborist Report prepared by James Allen and Associates, dated October 27, 2014	
• Entomological Habitat Assessment prepared by Dr. Richard Arnold, dated June 19, 2014	
• Geotechnical Report prepared by Dees and Associates, dated July 2014	
• Traffic Noise Assessment study prepared by Edward Pack Associates, dated September 23, 2014	
• Traffic Report prepared by W-Trans, dated March 13, 2015	
• Draft Habitat Conservation Plan, dated November 2014	
• Letter from Amy Clymo, Monterey Bay Unified Air Pollution Control District, dated July 28, 2015	
• Letter from William Parkin, Attorney for Bill and Sherilyn Jager, dated August 13, 2015.	
• Letter from Matt, David and Kathryn Bartlett, dated August 17, 2015	

4.	Planning Commission Minutes (09/10/2015)	95
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6.	Planning Commission Staff Report (09/10/2015).....	116
7.	Letter from William Parkin, dated September 10, 2015	176
8.	Responses to the September 10 William Parkin letter	181
9.	Email from Mike and Amy Hemmert, dated September 27, 2015	184
10.	Memo from W-Trans, dated September 30, 2015	185
11.	Aerials with Building Foot Print for 19 Units (received 10/15/15).....	Attached

Attached Documents are available at City Hall.

Some Documents are available electronically at:

http://www.scottsvally.org/planning/The_Terraces_at_Scotts_Valley_Planned%20Development.html

RESOLUTION NO. 1910

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY CERTIFYING A MITIGATED NEGATIVE DECLARATION FOR A 19 UNIT PLANNED DEVELOPMENT (THE TERRACE AT SCOTTS VALLEY) LOCATED ON SCOTTS VALLEY DRIVE / APN'S 022-162-69 & 74.

WHEREAS, the Planning Department of the City of Scotts Valley has received the application filed by Chris Perri, Apple Homes Development, for a Planned Development PD14-002, Land Division LD14-001 and Design Review DR14-09 for a 19-dwelling unit townhouse project on two adjoining vacant parcels located on Scotts Valley Drive / APN'S 022-162-69 & 74 (collectively referred to as "Application"); and,

WHEREAS, Apple Homes Development, (referred to as "applicant") has presented substantial evidence which supports the Application; and

WHEREAS, the Application was reviewed for completeness and is determined to be a "project" as defined by the California Environmental Quality Act (CEQA); and,

WHEREAS, a Mitigated Negative Declaration has been prepared pursuant to Section 15162 of the California Environmental Quality Act (CEQA); and

WHEREAS, as mitigated, the project is determined to not have a significant impact on the environment based upon the results of the initial study; and

WHEREAS, the Planning Commission held a public hearing on September 10, 2015, to consider the Application and after consideration of public testimony, the staff report and evidence submitted to support the Application, the Planning Commission recommended approval of the Application to the City Council; and

WHEREAS, a public hearing on the proposed project was held by the City Council on October 21, 2015, and such hearing was noticed pursuant to the requirements of the Scotts Valley Municipal Code and State Law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scotts Valley as follows:

SECTION 1: The City Council of the City of Scotts Valley does hereby make the following findings, as further clarified in the staff report dated October 21, 2015:

1. *The Mitigated Negative Declaration for the project has been completed in compliance with the California Environmental Quality Act (CEQA).* The Mitigated Negative Declaration for the project has been completed in compliance with CEQA, and the requirements of CEQA Guidelines Section 15063 have been met.

The Planning Commission staff report for the Application dated September 10, 2015 is an Addendum to the Mitigated Negative Declaration/Initial Study. The Addendum meets the requirements of CEQA Guidelines Section 15164 in that it provides information on a minor technical change in the project that does not result in new or exacerbated impacts from that discussed in the Initial Study prepared and circulated for the project.

2. *All mitigation measures identified in the Mitigated Negative Declaration are included in the resolution approving the project and are made conditions of approval for the project.* All mitigation measures have been included in the project design or as conditions of approval.
3. *Documents and other materials constituting the record of the proceedings upon which the City's decision and its findings are based will be located at the Department of Planning of the City of Scotts Valley in the custody of the Community Development Director.* Copies of the Initial Study and Mitigated Negative Declaration have been made available to the public for review pursuant to CEQA requirements.
4. *The Mitigated Negative Declaration represents the independent judgement of the City.* The City prepared the Mitigated Negative Declaration. All supporting information has been reviewed and approved by the City.

NOW THEREFORE, BE IT FURTHER RESOLVED that, after careful consideration of the application and related materials, plans, maps, facts, exhibits, staff report, testimony and other evidence submitted in this matter, and incorporated herein by this reference, the City Council certifies the Mitigated Negative Declaration (Exhibit A) and Approves the Mitigation Monitoring Reporting Program (Exhibit B), subject to the Conditions of Approval set forth in Exhibit C, all exhibits are incorporated herein by this reference.

THE ABOVE AND FOREGOING RESOLUTION was duly and regularly passed by the City Council of the City of Scotts Valley at a meeting held on the 21st day of October, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dene Bustichi, Mayor

Tracy Ferrara, City Clerk

Exhibit A

SCOTTS VALLEY CITY COUNCIL RESOLUTION No. 1910

**Mitigated Negative Declaration
Terrace at Scotts Valley Townhouse Project
APN's 022-162-69 and 74
MND14-002, LD14-001, PD14-002 & DR14-009**

INTRODUCTION

Project: Create 19 townhouse residential lots and one common lot from a vacant 2.6-acre lot and construct a townhouse dwelling on each lot and associated common owned improvements on the common lot.

Located at: No Situs; Scotts Valley Drive opposite its intersection with Bean Creek Road; APN 022-162-69 and -74

Prepared by: City of Scotts Valley Planning Department, 1 Civic Center Drive, Scotts Valley, California, 95066

Requested Planning Approvals & Permits:	Mitigated Negative Declaration	MND14-002
	Subdivision/Tentative Map	LD14-001
	Planned Development Permit	PD14-002
	Design Review	DR14-009

**Property Owner/
Applicant:** Chris Perri, Apple Homes Development

**Public Review Period
to Provide**

Written Comments: July 15 – August 17, 2015 (by 5:00 PM)

SUMMARY OF PROJECT AND A LISTING OF MITIGATION MEASURES RECOMMENDED TO AVOID OR REDUCE IMPACTS TO LESS THAN SIGNIFICANT LEVELS

A. Project Name and Address:	Requested Permits/Approvals:
Terrace at Scotts Valley Townhouse Subdivision	Mitigated Negative Declaration MND14-002
No situs; located on Scotts Valley Dr. Scotts Valley, CA 95066	Subdivision/Tentative Map LD14-001
Assessor Parcel No. 022-162-69 & -74	Planned Development No. PD14-002
	Design Review DR14-009

- B. Lead Agency Name and Address: Lead Agency Contact Person:**
 Planning Department Kim Tschantz, MSP, CEP, Contract Planner
 City of Scotts Valley - City Hall Phone: (831) 685-1007
 One Civic Center Drive Fax: (831) 685-1007
 Scotts Valley, CA 95066 E-mail: kimt@cypressenv.com
 ATTN: Taylor Bateman, Senior Planner
- C. Project Applicant/Property Owner Name and Address:**
 Chris Perri
 Apple Homes Development, Inc.
 15 Sherman Court, Scotts Valley, CA 95066 <mailto:george@boltonhill.net>
- D. General Plan Designation:** “Multi-family Residential” land use
- E. Zoning:** “RM-6” (Multi-family Residential with a 6,000 sq. ft. minimum lot size)
- F. Existing Site Description:** The project site is a vacant mostly forested property located on the southeast side of Scotts Valley Drive 89 feet north from Mt. Hermon Road in the central area of the City of Scotts Valley (See the Location Map on following page). The property is adjacent to a single-family residential neighborhood, named Oak Creek Estates, to the east. Commercial uses occur to the southwest and a commercially zoned vacant parcel occurs to the northeast. Scotts Valley Middle School is located to the northwest on the opposite side of Scotts Valley Drive.
- G. Project Description:** The applicant is proposing a 19-unit townhouse project (as revised from the earlier 20-unit project evaluated in the Initial Study) consisting of 19 individual residential lots with one dwelling/each and one common owned parcel for vehicle access, parking and open space on two adjoining vacant parcels that encompass 2.6 acres (See Exhibit A of the Initial Study). Each townhouse would be a separate lot of about 1,056 sq. ft. The individual lots would consist of a three-story townhouse unit with a rear patio. A common owned parcel, owned by the homeowners of the 19 lots, would encompass the remainder of the site and would include the access road, outdoor parking and open space. A garage is proposed as the first story of each townhouse unit. Each garage would provide enclosed parking for one vehicle and other storage. Unenclosed parking for an additional 39 vehicles would also be provided on the common parcel. The residential lots would be accessed by a new dead-end street. An emergency vehicle turn-around is proposed at the end of the street.
- The project has been designed to group the townhouses in four separate structures (referred to as “blocks” on the plans) that are divided by a narrow open space areas which include drainage improvements that will convey surface drainage downslope. The design locates the townhouse buildings in the rear of the site and the access roadway and unenclosed parking in the front of the site near Scotts Valley Drive. Exhibit A of the Initial Study provides project plans that include a copy of the tentative subdivision map and grading plan.
- H. Summary of Requested Planning Department Permits:** Required project entitlements include Tentative Subdivision Map, Planned Development and Design Review approvals. The project is subject to the California Environmental Quality Act (CEQA) and the CEQA Guidelines, which require this environmental review. The project entitlements and environmental review will be presented at two public hearings. The Planning Commission and subsequently the City Council will hold public hearings to discuss and act upon the requested entitlement and this environmental review. The project will also need the approval of the U.S. Fish and Wildlife Service for the approval of a Habitat Conservation Plan. However, this approval is not required prior to City action on the project.

- I. Public Hearings at City Hall:** The project requires review and recommendation of the Planning Commission to the City Council, who will take final action on the planning permit applications. The date and time of the Planning Commission public hearing is:

Planning Commission

September 10, 2015

City Hall Council Chambers

6:00 PM

City Council

The date will be scheduled after Planning Commission hearing and action on the project

City Hall Council Chambers

6:30 PM

- J. Surrounding Land Uses:** The existing uses located around the subject property are:

Direction	Zoning District	Existing Uses	Address
North	"P" (Public/quasi-Public) and "C-S" (Commercial Service)	Scotts Valley Middle School Retail commercial uses in the Camp Evers Center	8 Bean Creek Road Various on Scotts Valley Drive
South	"R-1-10" (single-family Residential with a min. lot size of 10,000 s.f.)	Single-family residential within the Oak Creek Estates neighborhood	Various on various streets
East	"C-P" (Commercial Professional)	Vacant	Not yet assigned
West	"C-S" (Commercial Service)	Mt. Hermon Shell Gas Station and Car Wash	90 Mt. Hermon Road

- K. Project Location Map:** See Project Plans attached as Exhibit A to the Initial Study.

- L. Environmental Factors Potentially Affected and Determination:** See the attached Initial Study for a complete discussion of factors.

M. List of Mitigation Measures

The following mitigation measures from the Initial Study are provided in the listing below. Underlined text shows additional language added to mitigation measures after the public review and comment period. This additional text is for clarification purposes only and does not represent a new mitigation measure or a change in the concept of any mitigation measure.

- Mitigation Measure AQ-1:** To reduce dust generation from project grading and construction to minimal levels, the project proponent shall require the grading contractor to implement best management practices for dust control, including watering down exposed earth surfaces each non-rainfall day at intervals that attenuate dust problems. Any dirt tracked on to Scotts Valley Drive shall be removed daily in a manner that does not create substantial airborne dust. These requirements shall be included in the construction contract for the project. The following BMPs shall be implemented during site grading:

- a) Excavation of the site shall be done in phases by grading only those areas where immediate activity will take place, leaving the remaining areas in their original condition with ground cover;
- b) A water truck, using recycled water, shall be available on a repeated basis each day throughout the grading phase of the project to spray exposed earth surfaces;
- c) In addition to regular water spraying, a biodegradable chemical pallative shall be sprayed on any graded areas that will remain exposed without additional grading for three or more days in succession;
- d) The site entrance shall be base rocked to avoid or minimize tracking mud on Scotts Valley Drive by construction vehicles;
- e) The segment of Scotts Valley Drive along the project frontage shall be mechanically swept at the end of each work day when any dirt or mud has been tracked on the street;
- f) No grading activities shall occur during days of high wind velocity;
- g) Finished graded areas that are designated as open space and landscape areas of project, shall be covered with an accepted erosion control substance such as straw mulch or hydromulch with a tackifier; and
- h) Construction staff shall monitor daily all areas that have received a chemical pallative spray or application of mulch to determine if these areas remain in a dust-free condition and take corrective action as needed to maintain a dust-free environment.

2. Mitigation Measure BIO-1: To avoid impacting nesting raptors or passerine species, the project applicant shall schedule all construction outside of the nesting season of February 1 to July 31. If this is not feasible the applicant shall implement to following alternative measure. To minimize impacts to nesting raptors or migratory passerines on the site, a qualified wildlife biologist, under contract to the project proponent, shall conduct pre-construction surveys for nesting raptors and migratory passerines to determine if they occur on the site or in close proximity to the site. The surveys shall be conducted no earlier than 30 days prior to commencement of construction. If raptors or migratory passerines are observed nesting on the site, or on an adjoining site within 300 feet, the project proponent shall postpone construction within 300 feet of a raptor nest site and 50 feet from a migratory passerine next site until all young have fledged. The wildlife biologist shall document that the young have fledged prior to commencement of proximate construction work.
3. Mitigation Measure BIO-2: To avoid harm or loss of the pallid bat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any roosting bats are present on the site. If any are discovered, the biologist shall recommend mitigation measures to allow the bats to escape their roosts unharmed prior to tree removal. If necessary, the biologist shall consult with CDFW on a bat removal plan. The project applicant shall implement the recommendations of the biologist.
4. Mitigation Measure BIO-3: To avoid harm or loss of the Dusky-footed woodrat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any occupied woodrat nests are present on the site. If any are discovered, the biologist shall consult with CDFW to formulate a plan to either relocate the woodrat nests or construct a human-made woodrat nest on another site suitable for the species.
5. Mitigation Measure BIO-4: To compensate for the loss of about 2 acres of habitat for the endangered species, Mt. Hermon June beetle, the applicant shall complete the HCP/Incidental Take Permit process with the USFWS as specified by Section 10 of the Endangered Species Act and continue to employ a qualified entomologist to implement the approved HCP according to the requirements and the schedule specified by USFWS and the approved HCP for this project. Written documentation of USFWS approval of the HCP and a Take Permit for this project shall be submitted to the City of Scotts Valley Planning Department prior to commencing any ground disturbance at the project property.

6. Mitigation Measure BIO-5: To compensate for the loss of 56 City Protected Trees and to minimize impacts to trees retained on the site, the project applicant shall implement the construction impact assessment and tree protection plan prepared by J.P. Allen and Associates dated September 2, 2014. Planting of new trees at a 2:1 replacement ratio may be done on-site or at another site approved by the City Arborist prior to any project grading. This planting may be included in the project landscape plan as approved by the City Arborist. All replacement planting shall be inspected and approved by the City Arborist. Plan specifications to protect retained trees shall be included in the construction contracts with all project contractors involved with land alteration, and foundation construction. The project arborist shall inspect the site prior to any grading activities and thereafter on a weekly basis to ensure tree preservation measures are in place throughout the construction phase of this project. All replacement plantings shall be monitored for 5 years or longer, as specified in the report, until the success criteria of 80% survival rate has been met. Monitoring shall be performed by either the City Arborist or another qualified professional approved by the City.
7. Mitigation Measure CUL-1: To ensure that archaeological resources are not destroyed if accidentally discovered during project grading or other subsurface work, the contractor shall immediately halt all work activities within a 150 foot radius of the discovery and immediately contact the City Planning Department so the City can retain an archaeologist to examine the find to make appropriate recommendations to conserve the resource. The project applicant shall include this requirement in the contract for all contractors involved with grading and subsurface work.
8. Mitigation Measure CUL-2: To ensure that paleontological resources are not destroyed during project grading, the project proponent will include the following measures:
 - Provide the project paleontologist with a copy of the final grading plans for review prior to any project grading;
 - Provide for daily monitoring during grading activities by the project paleontologist to determine if paleontological resources are encountered in excavated areas;
 - Allow for the recovery of any discovered paleontological resources according to a recovery plan/methods specified by the project paleontologist, including the donation of the recovered resources to a suitable repository (museum, school, etc.);
 - If recovery occurs, ensure that the project paleontologist prepare a recovery report that details the type of resources recovered and the repository locations where they were taken; and
 - Specify in the construction contract with the project grading contractor(s), that grading personnel are to cooperate with and assist the project paleontologist during monitoring and any recovery activities, including assisting with recovery efforts if necessary.
9. Mitigation Measure GEO-1: To reduce the effects of seismic shaking to acceptable levels, the project proponent shall have all dwellings designed to Uniform Building Code standards for the design level earthquake for the area. The design details shall be provided on the building plans submitted to the City for a Building Permit for each dwelling.
10. Mitigation Measure GEO-2: To prevent erosion from occurring during or after grading/development of the project site, the project applicant shall have a qualified professional prepare an SWPPP/erosion control plan and submit it to both the RWQCB and the City Building Department for review and approval prior to approval of the final subdivision map. The approved plan shall be implemented with grading of

the site. The erosion control measures should be functional prior, during and after construction. Specific measures shall be identified in the project plans and specifications should include the following features: use of coir rolls, straw bales and/or similar measures to prevent sediments from leaving the site, erosion control seeding and mulching following construction and other measures as appropriate. The plan shall include the following performance standards:

- a) Limit grading activities to the dry season of April 15–October 15;
 - b) Seed and mulch/hydromulch exposed areas as soon as possible following grading, in no case later than October 15;
 - c) Stabilize all finished graded slopes of 15% or greater by installing additional features, such as erosion control netting or coir rolls;
 - d) Provide sediment traps, including temporary siltation basins at downstream end of drainage channels;
 - e) Keep all drainageways clear of debris and clean them when debris is observed;
 - f) Implement all dust control BMPs specified in Mitigation Measure AQ-1; and
 - g) Monitoring the site on a regular basis to determine the effectiveness of all stormwater/erosion control measures and correct any identified problems.
11. Mitigation Measure GEO-3: To protect project improvements from the effects of soil instability, the project applicant shall design project improvements according to the recommendations of the geotechnical report prepared by Dees and Associates dated July 10, 2014. The geotechnical engineer shall review and approve construction plans prior to submitting plans to the City Building Department for a Grading Permit and Building Permit application. The applicant shall submit written documentation that the project engineer has verified that site grading work and the construction of each dwelling meets the recommendations of the approved geotechnical report.
12. Mitigation Measure HAZ-1: Implement Mitigation Measures AQ-1 and HYD-1.

Exhibit B

SCOTTS VALLEY CITY COUNCIL RESOLUTION No. 1910

**Mitigation Monitoring and Reporting Program
Terrace at Scotts Valley Townhouse Project
APN's 022-162-69 and 74
MND14-002, LD14-001, PD14-002 & DR14-009**

The Mitigation Monitoring and Reporting Program (MMRP) is a CEQA-required component of the Mitigated Negative Declaration (MND) process for the project. The results of the environmental analyses, including proposed mitigation measures, are documented in the Initial Study/MND.

CEQA requires that agencies adopting MNDs take affirmative steps to determine that approved mitigation measures are implemented subsequent to project approval.

As part of the CEQA environmental review procedures, Section 21081.6 requires a public agency to adopt a monitoring and reporting program to ensure efficacy and enforceability of any mitigation measures applied to a proposed project. The lead agency must adopt an MMRP for mitigation measures incorporated into the project or proposed as conditions of approval. The MMRP must be designed to ensure compliance during project implementation. As stated in Section 21081.6(a)(1):

The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead agency or a responsible agency, prepare and submit a proposed reporting or monitoring program.

Table 1 is the MMRP matrix. The table lists each of the mitigation measures proposed in the Initial Study/MND and specifies the agency responsible for implementation of the mitigation measure; the documentation that agency will retain to show how the measure was complied with as intended; the time period to implement the mitigation measure and the type of remedial actions that will occur to correct identified problems so each measure can be implemented successfully.

Mitigation Monitoring and Reporting Program

Environmental Impact	Mitigation Measure	Responsible Entity, Implementation and Remediation Method and Timing
Air Quality		
Impact AQ-1: Project grading on most of the 2.6-acre site generate substantial airborne dust that will affect surrounding properties, including people residing in dwellings east of the site.	Mitigation Measure AQ-1: To reduce dust generation from project grading and construction to minimal levels, the project proponent shall require the grading contractor to implement best management practices (<u>BMPs</u>) for dust control, including watering down exposed earth surfaces each non-rainfall day at intervals that attenuate dust problems. Any dirt tracked on to Scotts Valley Drive shall be removed daily in a manner that does not create substantial airborne dust. The following BMPs shall be implemented during site grading: Excavation of the site shall be done in phases by grading only those areas where immediate activity will take place, leaving the remaining areas in their original condition with ground cover; A water truck, using recycled water, shall be available on a repeated basis each day throughout the grading phase of the project to spray exposed earth surfaces; a) In addition to regular water spraying, a biodegradable chemical palliative shall be sprayed on any graded areas that will remain	Monitoring & Reporting: The project applicant shall provide City Planning staff with a copy of the provision in the construction contract requiring attenuation of dust prior to any grading on the site. Planning staff shall observe dust attenuation methods during routine inspections of project construction and respond to any citizen complaints regarding dust problems. Remediation: If City Planning staff observes problems, they shall be communicated immediately to contractors at the site and to the project applicant along with ideas on how to resolve the problem(s). Planning staff shall re-inspect the site within 24 hours to observe how the dust problem has been solved. Observed and reported dust problems and their solutions shall be recorded in an inspection log.

	exposed without additional grading for three or more days in succession; b) The site entrance shall be base rocked to avoid or minimize tracking mud on Scotts Valley Drive by construction vehicles; c) The segment of Scotts Valley Drive along the project frontage shall be mechanically swept at the end of each work day when any dirt or mud has been tracked on the street; d) No grading activities shall occur during days of high wind velocity; e) Finished graded areas that are designated as open space and landscape areas of project, shall be covered with an accepted erosion control substance such as straw mulch or hydromulch with a tackifier; and f) Construction staff shall monitor daily all areas that have received a chemical pallative spray or application of mulch to determine if these areas remain in a dust-free condition and take corrective action as needed to maintain a dust-free environment.	
Biological Resources		
Impact BIO-1: The removal of trees for project construction has the potential to disrupt the nesting period for raptors and special status song birds, two avian wildlife groups that are protected by State and federal laws	Mitigation Measure BIO-1: To avoid impacting nesting raptors or passerine species, the project applicant shall schedule all construction outside of the nesting season of February 1 to July 31. If this is not feasible the applicant shall implement the following alternative measure. To minimize impacts to	Monitoring & Reporting: The project applicant shall submit a copy of the raptor survey to City Planning staff for review and acceptance prior to City approval to begin grading activities. The accepted report shall be retained in the project file.

	nesting raptors or migratory passerines on the site, a qualified wildlife biologist, under contract to the project proponent, shall conduct pre-construction surveys for nesting raptors and migratory passerines to determine if they occur on the site or in close proximity to the site. The surveys shall be conducted no earlier than 30 days prior to commencement of construction. If raptors or migratory passerines are observed nesting on the site, or on an adjoining site within 300 feet, the project proponent shall postpone construction within 300 feet of a raptor nest site and 50 feet from a migratory passerine nest site until all young have fledged. The wildlife biologist shall document that the young have fledged prior to commencement of proximate construction work.	Remediation: Non-acceptance of the adequacy of the report by the City will necessitate a subsequent survey and a successive report shall be done by the project proponent's ornithologist and submitted to City Planning for review and approval prior to any site disturbance.
Impact BIO-2: The removal of trees in project construction area has the potential to kill or injure roosting bats, including the pallid bat (<i>antrozous pallidus</i>), a mammal listed as a "species of special concern" by the California Department of Fish and Wildlife.	Mitigation Measure BIO-2: To avoid harm or loss of the pallid bat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any roosting bats are present on the site. If any are discovered, the biologist shall recommend mitigation measures to allow the bats to escape their roosts unharmed prior to tree removal. If necessary, the biologist shall consult with CDFW on a bat removal plan. The project applicant shall	Monitoring & Reporting: The project applicant shall submit a copy of the pallid bat survey to City Planning staff for review and acceptance prior to City approval to begin grading activities. The accepted report shall be retained in the project file. Remediation: Non-acceptance of the adequacy of the report by the City will necessitate a subsequent survey and a successive report shall be done by the project proponent's biologist and submitted to City Planning for review and approval prior to any site disturbance.

	implement the recommendations of the biologist.	
Impact BIO-3: Project construction has the potential to kill or injure San Francisco dusky-footed woodrats (<i>Neotoma fuscipes annectens</i>), a mammal listed as a “species of special concern” by the California Department of Fish and Wildlife.	Mitigation Measure BIO-3: To avoid harm or loss of the Dusky-footed woodrat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any occupied woodrat nests are present on the site. If any are discovered, the biologist shall consult with CDFW to formulate a plan to either relocate the woodrat nests or construct a human-made woodrat nest on another site suitable for the species.	Monitoring & Reporting: Same process as for BIO-2 above. Remediation: Same process as for BIO-2 above.
Impact BIO-4: Project construction will remove approximately 2 acres of known and occupied habitat of the Mt. Hermon June beetle (<i>Polyphylla barbata</i>), an insect listed as an endangered species by the U.S. Fish and Wildlife Service.	Mitigation Measure BIO-4: To compensate for the loss of about 2 acres of habitat for the endangered species, Mt. Hermon June beetle, the applicant shall complete the HCP/Incidental Take Permit process with the USFWS as specified by Section 10 of the Endangered Species Act and continue to employ a qualified entomologist to implement the approved HCP according to the requirements and the schedule specified by USFWS and the approved HCP for this project. Written documentation of USFWS approval of the HCP and a Take Permit for this project shall be submitted to the City of Scotts Valley Planning Department prior to	Monitoring & Reporting: The applicant shall submit a copy of the USFWS-approved Final HCP along with a copy of the USFWS-approved Incidental Take Permit to City Planning prior to any land disturbance on the site. A copy of both these documents shall be permanently maintained in the project file. Remediation: The USFWS is the agency responsible for monitoring and enforcement of the HCP. The USFWS shall take enforcement action as specified in the HCP and Take Permit to resolve any compliance problems. City staff shall cooperate with the USFWS to

	commencing any ground disturbance at the project property.	the degree feasible if the City is advised of any compliance problems.
Impact BIO-5: The project will remove 56 trees/tree groups that are protected by Section 17.44.080 of the Scotts Valley Municipal Code by meeting the criteria as a “protected tree”. These include coast live trees (<i>Quercus agrifolia</i>) and other trees with trunk diameters of 8 inches or greater.	Mitigation Measure BIO-5: To compensate for the loss of 56 City Protected Trees and to minimize impacts to trees retained on the site, the project applicant shall implement the construction impact assessment and tree protection plan prepared by J.P. Allen and Associates dated September 2, 2014. Planting of new trees at a 2:1 replacement ratio may be done on-site <u>and/or</u> at another site approved by the City Arborist prior to any project grading. This planting may be included in the project landscape plan as approved by the City Arborist. All replacement planting shall be inspected and approved by the City Arborist. Plan specifications to protect retained trees shall be included in the construction contracts with all project contractors involved with land alteration, and foundation construction. The project arborist shall inspect the site prior to any grading activities and thereafter on a weekly basis to ensure tree preservation measures are in place throughout the construction phase of this project. All replacement plantings shall be monitored for 5 years or longer, as specified in the report, until the success criteria of 80% survival rate has been met. Monitoring shall be performed by either the City Arborist or another qualified professional approved by	Monitoring & Reporting: One copy of the approved plan shall be permanently retained in the project file. Approved & stamped copies shall be giving to the project applicant with issuance of the Permit and another copy to the City Arborist. City Arborist shall inspect the replanting to ensure it conforms with the approved plan. Inspection results shall be logged in Arborist’s inspection log and supplemented with photographs. Repeat inspections, logging and photos shall continue for 5 years, or longer if success criteria has not been achieved at end of year 5. Remediation: If the City Arborist observes problems, they shall be recorded in the inspection log and a copy of the log entry shall be submitted to the project applicant and the Planning Dept. with recommendations to correct the problem. A Certificate for Occupancy of the townhouses will not be issues by Building staff until any problems observed during teh construction phase are corrected. The performance security will not be returned to applicant until the success criteria has been achieved at year 5.

	the City.	
Cultural Resources		
Impact CUL-1: Although not expected, it is possible that archaeological resources could be accidentally encountered during project grading.	Mitigation Measure CUL-1: To ensure that archaeological resources are not destroyed if accidentally discovered during project grading or other subsurface work, the contractor shall immediately halt all work activities within a 150 foot radius of the discovery and immediately contact the City Planning Department so the City can retain an archaeologist to examine the find to make appropriate recommendations to conserve the resource. The project applicant shall include this requirement in the contract for all contractors involved with grading and subsurface work.	Monitoring & Reporting: The project applicant shall provide City Planning staff with a copy of the provision in the construction contract pertaining to accidental discovery of archaeological resources prior to the issuance of a Grading Permit. If resources are found during grading, monitoring shall be conducted by a qualified archaeologist as specified by the Municipal Code. The archaeologist shall be hired by the project applicant and shall prepare log entries and reports to document all monitoring activities. A copy of the log and reports shall be maintained in the project file by Planning staff. Remediation: Any problems identified by the archaeologist shall be communicated immediately to the contractor on-site and the project applicant who shall remedy the problem immediately in the manner recommended by the archaeologist.
Impact CUL-2: The geologic stratigraphy at the development area of the property indicates a high sensitivity for buried paleontological resources at the site. These resources could be destroyed during project grading.	Mitigation Measure CUL-2: To ensure that paleontological resources are not destroyed during project grading, the project proponent will include the following measures: a) Provide the project paleontologist	Monitoring & Reporting: Prior to the issuance of a Grading Permit, the project proponent shall provide City Planning with: a) a copy of the provision in the construction contract pertaining to accidental discovery of paleontological resources; and b) a letter from a

	with a copy of the final grading plans for review prior to any project grading; b) Provide for daily monitoring during grading activities by the project paleontologist to determine if paleontological resources are encountered in excavated areas; c) Allow for the recovery of any discovered paleontological resources according to a recovery plan/methods specified by the project paleontologist including the donation of the recovered resources to a suitable repository (museum, school, etc.); d) If recovery occurs, ensure that the project paleontologist prepare a recovery report that details the type of resources recovered and the repository locations where they were taken; and e) Specify in the construction contract with the project grading contractor(s), that grading personnel are to cooperate with and assist the project paleontologist during monitoring and any recovery activities, including assisting with recovery efforts if necessary.	qualified paleontologist that the grading plans have been reviewed. The project paleontologist shall monitor grading activities on a daily basis during all grading activities. A final monitoring report shall be prepared by the project paleontologist and submitted to City Planning for retention in the project file. If resources are found, monitoring shall be conducted by a qualified paleontologist in the same manner as described in CUL-1 above Remediation: Any problems identified by the paleontologist shall be communicated and monitored in same manner as CUL-1 above
Geology and Soils		
Impact GEO-1: The development and use of 20 dwellings within a seismically active area will subject the dwellings and their inhabitants to periodic seismic shaking associated with the San Andreas	Mitigation Measure GEO-1: To reduce the effects of seismic shaking to acceptable levels, the project proponent shall have all dwellings designed to California Building Code standards for the design level earthquake for the area. The design	Monitoring & Reporting: The project applicant shall submit construction drawings for a Building Permit application to the City Building Department. City Building staff shall review the plans to ensure they address seismic

Fault and other active faults within the Monterey Bay area.	details shall be provided on the building plans submitted to the City for a Building Permit for each dwelling.	Requirements of the Building Code prior to issuance of the Building Permit for all dwellings. The City Building Inspector will inspect the construction of the townhouse dwellings to ensure seismic related features are constructed correctly. Remediation: Any inadequacies with the building plans identified during plan checking shall be specified in writing to the Building Permit applicant (plan check comments). The applicant will need to submit revised plans to address the identified inadequacies prior to issuance of the Building Permit for the dwelling.
Impact GEO-2: The grading of 9,557 cubic yards over most of the 2.6-acre site area will generate a high potential for accelerated erosion to occur. This would result in the loss of valuable top soil and damage project improvements.	Mitigation Measure GEO-2: To prevent erosion from occurring during or after grading and development of the project site, the project applicant shall have a qualified professional prepare an SWPPP/erosion control plan and submit it to both the RWQCB and the City Building Department for review and approval prior to approval of the final subdivision map. The approved plan shall be implemented with grading of the site. The erosion control measures should be functional prior, during and after construction. Specific measures shall be identified in the project plans and specifications should include the following features: use of coir rolls, straw bales and/or similar measures to prevent sediments from leaving	Monitoring & Reporting: Project applicant shall submit the project erosion control plan to City Building Department for review and approval prior to approval of the Final Subdivision Map. This plan will actually be part of the Engineered Improvement Plan submitted with the Final Map. Stamped and approved copies of the plan shall be retained in both the project file and with the grading inspector assigned to the project. The inspector shall monitor implementation of the plan at the site during grading operations. (See HYD-1) The project proponent shall also submit a copy of the approved RWQCB permit to City Planning. This permit copy shall be retained

	the site, erosion control seeding and mulching following construction and other measures as appropriate. <u>The</u> plan shall include the following performance standards: a) Limit grading activities to the dry season of April 15–October 15; b) Seed and mulch/hydromulch exposed areas as soon as possible following grading, in no case later than October 15; c) Stabilize all finished graded slopes of 15% or greater by installing additional features, such as erosion control netting or coir rolls; d) Provide sediment traps, including temporary siltation basins at downstream end of drainage channels; e) Keep all drainageways clear of debris and clean them when debris is observed; f) Implement all dust control BMPs specified in Mitigation Measure AQ-1; and g) Monitoring the site on a regular basis to determine the effectiveness of all stormwater/erosion control measures and correct any identified problems.	in the project file Remediation: Observed inconsistencies between plan implementation and the approved plan as well as observed erosion problems on-site shall be noted in the grading inspector's log and communicated immediately to the contractor at the site and the project applicant with recommendations to remedy the problem. The grading inspector shall return the site within 24 hours or less to determine if corrective actions are adequate.(See HYD-1)
Impact GEO-3: The volume of grading required on this steeply sloped site could result in soil instability problems that could affect site improvements after they are constructed.	Mitigation Measure GEO-3: To protect project improvements from the effects of soil instability, the project applicant shall design project improvements according to the recommendations of the geotechnical report prepared by	Monitoring & Reporting: The project proponent shall submit the engineer's plan review letter to the City Building Department for review and acceptance prior to approval of the Grading Permit and any Building Permits for dwellings

	Dees and Associates dated July 10, 2014. The geotechnical engineer shall review and approve construction plans prior to submitting plans to the City Building Department for a Grading Permit and Building Permit application. The applicant shall submit written documentation that the project engineer has verified that site grading work and the construction of each dwelling meets the recommendations of the approved geotechnical report.	in the project. The engineer's letter shall be retained in both the Planning project file and with the Office copy of the Building Plans. The project geotechnical engineer shall inspect the grading, drainage improvements and construction of townhouse foundations, as specified in the geotechnical report throughout the construction phase of the project. A copy of the engineer's inspection completion letters shall be retained in the project file. Remediation: Any problems observed by the project geotechnical engineer shall be remediated under his/her supervision prior to the City's final inspections and approvals of the Grading Permit and engineer-inspected improvements.
Hazards		
Impact HAZ-1: The use of construction vehicles and machinery will bring oils, lubricants, fuels and similar hazardous substances to the site during the construction phase of the project. The regular use of these materials could include accidental release of these substances into proximate drainages, the roadway or other areas off the site.	Mitigation Measure HAZ-1: Implement Mitigation Measures AQ-1 and HYD-1.	Monitoring & Reporting: Same process as stated for GEO-2 above. Remediation: Same process as stated for GEO-2 above.

Hydrology		
Impact HYD-1: The use of heavy construction vehicles to grade 7,951 cubic yards over most of the 2.6 -acre area proximate to Scotts Valley Drive will generate a high potential for accelerated erosion that could add sediment to the arterial roadway and includes a potential to discharge vehicle lubricants into the street or an existing storm sewer inlet located at the base of the property's slope.	Mitigation Measure HYD-1: To prevent sedimentation and discharge of contaminants off-site during project construction, the project applicant shall have the construction contractor implement the approved erosion control plan discussed in mitigation measure GEO-2 and implement a best management practice/hazardous materials containment plan during the entire time construction activities are occurring. The hazardous materials containment plan shall be approved by City Planning staff prior to commencement of land alteration and construction activities for the project. It shall contain the following elements: a) Stationary equipment such as motors, pumps, welding equipment shall be placed over drip pans or other containment apparatus; b) Construction materials shall not be stockpiled or stored where they could be accidentally discharged downslope or in to Scotts Valley Drive; and c) Any petroleum, lubricants or other hazardous materials used during construction shall be stored in a special storage location equipped with double containment and this location shall be shown on the erosion control plan and approved by the agencies that review this plan.	Monitoring & Reporting: Same process as stated for GEO-2 above. Remediation: Same process as stated for GEO-2 above.

Impact HYD-2: The site coverage of at least 42,227 square feet (0.97 acre) with structures and surfaced areas for access and parking and related improvements will substantially reduce the area available for groundwater recharge on the property. This is a significant cumulative impact on the Santa Margarita aquifer and the City's water supply.	Mitigation Measure HYD-2: To compensate for the loss of groundwater recharge area, the project applicant shall install the drainage design feature of pervious pavement underlain with a series of concrete check dams that promote infiltration of collected surface drainage as proposed by the project plans prepared by C2G consultants dated, January 21, 2015.	Monitoring & Reporting: The project engineers shall inspect grading operations for the new street and parking area and submit inspection results letters to the City Building Dept. A copy of engineer's inspection letters shall be retained in the project file. Remediation: Any problems observed by the project geotechnical and/or civil engineers shall be remediated under their supervision prior to final inspections and approvals of grading and engineer-inspected improvements.
Impact HYD-3: The project will alter natural drainage flows on the site. While project improvements include engineered drainage facilities to control project drainage, these facilities can only function adequately with proper routine maintenance and they will not be maintained by the City.	Mitigation Measure HYD-3: To prevent drainage problems related to the lack of proper maintenance of privately owned and operated drainage facilities on the site, a homeowners maintenance agreement and homeowners funding agreement shall be submitted to the City for review and approval prior to approval and recordation of the final subdivision map that includes the following: a) Adequate funding by each homeowner on an equal basis for the regular maintenance of the common-owned drainage facilities and any other drainage improvements not owned by the City. b) Regular monitoring inspection by	Monitoring & Reporting: The applicant shall submit the HOA maintenance agreement to City staff for review and approval by Planning staff and the City Attorney prior to approval of the Final Subdivision Map. The approved maintenance agreement shall be recorded by the applicant. A conformed (Recorder's stamped) copy of the Agreement shall be permanently retained in the project file. Remediation: If staff review determines revisions are needed in the Agreement, the needed revisions will be communicated to the applicant. The language of the

	qualified professionals (civil engineer, erosion control specialist) to assess the functional capability of the drainage improvements and to provide recommendations for repairs and maintenance. This monitoring should occur at least annually in the spring or summer and include professionals qualified in the area of drainage engineering. c) Maintenance of the drainage facilities by a qualified professional in accordance with the recommendations of the monitoring inspections.	Agreement shall be revised as specified by the City staff prior to approval of the Final Subdivision Map.
Noise		
Impact N-1: Grading and construction activities will increase ambient noise levels during the construction phase of the project. This additional construction related noise will be heard primarily by residents living in the Oak Creek Estates neighborhood adjoining the northeastern edge of the project property.	Mitigation Measure N-1: To reduce construction noise emanating beyond the site to acceptable levels, the project applicant shall require all contractors to limit their work to 8:00 A.M. to 5:00 P.M. weekdays. If gasoline generators are used, they shall be contained in an enclosure that prevents their noise from being heard at properties south of the project site. This requirement will be included in all construction contracts for grading and building construction on the site.	Monitoring & Reporting: The City inspectors assigned to the project shall observe if the requirements of N-1 are being met. Remediation: Any problems observed during routine inspections or complaints received from the public shall be communicated immediately to the on-site contractor and the project applicant. The inspector shall re-inspect the site within 24 hours to determine if the problem has been successfully corrected. Continued non-compliance could result in a Stop Work Order until the issue is resolved to the satisfaction of City staff.

EXHIBIT C

SCOTTS VALLEY CITY COUNCIL RESOLUTION No. 1910

CONDITIONS OF APPROVAL (LD14-001, PD14-002 & DR14-009)

Standard

1. Developer has agreed to and shall defend, indemnify and hold harmless the City of Scotts Valley, its officers, agents and employees from any claim, action or proceeding against the City or its officers, agents or employees to attach, set aside, void or annul any action of the City in connection with approvals under the California Environmental Quality Act or with respect to approval of the project, which action is brought within the time period(s) prescribed by law. The City shall promptly notify the developer of any such claim, action or proceeding and shall fully cooperate in defense.
2. After City Council approval, the property owner shall sign the Conditions of Approval (Exhibit A) agreeing to the Conditions of Approval prior to recordation of the Final Subdivision Map for this project, transfer of title, or within 30 days of approval of this application, whichever occurs first.
3. After City Council approval, the property owner shall have a signed and notarized copy of the Notice of Conditions of Approval recognizing this application (provided by the City) recorded at the County Recorder's Office prior to the issuance of any building permits, transfer of title, or recording of the Final Map, whichever occurs first.
4. All required Grading and Building Permits shall be obtained and the application shall pay all appropriate fees prior to commencement of any construction on the property.
5. Any peer review work required by the project applicant to comply with the Conditions of Approval shall be done at the project applicant's expense through a reimbursement agreement with the City.

Planning Department

Site and Building Design

6. The colors, materials, size, location, and design of the improvements shall match that shown on the approved plans and material boards for all buildings. Modifications to the approved project may require approval at the discretion of the Community Development Director.

7. The Final Subdivision Map and all constructed improvements shall be in conformance with the plans prepared for this project by William E. Kempf, Architect and C2G Consultants stamped received by the City Planning Department on June 16, 2015 & September 2, 2015. Minor modifications to these plans that do not alter the overall concept or density of this project may be approved by the Community Development Director.
8. Project plans for grading and landscaping shall be revised to designate an area of 1,800 sq. ft. or greater within the common lot south of the most southerly unit for outdoor human use. The designated area shall be graded or otherwise developed in a manner that facilitates passive human use.
9. All Landscaping improvements shall be permanently maintained.
10. The landscaping improvements shall use native landscaping as shown on Sheet L1 of the approved plans.
11. All landscape irrigation shall be installed to recycled water plumbing standards as prescribed by the Scotts Valley Water District.
12. Any new landscape irrigation system shall be metered separately from domestic (potable) water service for the new townhouses. Purple pipe shall be used for landscape lines to facilitate constructed use. A minimum 10-foot spacing shall be maintained between all potable and purple-pipe landscape lines.
13. To the maximum extent feasible, landscape installation shall provide for low water consumption plantings, drip irrigation technology, programmable irrigation control, and permeable hard surfaces.
14. The planning department shall review and approve all fence designs and heights prior installation and/or building permit final.
15. All signs shall be in compliance with the Scotts Valley Municipal Code.
16. All exterior lighting shall be the minimum necessary for security and all lighting shall be downward shining with the light source not directly visible from adjacent properties. The lighting plan shall be reviewed and approved by the Community Development Director prior to issuance of all Building Permits. Where deemed necessary by the Community Development Director, light cutoffs/shields shall be installed and lighting heights shall be adjusted.
17. Light standards shall not exceed 15 feet in height.

Trees

18. Tree removal shall not occur until a Grading or Building Permit has been issued for the project and furthermore not until immediately before commencement of site grading.

19. The specifications of the Tree Resource Evaluation/Construction Impact Assessment/Tree Protection Plan prepared by James P. Allen and Associates is incorporated into these conditions of approval and shall be followed by the applicant and project contractors. These specifications include, but are not limited to the following:
 - a. The final grading plans and improvement plans shall be reviewed and approved by the City Arborist prior to any grading and if deemed necessary additional tree preservation measures shall be applied to the project.
 - b. Prior to issuance of a Grading or Building Permit, the applicant shall deposit a monetary security in the amount of \$178,906 and held in trust by the City of Scotts Valley as a security for "Protected Trees" located within the grading zone for the project. If damage occurs to the "Protected Trees" retained on the site during development and/or construction, funds will be drawn from the deposited amount and used to correct the damage. Funds remaining in the account will be returned to the applicant upon final inspection of the project.
 - c. Prior to any site disturbance, the City Arborist shall inspect tree protection fencing installed to preserve those trees retained on the site. All recommendations of the City Arborist shall be implemented by the applicant prior to site disturbance. The City Arborist shall routinely inspect the development site through the term of project construction.
 - d. The cost of the city arborist review and implementation of conditions, site inspection, and related work shall be borne by the applicant.
20. To compensate for the loss of 56 City Protected Trees and to minimize impacts to trees retained on the site, the project applicant shall implement the construction impact assessment and tree protection plan prepared by J.P. Allen and Associates dated September 2, 2014. Planting of new trees at a 2:1 replacement ratio may be done on-site and/or at another site approved by the City Arborist prior to any project grading. This planting may be included in the project landscape plan as approved by the City Arborist. All replacement planting shall be inspected and approved by the City Arborist. Plan specifications to protect retained trees shall be included in the construction contracts with all project contractors involved with land alteration, and foundation construction. The project arborist shall inspect the site prior to any grading activities and thereafter on a weekly basis to ensure tree preservation measures are in place throughout the construction phase of this project. All replacement plantings shall be monitored for 5 years or longer, as specified in the report, until the success criteria of 80% survival rate has been met. Monitoring shall be performed by either the City Arborist or another qualified professional approved by the City. (Mitigation Measure BIO-5)

Biotic Resources

21. To avoid impacting nesting raptors or passerine species, the project applicant shall schedule all construction outside of the nesting season of February 1 to July 31. If this is not feasible the applicant shall implement the following alternative measure. To minimize impacts to nesting raptors or migratory passerines on the site, a qualified wildlife biologist, under contract to the project proponent, shall conduct pre-construction surveys for nesting raptors and migratory passerines to determine if they occur on the site or in close proximity to the site. The surveys shall be conducted no earlier than 30 days prior to commencement of construction. If raptors or migratory passerines are observed nesting on the site, or on an adjoining site within 300 feet, the project proponent shall postpone construction within 300 feet of a raptor nest site and 50 feet from a migratory passerine nest site until all young have fledged. The wildlife biologist shall document that the young have fledged prior to commencement of proximate construction work. (Mitigation Measure BIO-1)
22. To avoid harm or loss of the pallid bat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any roosting bats are present on the site. If any are discovered, the biologist shall recommend mitigation measures to allow the bats to escape their roosts unharmed prior to tree removal. If necessary, the biologist shall consult with CDFW on a bat removal plan. The project applicant shall implement the recommendations of the biologist. (Mitigation Measure BIO-2)
23. To avoid harm or loss of the Dusky-footed woodrat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any occupied woodrat nests are present on the site. If any are discovered, the biologist shall consult with CDFW to formulate a plan to either relocate the woodrat nests or construct a human-made woodrat nest on another site suitable for the species. (Mitigation Measure BIO-3)
24. To compensate for the loss of about 2 acres of habitat for the endangered species, Mt. Hermon June beetle, the applicant shall complete the HCP/Incidental Take Permit process with the USFWS as specified by Section 10 of the Endangered Species Act and continue to employ a qualified entomologist to implement the approved HCP according to the requirements and the schedule specified by USFWS and the approved HCP for this project. Written documentation of USFWS approval of the HCP and a Take Permit for this project shall be submitted to the City of Scotts Valley Planning Department prior to commencing any ground disturbance at the project property. (Mitigation Measure BIO-4)

Grading

25. The limits of grading shall be clearly marked with temporary construction fencing on the site prior to the issuance of a Grading Permit or Building Permit.
26. All excess material exported from the site shall be deposited at an approved landfill for this purpose or at another project site with an approved Grading Permit from the City of Scotts Valley or another jurisdiction. Prior to any site disturbance, the applicant shall identify the location of the property where the excess material is proposed to be taken and provide all necessary documentation to comply with the intent of this condition. The off-site location shall be approved by City staff before site disturbance.

Archaeology and Paleontology

27. To ensure that archaeological resources are not destroyed if accidentally discovered during project grading or other subsurface work, the contractor shall immediately halt all work activities within a 150-foot radius of the discovery and immediately contact the City Planning Department so the City can retain an archaeologist to examine the find to make appropriate recommendations to conserve the resource. The project applicant shall include this requirement in the contract for all contractors involved with grading and subsurface work. (Mitigation Measure CUL-1)
28. If an any archaeological find is determined to be an historical or unique archaeological resource, and if avoidance of the resource would not be feasible, the archaeological or cultural resources consultant shall prepare a plan for the methodical excavation of those portions of the site that would be adversely affected. The plan shall be designed to result in the extraction of sufficient volumes of non-redundant archaeological data to address important regional research considerations. The work shall be performed by the archaeological or cultural resources consultant, and shall result in detailed technical reports. This report shall be deposited with the California Historical Resources Regional Information Center. Construction in the vicinity of the find shall be accomplished in accordance with current professional standards and shall not recommence until this work is completed.
29. The project applicant shall assure that project personnel are informed that collecting significant historical or unique archaeological resources discovered during development of the project is prohibited by law. Prehistoric or Native American resources can include chert or obsidian flakes, projectile points, mortars, and pestles; and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources can include nails, bottles, or other items often found in refuse deposits.
30. If human remains are discovered, there shall be no further excavation or disturbance of the discovery site or any nearby area reasonably suspected to

overlie adjacent human remains until the project applicant has complied with the provisions of State CEQA Guidelines Section 15064.5(e). In general, these provisions require that the County Coroner shall be notified immediately. If the remains are found to be Native American, the County Coroner shall notify the Native American Heritage Commission within 24 hours. The most likely descendant of the deceased Native American shall be notified by the Commission and given the chance to make recommendations for the remains. If the Commission is unable to identify the most likely descendent, or if no recommendations are made within 24 hours, remains may be reinterred with appropriate dignity elsewhere on the property in a location not subject to further subsurface disturbance. If recommendations are made and not accepted, the Native American Heritage Commission will mediate the problem.

31. To ensure that paleontological resources are not destroyed during project grading, the project proponent will include the following measures:
 - a. Provide the project paleontologist with a copy of the final grading plans for review prior to any project grading;
 - b. Provide for daily monitoring during grading activities by the project paleontologist to determine if paleontological resources are encountered in excavated areas;
 - c. Allow for the recovery of any discovered paleontological resources according to a recovery plan/methods specified by the project paleontologist, including the donation of the recovered resources to a suitable repository (museum, school, etc.);
 - d. If recovery occurs, ensure that the project paleontologist prepare a recovery report that details the type of resources recovered and the repository locations where they were taken; and
 - e. Specify in the construction contract with the project grading contractor(s), that grading personnel are to cooperate with and assist the project paleontologist during monitoring and any recovery activities, including assisting with recovery efforts if necessary. (Mitigation Measure CUL-2)

32. A brief report shall be prepared by both the archaeological and paleontological consultants at the end of earth moving activities, stating the results of their monitoring and sent to the City of Scotts Valley. If no resources were found, resources, this report shall signify the end of mitigation. If resources were encountered, this report shall describe the tasks taken to conserve the resources in accordance with Conditions 22-26 above.

Noise

33. To reduce construction noise emanating beyond the site to acceptable levels, the project applicant shall require all contractors to limit their work to 8:00 A.M. to 5:00 P.M. weekdays. If gasoline generators are used, they shall be contained in an enclosure that prevents their noise from being heard at properties south of the project site. This requirement will be included in all construction contracts for grading and building construction on the site. (Mitigation Measure N-1)

Air Quality

34. To reduce dust generation from project grading and construction to minimal levels, the project proponent shall require the grading contractor to implement best management practices (BMPs) for dust control, including watering down exposed earth surfaces each non-rainfall day at intervals that attenuate dust problems. Any dirt tracked on to Scotts Valley Drive shall be removed daily in a manner that does not create substantial airborne dust. The following BMPs shall be implemented during site grading:
- a. Excavation of the site shall be done in phases by grading only those areas where immediate activity will take place, leaving the remaining areas in their original condition with ground cover;
 - b. A water truck, using recycled water, shall be available on a repeated basis each day throughout the grading phase of the project to spray exposed earth surfaces;
 - c. In addition to regular water spraying, a biodegradable chemical pallative shall be sprayed on any graded areas that will remain exposed without additional grading for three or more days in succession;
 - d. The site entrance shall be base rocked to avoid or minimize tracking mud on Scotts Valley Drive by construction vehicles;
 - e. The segment of Scotts Valley Drive along the project frontage shall be mechanically swept at the end of each work day when any dirt or mud has been tracked on the street;

- f. No grading activities shall occur during days of high wind velocity;
- g. Finished graded areas that are designated as open space and landscape areas of project, shall be covered with an accepted erosion control substance such as straw mulch or hydromulch with a tackifier; and
- h. Construction staff shall monitor daily all areas that have received a chemical palliative spray or application of mulch to determine if these areas remain in a dust-free condition and take corrective action as needed to maintain a dust-free environment.

These requirements shall be included in the construction contract for the project.
(Mitigation Measure AQ-1)

BUILDING DEPARTMENT

- 35. All recommendations in the Geotechnical Report prepared by Dees and Associates for this project, dated July 2014 are incorporated as conditions of project approval. This includes, a requirement that the project geotechnical (soils) engineer shall review and approve the final site grading, drainage, erosion control, and foundation design details prior to issuance of a Grading and Building Permit.
- 36. Construction plans for all townhouse buildings shall be submitted to the City of Scotts to obtain Building Permits for their construction. Plans and construction shall comply with the California Building Code requirements. Grading plans for all site grading and RWQCB approved SWPPP plans shall accompany building construction plans.
- 37. To reduce the effects of seismic shaking to acceptable levels, the project proponent shall have all dwellings designed to California Building Code standards for the design level earthquake for the area. The design details shall be provided on the building plans submitted to the City for a Building Permit for each dwelling. (Mitigation Measure GEO-1)
- 38. The applicant shall comply with all Conditions of this permit regarding export of excess soil.
- 39. To prevent erosion from occurring during or after grading and development of the project site, the project applicant shall have a qualified professional prepare an SWPPP/erosion control plan and submit it to both the RWQCB and the City Building Department for review and approval prior to approval of the final subdivision map. The approved plan shall be implemented with grading of the site. The erosion control measures should be functional prior, during and after construction. Specific measures shall be identified in the project plans and specifications should include the following features: use of coir rolls, straw bales and/or similar measures to prevent sediments from leaving the site, erosion

control seeding and mulching following construction and other measures as appropriate. The plan shall include the following performance standards: Limit grading activities to the dry season of April 15–October 15; Seed and mulch/hydromulch exposed areas as soon as possible following Stabilize all finished graded slopes of 15% or greater by installing additional features, such as erosion control netting or coir rolls;

- a. Provide sediment traps, including temporary siltation basins at downstream end of drainage channels;
 - b. Keep all drainageways clear of debris and clean them when debris is observed;
 - c. Implement all dust control BMPs specified in Mitigation Measure AQ-1;and
 - d. Monitoring the site on a regular basis to determine the effectiveness of all stormwater/erosion control measures and correct any identified problems. (Mitigation Measure GEO-2)
40. To protect project improvements from the effects of soil instability, the project applicant shall design project improvements according to the recommendations of the geotechnical report prepared by Dees and Associates dated July 10, 2014. The geotechnical engineer shall review and approve construction plans prior to submitting plans to the City Building Department for a Grading Permit and Building Permit application. The applicant shall submit written documentation that the project engineer has verified that site grading work and the construction of each dwelling meets the recommendations of the approved geotechnical report. (Mitigation Measure GEO-2)

WASTEWATER AND WATER

- 41. The project shall comply with all Scotts Valley Water District and Scotts Valley Fire Protection District fire flow requirements.
- 42. Scotts Valley Water District approved backflow devices shall be installed at all new service connections, as determined applicable by Scotts Valley Water District.
- 43. Water-conserving plumbing fixtures shall be used exclusively in the townhouse units, such as high efficiency toilets (1.28 gallons per flush), and low-flow showerheads.
- 44. The project shall connect to the sanitary sewer system. The manhole labeled “SSM1” on sheet C4.1 of the project plans shall be relocated closer to Scotts Valley Drive as specified by the Wastewater Division of the Public Works Department.

45. To compensate for the loss of groundwater recharge area, the project applicant shall install the drainage design feature of pervious pavement underlain with a series of concrete check dams that promote infiltration of collected surface drainage as proposed by the project plans prepared by C2G consultants dated, January 21, 2015. (Mitigation Measure HYD-2)

FIRE DISTRICT

46. A final site map shall be submitted to the Fire District prior to the issuance of any Fire District permits. The site map shall include each parcel, each building footprint, all access ways and fire hydrant location. Drawings of the plans shall be submitted on an Auto CAD drawing up to version 13 or a DWG file, on a high density 3.5" floppy disk. A legend of all the layers contained on the disk must be attached. An 11" x 17" hard copy of the site map must also be included.
47. Automatic fire sprinkler plans shall be submitted directly to the Fire District for review and permit prior to starting work on the system and prior to issuance of Building Permits for townhouse dwellings.
48. All requirements of the Scotts Valley Fire Protection District shall be met, including construction of the emergency vehicle turn-around and installation of the fire hydrant and fire sprinkler systems. Upon completion of all conditions of the permit, the Fire District shall sign-off each Building Permit prior to the allowance of occupancy. Written verification of these sign-offs shall be provided by the Fire District to the City of Scotts Valley prior to occupancy of dwellings.
49. The selected street name for the new project street is subject to the approval of the Scotts Valley Fire District and shall be shown on the Final Subdivision Map. Address numbers will be assigned by the Fire District.
50. The Fire District shall make the final determination for placement of the automatic fire sprinkler control valve and fire department connection prior to the approval of the final site map drawings.

DEPARTMENT OF PUBLIC WORKS

51. A Final Subdivision Map in conformance with the California Government Code, Section 66410 *et seq*, and with the City Subdivision Ordinance, and including the conditions of the tentative subdivision map, shall be filed to the satisfaction of the Public Works Director/City Engineer. The final map shall be submitted to the City's Public Works Department on an Auto CAD drawing up to version 2004 electronic version prior to recording.
52. All required documents, final or parcel map sheets, covenants, developer and City improvement agreements and bonds, shall be provided to the satisfaction of the Public Works Director/City Engineer prior to the recordation of any final map

or application for any building permit. (Applicant should be advised that officials of Santa Cruz County, such as the Auditor--Controller, Recorder and Clerk of the Board have requirements, such as payment of taxes and present title guarantee, which precede recordation of the final map.)

53. Engineered Improvement Plans shall be submitted for all on-site and off-site work and will be approved by the Public Works Director/City Engineer. On-site and off-site (encroachment) civil engineering permits must be issued by the City prior to commencing any work. Improvement Plans shall include any necessary grading, drainage, masonry retaining walls, driveway, utilities, utility pole relocation, frontage improvement and/or repair of sidewalk, curb and gutter or similar facilities required to satisfy tentative map conditions to the satisfaction of the Public Works Director/City Engineer. All improvements shall conform to the design standards contained in text and illustration in the "City of Scotts Valley Standard Details", latest revision adopted by the City Council. Engineered improvement plans for all work, signed and prepared under the direction of a registered civil engineer, shall be approved by the Public Works Director/City Engineer prior to commencing work.
54. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts in accordance with Condition #40 above. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted City of Scotts Valley Storm Drainage Master Plan. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
55. All work and/or activity in the public right-of-way will require an Encroachment Permit application made to the satisfaction of the Public Works Director/City Engineer. This application shall include a traffic control plan that shows how traffic will be safely controlled and motorists will be alerted during times when construction vehicles are entering and exiting the project site. The civil on-site work, and plan reviewed by the Public Works Department, will require an on-site civil engineering permit and inspection.
56. Concurrent with submittal of the Final Subdivision Map, the applicant shall submit a Homeowners' Association Agreement (HOA) and Conditions, Covenants and Restrictions (CC&Rs) for review by the Public Works Department, Planning Department and the City Attorney. The HOA shall include a maintenance agreement or reference an HOA maintenance agreement document that describes how all common lot utilities and other features, including open space areas, will be permanently maintained and the funding for such maintenance. Both the HOA and CC&Rs shall be approved by the City before the Final Subdivision Map can be recorded.

57. To prevent drainage problems related to the lack of proper maintenance of privately owned and operated drainage facilities on the site, a homeowners maintenance agreement and homeowners funding agreement shall be submitted to the City for review and approval prior to approval and recordation of the final subdivision map that includes the following:
- a. Adequate funding by each homeowner on an equal basis for the regular maintenance of the common-owned drainage facilities and any other drainage improvements not owned by the City.
 - b. Regular monitoring inspection by qualified professionals (civil engineer, erosion control specialist) to assess the functional capability of the drainage improvements and to provide recommendations for repairs and maintenance. This monitoring should occur at least annually in the spring or summer and include professionals qualified in the area of drainage engineering.
 - c. Maintenance of the drainage facilities by a qualified professional in accordance with the recommendations of the monitoring inspections. (Mitigation Measure HYD-3)
58. All public improvements shall be guaranteed by written Agreement with the City, Faithful Performance Bond, and Labor and Material men's Bond, to the satisfaction of the Public Works Director/City Engineer.
59. The applicant shall install a "No Left Turn" at the southbound lane side of Scotts Valley Drive at the approach to Bean Creek Road to the satisfaction of the Public Works Director to advise motorists that left-turns into the project site at this location are not permitted.
60. The applicant shall install a "No Right Turn" sign at the project street exit to advise motorists that only left turn exiting is possible from the project site.
61. To prevent sedimentation and discharge of contaminants off-site during project construction, the project applicant shall have the construction contractor implement the approved erosion control plan discussed in mitigation measure GEO-2 and implement a best management practice/hazardous materials containment plan during the entire time construction activities are occurring. The hazardous materials containment plan shall be approved by City Planning staff prior to commencement of land alteration and construction activities for the project. It shall contain the following elements:
- a. Stationary equipment such as motors, pumps, welding equipment shall be placed over drip pans or other containment apparatus;
 - b. Construction materials shall not be stockpiled or stored where they could be accidentally discharged downslope or in to Scotts Valley Drive; and

- c. Any petroleum, lubricants or other hazardous materials used during construction shall be stored in a special storage location equipped with double containment and this location shall be shown on the erosion control plan and approved by the agencies that review this plan. (Mitigation Measure Applicant shall construct all storm drain facilities in conformance with data and analysis in the adopted *City of Scotts Valley Stormwater Technical Guide*, February 2014.
- 62. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted *City of Scotts Valley Stormwater Technical Guide*. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
- 63. A copy of all required documents, including the recorded final map sheets, City-approved HOA agreements, CC&Rs, developer security bond agreements for improvements, shall be provided to appropriate City departments prior to the application of any Grading or Building Permit.

Name and Signature of Property Owner

Date

ORDINANCE NO. 16-ZC-224

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY APPROVING A PLANNED DEVELOPMENT OVERLAY ZONING DISTRICT (PD14-002) FOR A 19 UNIT PLANNED DEVELOPMENT (THE TERRACE AT SCOTTS VALLEY) LOCATED ON SCOTTS VALLEY DRIVE / APN'S 022-162-69 & 74.

WHEREAS, the Planning Department of the City of Scotts Valley has received the application filed by Chris Perri, Apple Homes Development, for a Planned Development PD14-002, Land Division LD14-001 and Design Review DR14-09 for a 19-dwelling unit townhouse project on two adjoining vacant parcels located on Scotts Valley Drive / APN'S 022-162-69 & 74 (collectively referred to as "Application"); and,

WHEREAS, Apple Homes Development has presented substantial evidence which supports the Application; and

WHEREAS, the Application was reviewed for completeness and is determined to be a "project" as defined by the California Environmental Quality Act (CEQA); and,

WHEREAS, a Mitigated Negative Declaration has been prepared pursuant to Section 15162 of the California Environmental Quality Act (CEQA); and

WHEREAS, as mitigated, the project is determined to not have a significant impact on the environment based upon the results of the initial study; and

WHEREAS, the Planning Commission held a public hearing on September 10, 2015, to consider the Application and after consideration of public testimony, the staff report and evidence submitted to support the Application, the Planning Commission recommended approval of the Application to the City Council; and

WHEREAS, a public hearing on the proposed project was held by the City Council on October 21, 2015, and such hearing was noticed pursuant to the requirements of the Scotts Valley Municipal Code and State Law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scotts Valley as follows:

SECTION 1: The City Council of the City of Scotts Valley does hereby make the following findings, as further clarified in the staff report dated October 21, 2015:

1. *The proposed Planned Development zoning is consistent with the underlying zoning designation, the City of Scotts Valley General Plan.* The proposed project is consistent with the "Multi-family Residential" land use designation of the property prescribed in the General Plan. The project is consistent with the purpose and intent of the "R-M-6" zoning district.

NOW THEREFORE, BE IT FURTHER RESOLVED that, after careful consideration of the Application and related materials, plans, maps, facts, exhibits, staff report, testimony and other evidence submitted in this matter, and incorporated herein by this reference, the City Council approves the Planned Development Overlay Zoning (PD14-002) for the Terrace at Scotts Valley townhouse project located on Scotts Valley Drive (APN'S 022-162-69 & 74), pursuant to the Overlay Zoning Map (Exhibit A) which is incorporated herein by this reference.

This ordinance was introduced on the 21st day of October, 2015, and was passed and adopted by the City Council of the City of Scotts Valley on the 4TH day of November, 2015, by the following votes:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED: _____
Dene Bustichi, Mayor

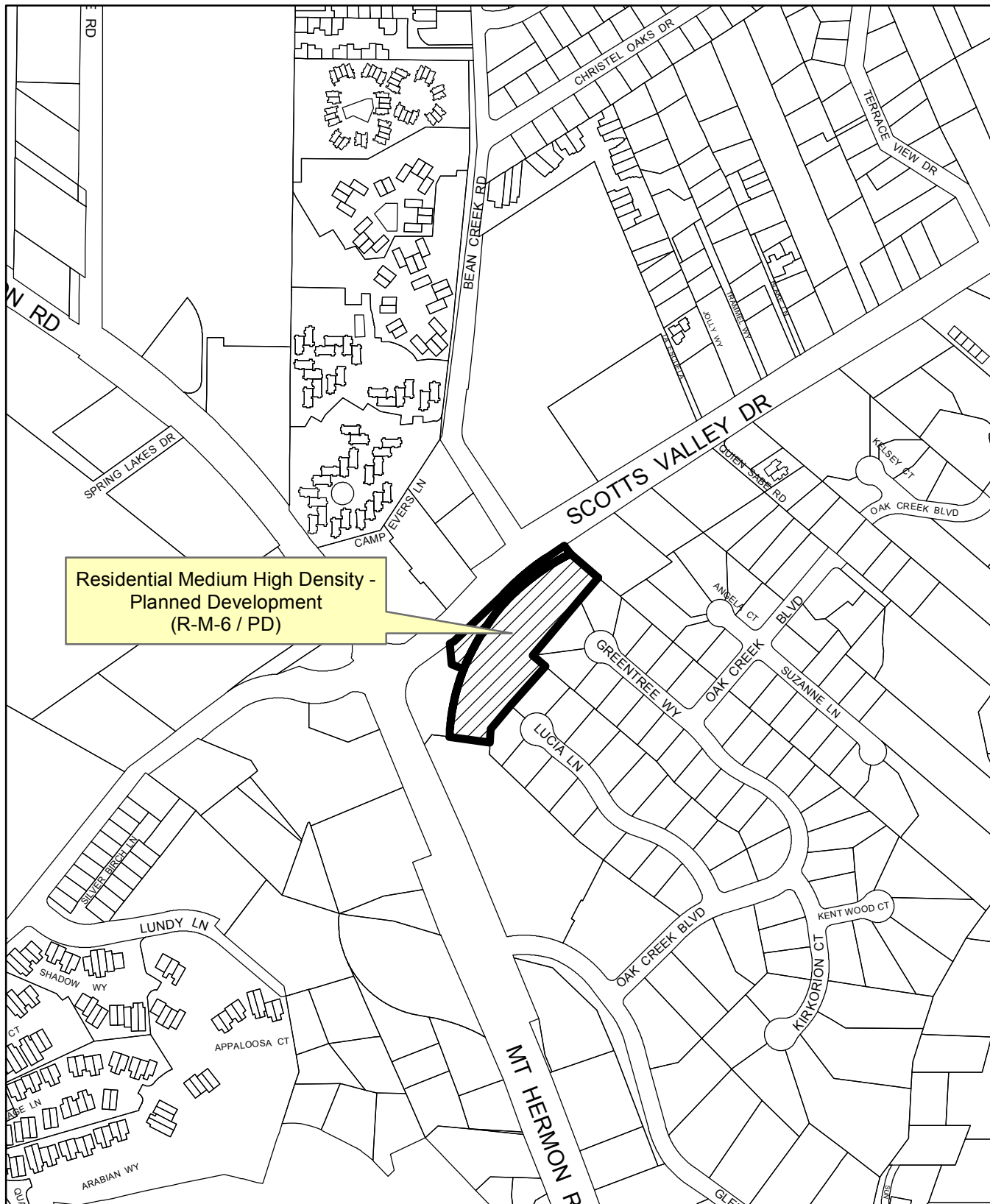
ATTEST:

Tracy A. Ferrara, City Clerk

APPROVED AS TO FORM:

Kirsten Powell, City Attorney

Planned Development Map
City Council Ordinance No. 16-ZC-224



Residential Medium High Density -
Planned Development
(R-M-6 / PD)



Scotts Valley Drive (Vacant)
APN's 022-162-69 and 74
The Terrace at Scotts Valley

RESOLUTION NO. 1910.1

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY APPROVING LAND DIVISION (LD14-001) FOR A 19 UNIT PLANNED DEVELOPMENT (THE TERRACE AT SCOTTS VALLEY) LOCATED ON SCOTTS VALLEY DRIVE / APN'S 022-162-69 & 74.

WHEREAS, the Planning Department of the City of Scotts Valley has received the application filed by Chris Perri, Apple Homes Development, for a Planned Development PD14-002, Land Division LD14-001 and Design Review DR14-09 for a 19-dwelling unit townhouse project on two adjoining vacant parcels located on Scotts Valley Drive / APN'S 022-162-69 & 74 (collectively referred to as "Application"); and,

WHEREAS, Apple Homes Development has presented substantial evidence which supports the Application; and

WHEREAS, the Application was reviewed for completeness and is determined to be a "project" as defined by the California Environmental Quality Act (CEQA); and,

WHEREAS, a Mitigated Negative Declaration has been prepared pursuant to Section 15162 of the California Environmental Quality Act (CEQA); and

WHEREAS, as mitigated, the project is determined to not have a significant impact on the environment based upon the results of the initial study; and

WHEREAS, the Planning Commission held a public hearing on September 10, 2015, to consider the Application and after consideration of public testimony, the staff report and evidence submitted to support the Application, the Planning Commission recommended approval of the Application to the City Council; and

WHEREAS, a public hearing on the proposed project was held by the City Council on October 21, 2015, and such hearing was noticed pursuant to the requirements of the Scotts Valley Municipal Code and State Law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scotts Valley as follows:

SECTION 1: The City Council of the City of Scotts Valley does hereby make the following findings, as further clarified in the staff report dated October 21, 2015:

1. *The location of the residential use is in accordance with the objectives of the Zoning Ordinance and purposes of the district in which the site is located. The*

townhouse project will be located on a property zoned “R-M-6” (Multi-family Residential). Together with the Planned Development overlay zoning, the project will comply with all applicable site standards of the zoning district.

2. *The proposed tentative map and subdivision together with the provision for its design and improvement is consistent with the General Plan.* The tentative map will create 19 residential lots and one common lot. The overall residential density of the project is 7.63 dwellings/acre. The General Plan land use designation is “Multi-family Residential” for the site specifies a residential density range of 5—9 dwellings/acre. The project is within this density range.
3. *The project site is physically suitable for the subdivision.* The 2.6-acres site is physically suitable for the subdivision in that no public easements encumber any portion of the site and there are no environmental constraints, such as landslides, that make part of the site unbuildable. Slopes on the site can be successfully graded to reduce their gradients without generating unmitigatable impacts to make the site suitable for the type construction that is proposed. While some environmental resources occur on the site, such as habitat for an endangered insect species, the loss of all identified resources can be mitigated as discussed in the Initial Study prepared for this project.
4. *The project site is physically suitable for the proposed density of development.* As discussed in the findings above, the 20-unit project meets the density range of the land use designation for the project property.
5. *The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.* The Initial Study prepared for this project evaluated all environmental impacts and potential environmental impacts generated by the project and concluded all such impacts or potential impacts can and will be avoided or otherwise mitigated to a level of insignificance through project design features or mitigation measures that have been incorporated into the conditions of approval.
6. *The design of the subdivision or the type of improvements is not likely to cause serious health problems.* The Initial Study prepared for this project evaluated noise impacts to future project residents and concluded there are no significant impacts. The Initial Study also evaluated hazardous materials and concluded that potential exposure to hazardous materials was limited to the construction phase of the project, and these materials would be vehicle fuels and lubricants. Mitigation measures have been adopted that will keep these materials from affecting people or properties.
7. *The design of the subdivision will not conflict with easements acquired by the public at large for access through or use of property within the subdivision.* There are no existing easements on the project property.

NOW THEREFORE, BE IT FURTHER RESOLVED that, after careful consideration of the Application and related materials, plans, maps, facts, exhibits, staff report, testimony and other evidence submitted in this matter, and incorporated herein by this reference, the City Council approves Land Division No. LD14-001 for the Terrace at Scotts Valley townhouse project located on Scotts Valley Drive (APN'S 022-162-69 & 74), subject to the Conditions of Approval set forth in Exhibit A, which are incorporated herein by this reference.

THE ABOVE AND FOREGOING RESOLUTION was duly and regularly passed by the City Council of the City of Scotts Valley at a meeting held on the 21st day of October, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dene Bustichi, Mayor

Tracy Ferrara, City Clerk

EXHIBIT A
CONDITIONS OF APPROVAL
FOR
SCOTTS VALLEY CITY COUNCIL RESOLUTION NOS. 1910.1, 1910.2 & 1910.3
(LD14-001, PD14-002 & DR14-009)

Standard

1. Developer has agreed to and shall defend, indemnify and hold harmless the City of Scotts Valley, its officers, agents and employees from any claim, action or proceeding against the City or its officers, agents or employees to attach, set aside, void or annul any action of the City in connection with approvals under the California Environmental Quality Act or with respect to approval of the project, which action is brought within the time period(s) prescribed by law. The City shall promptly notify the developer of any such claim, action or proceeding and shall fully cooperate in defense.
2. After City Council approval, the property owner shall sign the Conditions of Approval (Exhibit A) agreeing to the Conditions of Approval prior to recordation of the Final Subdivision Map for this project, transfer of title, or within 30 days of approval of this application, whichever occurs first.
3. After City Council approval, the property owner shall have a signed and notarized copy of the Notice of Conditions of Approval recognizing this application (provided by the City) recorded at the County Recorder's Office prior to the issuance of any building permits, transfer of title, or recording of the Final Map, whichever occurs first.
4. All required Grading and Building Permits shall be obtained and the application shall pay all appropriate fees prior to commencement of any construction on the property.
5. Any peer review work required by the project applicant to comply with the Conditions of Approval shall be done at the project applicant's expense through a reimbursement agreement with the City.

Planning Department

Site and Building Design

6. The colors, materials, size, location, and design of the improvements shall match that shown on the approved plans and material boards for all buildings. Modifications to the approved project may require approval at the discretion of the Community Development Director.

7. The Final Subdivision Map and all constructed improvements shall be in conformance with the plans prepared for this project by William E. Kempf, Architect and C2G Consultants stamped received by the City Planning Department on June 16, 2015 & September 2, 2015. Minor modifications to these plans that do not alter the overall concept or density of this project may be approved by the Community Development Director.
8. Project plans for grading and landscaping shall be revised to designate an area of 1,800 sq. ft. or greater within the common lot south of the most southerly unit for outdoor human use. The designated area shall be graded or otherwise developed in a manner that facilitates passive human use.
9. All Landscaping improvements shall be permanently maintained.
10. The landscaping improvements shall use native landscaping as shown on Sheet L1 of the approved plans.
11. All landscape irrigation shall be installed to recycled water plumbing standards as prescribed by the Scotts Valley Water District.
12. Any new landscape irrigation system shall be metered separately from domestic (potable) water service for the new townhouses. Purple pipe shall be used for landscape lines to facilitate constructed use. A minimum 10-foot spacing shall be maintained between all potable and purple-pipe landscape lines.
13. To the maximum extent feasible, landscape installation shall provide for low water consumption plantings, drip irrigation technology, programmable irrigation control, and permeable hard surfaces.
14. The planning department shall review and approve all fence designs and heights prior installation and/or building permit final.
15. All signs shall be in compliance with the Scotts Valley Municipal Code.
16. All exterior lighting shall be the minimum necessary for security and all lighting shall be downward shining with the light source not directly visible from adjacent properties. The lighting plan shall be reviewed and approved by the Community Development Director prior to issuance of all Building Permits. Where deemed necessary by the Community Development Director, light cutoffs/shields shall be installed and lighting heights shall be adjusted.
17. Light standards shall not exceed 15 feet in height.

Trees

18. Tree removal shall not occur until a Grading or Building Permit has been issued for the project and furthermore not until immediately before commencement of site grading.

19. The specifications of the Tree Resource Evaluation/Construction Impact Assessment/Tree Protection Plan prepared by James P. Allen and Associates is incorporated into these conditions of approval and shall be followed by the applicant and project contractors. These specifications include, but are not limited to the following:
 - a. The final grading plans and improvement plans shall be reviewed and approved by the City Arborist prior to any grading and if deemed necessary additional tree preservation measures shall be applied to the project.
 - b. Prior to issuance of a Grading or Building Permit, the applicant shall deposit a monetary security in the amount of \$178,906 and held in trust by the City of Scotts Valley as a security for "Protected Trees" located within the grading zone for the project. If damage occurs to the "Protected Trees" retained on the site during development and/or construction, funds will be drawn from the deposited amount and used to correct the damage. Funds remaining in the account will be returned to the applicant upon final inspection of the project.
 - c. Prior to any site disturbance, the City Arborist shall inspect tree protection fencing installed to preserve those trees retained on the site. All recommendations of the City Arborist shall be implemented by the applicant prior to site disturbance. The City Arborist shall routinely inspect the development site through the term of project construction.
 - d. The cost of the city arborist review and implementation of conditions, site inspection, and related work shall be borne by the applicant.
20. To compensate for the loss of 56 City Protected Trees and to minimize impacts to trees retained on the site, the project applicant shall implement the construction impact assessment and tree protection plan prepared by J.P. Allen and Associates dated September 2, 2014. Planting of new trees at a 2:1 replacement ratio may be done on-site and/or at another site approved by the City Arborist prior to any project grading. This planting may be included in the project landscape plan as approved by the City Arborist. All replacement planting shall be inspected and approved by the City Arborist. Plan specifications to protect retained trees shall be included in the construction contracts with all project contractors involved with land alteration, and foundation construction. The project arborist shall inspect the site prior to any grading activities and thereafter on a weekly basis to ensure tree preservation measures are in place throughout the construction phase of this project. All replacement plantings shall be monitored for 5 years or longer, as specified in the report, until the success criteria of 80% survival rate has been met. Monitoring shall be performed by either the City Arborist or another qualified professional approved by the City. (Mitigation Measure BIO-5)

Biotic Resources

21. To avoid impacting nesting raptors or passerine species, the project applicant shall schedule all construction outside of the nesting season of February 1 to July 31. If this is not feasible the applicant shall implement the following alternative measure. To minimize impacts to nesting raptors or migratory passerines on the site, a qualified wildlife biologist, under contract to the project proponent, shall conduct pre-construction surveys for nesting raptors and migratory passerines to determine if they occur on the site or in close proximity to the site. The surveys shall be conducted no earlier than 30 days prior to commencement of construction. If raptors or migratory passerines are observed nesting on the site, or on an adjoining site within 300 feet, the project proponent shall postpone construction within 300 feet of a raptor nest site and 50 feet from a migratory passerine nest site until all young have fledged. The wildlife biologist shall document that the young have fledged prior to commencement of proximate construction work. (Mitigation Measure BIO-1)
22. To avoid harm or loss of the pallid bat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any roosting bats are present on the site. If any are discovered, the biologist shall recommend mitigation measures to allow the bats to escape their roosts unharmed prior to tree removal. If necessary, the biologist shall consult with CDFW on a bat removal plan. The project applicant shall implement the recommendations of the biologist. (Mitigation Measure BIO-2)
23. To avoid harm or loss of the Dusky-footed woodrat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any occupied woodrat nests are present on the site. If any are discovered, the biologist shall consult with CDFW to formulate a plan to either relocate the woodrat nests or construct a human-made woodrat nest on another site suitable for the species. (Mitigation Measure BIO-3)
24. To compensate for the loss of about 2 acres of habitat for the endangered species, Mt. Hermon June beetle, the applicant shall complete the HCP/Incidental Take Permit process with the USFWS as specified by Section 10 of the Endangered Species Act and continue to employ a qualified entomologist to implement the approved HCP according to the requirements and the schedule specified by USFWS and the approved HCP for this project. Written documentation of USFWS approval of the HCP and a Take Permit for this project shall be submitted to the City of Scotts Valley Planning Department prior to commencing any ground disturbance at the project property. (Mitigation Measure BIO-4)

Grading

25. The limits of grading shall be clearly marked with temporary construction fencing on the site prior to the issuance of a Grading Permit or Building Permit.
26. All excess material exported from the site shall be deposited at an approved landfill for this purpose or at another project site with an approved Grading Permit from the City of Scotts Valley or another jurisdiction. Prior to any site disturbance, the applicant shall identify the location of the property where the excess material is proposed to be taken and provide all necessary documentation to comply with the intent of this condition. The off-site location shall be approved by City staff before site disturbance.

Archaeology and Paleontology

27. To ensure that archaeological resources are not destroyed if accidentally discovered during project grading or other subsurface work, the contractor shall immediately halt all work activities within a 150-foot radius of the discovery and immediate contact the City Planning Department so the City can retain an archaeologist to examine the find to make appropriate recommendations to conserve the resource. The project applicant shall include this requirement in the contract for all contractors involved with grading and subsurface work. (Mitigation Measure CUL-1)
28. If an any archaeological find is determined to be an historical or unique archaeological resource, and if avoidance of the resource would not be feasible, the archaeological or cultural resources consultant shall prepare a plan for the methodical excavation of those portions of the site that would be adversely affected. The plan shall be designed to result in the extraction of sufficient volumes of non-redundant archaeological data to address important regional research considerations. The work shall be performed by the archaeological or cultural resources consultant, and shall result in detailed technical reports. This report shall be deposited with the California Historical Resources Regional Information Center. Construction in the vicinity of the find shall be accomplished in accordance with current professional standards and shall not recommence until this work is completed.
29. The project applicant shall assure that project personnel are informed that collecting significant historical or unique archaeological resources discovered during development of the project is prohibited by law. Prehistoric or Native American resources can include chert or obsidian flakes, projectile points, mortars, and pestles; and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources can include nails, bottles, or other items often found in refuse deposits.
30. If human remains are discovered, there shall be no further excavation or disturbance of the discovery site or any nearby area reasonably suspected to

overlie adjacent human remains until the project applicant has complied with the provisions of State CEQA Guidelines Section 15064.5(e). In general, these provisions require that the County Coroner shall be notified immediately. If the remains are found to be Native American, the County Coroner shall notify the Native American Heritage Commission within 24 hours. The most likely descendant of the deceased Native American shall be notified by the Commission and given the chance to make recommendations for the remains. If the Commission is unable to identify the most likely descendent, or if no recommendations are made within 24 hours, remains may be reinterred with appropriate dignity elsewhere on the property in a location not subject to further subsurface disturbance. If recommendations are made and not accepted, the Native American Heritage Commission will mediate the problem.

31. To ensure that paleontological resources are not destroyed during project grading, the project proponent will include the following measures:
 - a. Provide the project paleontologist with a copy of the final grading plans for review prior to any project grading;
 - b. Provide for daily monitoring during grading activities by the project paleontologist to determine if paleontological resources are encountered in excavated areas;
 - c. Allow for the recovery of any discovered paleontological resources according to a recovery plan/methods specified by the project paleontologist, including the donation of the recovered resources to a suitable repository (museum, school, etc.);
 - d. If recovery occurs, ensure that the project paleontologist prepare a recovery report that details the type of resources recovered and the repository locations where they were taken; and
 - e. Specify in the construction contract with the project grading contractor(s), that grading personnel are to cooperate with and assist the project paleontologist during monitoring and any recovery activities, including assisting with recovery efforts if necessary. (Mitigation Measure CUL-2)

32. A brief report shall be prepared by both the archaeological and paleontological consultants at the end of earth moving activities, stating the results of their monitoring and sent to the City of Scotts Valley. If no resources were found, resources, this report shall signify the end of mitigation. If resources were encountered, this report shall describe the tasks taken to conserve the resources in accordance with Conditions 22-26 above.

Noise

33. To reduce construction noise emanating beyond the site to acceptable levels, the project applicant shall require all contractors to limit their work to 8:00 A.M. to 5:00 P.M. weekdays. If gasoline generators are used, they shall be contained in an enclosure that prevents their noise from being heard at properties south of the project site. This requirement will be included in all construction contracts for grading and building construction on the site. (Mitigation Measure N-1)

Air Quality

34. To reduce dust generation from project grading and construction to minimal levels, the project proponent shall require the grading contractor to implement best management practices (BMPs) for dust control, including watering down exposed earth surfaces each non-rainfall day at intervals that attenuate dust problems. Any dirt tracked on to Scotts Valley Drive shall be removed daily in a manner that does not create substantial airborne dust. The following BMPs shall be implemented during site grading:
- a. Excavation of the site shall be done in phases by grading only those areas where immediate activity will take place, leaving the remaining areas in their original condition with ground cover;
 - b. A water truck, using recycled water, shall be available on a repeated basis each day throughout the grading phase of the project to spray exposed earth surfaces;
 - c. In addition to regular water spraying, a biodegradable chemical pallative shall be sprayed on any graded areas that will remain exposed without additional grading for three or more days in succession;
 - d. The site entrance shall be base rocked to avoid or minimize tracking mud on Scotts Valley Drive by construction vehicles;
 - e. The segment of Scotts Valley Drive along the project frontage shall be mechanically swept at the end of each work day when any dirt or mud has been tracked on the street;

- f. No grading activities shall occur during days of high wind velocity;
- g. Finished graded areas that are designated as open space and landscape areas of project, shall be covered with an accepted erosion control substance such as straw mulch or hydromulch with a tackifier; and
- h. Construction staff shall monitor daily all areas that have received a chemical palliative spray or application of mulch to determine if these areas remain in a dust-free condition and take corrective action as needed to maintain a dust-free environment.

These requirements shall be included in the construction contract for the project.
(Mitigation Measure AQ-1)

BUILDING DEPARTMENT

- 35. All recommendations in the Geotechnical Report prepared by Dees and Associates for this project, dated July 2014 are incorporated as conditions of project approval. This includes, a requirement that the project geotechnical (soils) engineer shall review and approve the final site grading, drainage, erosion control, and foundation design details prior to issuance of a Grading and Building Permit.
- 36. Construction plans for all townhouse buildings shall be submitted to the City of Scotts to obtain Building Permits for their construction. Plans and construction shall comply with the California Building Code requirements. Grading plans for all site grading and RWQCB approved SWPPP plans shall accompany building construction plans.
- 37. To reduce the effects of seismic shaking to acceptable levels, the project proponent shall have all dwellings designed to California Building Code standards for the design level earthquake for the area. The design details shall be provided on the building plans submitted to the City for a Building Permit for each dwelling. (Mitigation Measure GEO-1)
- 38. The applicant shall comply with all Conditions of this permit regarding export of excess soil.
- 39. To prevent erosion from occurring during or after grading and development of the project site, the project applicant shall have a qualified professional prepare an SWPPP/erosion control plan and submit it to both the RWQCB and the City Building Department for review and approval prior to approval of the final subdivision map. The approved plan shall be implemented with grading of the site. The erosion control measures should be functional prior, during and after construction. Specific measures shall be identified in the project plans and specifications should include the following features: use of coir rolls, straw bales and/or similar measures to prevent sediments from leaving the site, erosion

control seeding and mulching following construction and other measures as appropriate. The plan shall include the following performance standards: Limit grading activities to the dry season of April 15–October 15; Seed and mulch/hydromulch exposed areas as soon as possible following Stabilize all finished graded slopes of 15% or greater by installing additional features, such as erosion control netting or coir rolls;

- a. Provide sediment traps, including temporary siltation basins at downstream end of drainage channels;
 - b. Keep all drainageways clear of debris and clean them when debris is observed;
 - c. Implement all dust control BMPs specified in Mitigation Measure AQ-1;and
 - d. Monitoring the site on a regular basis to determine the effectiveness of all stormwater/erosion control measures and correct any identified problems. (Mitigation Measure GEO-2)
40. To protect project improvements from the effects of soil instability, the project applicant shall design project improvements according to the recommendations of the geotechnical report prepared by Dees and Associates dated July 10, 2014. The geotechnical engineer shall review and approve construction plans prior to submitting plans to the City Building Department for a Grading Permit and Building Permit application. The applicant shall submit written documentation that the project engineer has verified that site grading work and the construction of each dwelling meets the recommendations of the approved geotechnical report. (Mitigation Measure GEO-2)

WASTEWATER AND WATER

- 41. The project shall comply with all Scotts Valley Water District and Scotts Valley Fire Protection District fire flow requirements.
- 42. Scotts Valley Water District approved backflow devices shall be installed at all new service connections, as determined applicable by Scotts Valley Water District.
- 43. Water-conserving plumbing fixtures shall be used exclusively in the townhouse units, such as high efficiency toilets (1.28 gallons per flush), and low-flow showerheads.
- 44. The project shall connect to the sanitary sewer system. The manhole labeled “SSM1” on sheet C4.1 of the project plans shall be relocated closer to Scotts Valley Drive as specified by the Wastewater Division of the Public Works Department.

45. To compensate for the loss of groundwater recharge area, the project applicant shall install the drainage design feature of pervious pavement underlain with a series of concrete check dams that promote infiltration of collected surface drainage as proposed by the project plans prepared by C2G consultants dated, January 21, 2015. (Mitigation Measure HYD-2)

FIRE DISTRICT

46. A final site map shall be submitted to the Fire District prior to the issuance of any Fire District permits. The site map shall include each parcel, each building footprint, all access ways and fire hydrant location. Drawings of the plans shall be submitted on an Auto CAD drawing up to version 13 or a DWG file, on a high density 3.5" floppy disk. A legend of all the layers contained on the disk must be attached. An 11" x 17" hard copy of the site map must also be included.
47. Automatic fire sprinkler plans shall be submitted directly to the Fire District for review and permit prior to starting work on the system and prior to issuance of Building Permits for townhouse dwellings.
48. All requirements of the Scotts Valley Fire Protection District shall be met, including construction of the emergency vehicle turn-around and installation of the fire hydrant and fire sprinkler systems. Upon completion of all conditions of the permit, the Fire District shall sign-off each Building Permit prior to the allowance of occupancy. Written verification of these sign-offs shall be provided by the Fire District to the City of Scotts Valley prior to occupancy of dwellings.
49. The selected street name for the new project street is subject to the approval of the Scotts Valley Fire District and shall be shown on the Final Subdivision Map. Address numbers will be assigned by the Fire District.
50. The Fire District shall make the final determination for placement of the automatic fire sprinkler control valve and fire department connection prior to the approval of the final site map drawings.

DEPARTMENT OF PUBLIC WORKS

51. A Final Subdivision Map in conformance with the California Government Code, Section 66410 *et seq*, and with the City Subdivision Ordinance, and including the conditions of the tentative subdivision map, shall be filed to the satisfaction of the Public Works Director/City Engineer. The final map shall be submitted to the City's Public Works Department on an Auto CAD drawing up to version 2004 electronic version prior to recording.
52. All required documents, final or parcel map sheets, covenants, developer and City improvement agreements and bonds, shall be provided to the satisfaction of the Public Works Director/City Engineer prior to the recordation of any final map

or application for any building permit. (Applicant should be advised that officials of Santa Cruz County, such as the Auditor--Controller, Recorder and Clerk of the Board have requirements, such as payment of taxes and present title guarantee, which precede recordation of the final map.)

53. Engineered Improvement Plans shall be submitted for all on-site and off-site work and will be approved by the Public Works Director/City Engineer. On-site and off-site (encroachment) civil engineering permits must be issued by the City prior to commencing any work. Improvement Plans shall include any necessary grading, drainage, masonry retaining walls, driveway, utilities, utility pole relocation, frontage improvement and/or repair of sidewalk, curb and gutter or similar facilities required to satisfy tentative map conditions to the satisfaction of the Public Works Director/City Engineer. All improvements shall conform to the design standards contained in text and illustration in the "City of Scotts Valley Standard Details", latest revision adopted by the City Council. Engineered improvement plans for all work, signed and prepared under the direction of a registered civil engineer, shall be approved by the Public Works Director/City Engineer prior to commencing work.
54. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts in accordance with Condition #40 above. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted City of Scotts Valley Storm Drainage Master Plan. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
55. All work and/or activity in the public right-of-way will require an Encroachment Permit application made to the satisfaction of the Public Works Director/City Engineer. This application shall include a traffic control plan that shows how traffic will be safely controlled and motorists will be alerted during times when construction vehicles are entering and exiting the project site. The civil on-site work, and plan reviewed by the Public Works Department, will require an on-site civil engineering permit and inspection.
56. Concurrent with submittal of the Final Subdivision Map, the applicant shall submit a Homeowners' Association Agreement (HOA) and Conditions, Covenants and Restrictions (CC&Rs) for review by the Public Works Department, Planning Department and the City Attorney. The HOA shall include a maintenance agreement or reference an HOA maintenance agreement document that describes how all common lot utilities and other features, including open space areas, will be permanently maintained and the funding for such maintenance. Both the HOA and CC&Rs shall be approved by the City before the Final Subdivision Map can be recorded.

57. To prevent drainage problems related to the lack of proper maintenance of privately owned and operated drainage facilities on the site, a homeowners maintenance agreement and homeowners funding agreement shall be submitted to the City for review and approval prior to approval and recordation of the final subdivision map that includes the following:
- a. Adequate funding by each homeowner on an equal basis for the regular maintenance of the common-owned drainage facilities and any other drainage improvements not owned by the City.
 - b. Regular monitoring inspection by qualified professionals (civil engineer, erosion control specialist) to assess the functional capability of the drainage improvements and to provide recommendations for repairs and maintenance. This monitoring should occur at least annually in the spring or summer and include professionals qualified in the area of drainage engineering.
 - c. Maintenance of the drainage facilities by a qualified professional in accordance with the recommendations of the monitoring inspections. (Mitigation Measure HYD-3)
58. All public improvements shall be guaranteed by written Agreement with the City, Faithful Performance Bond, and Labor and Material men's Bond, to the satisfaction of the Public Works Director/City Engineer.
59. The applicant shall install a "No Left Turn" at the southbound lane side of Scotts Valley Drive at the approach to Bean Creek Road to the satisfaction of the Public Works Director to advise motorists that left-turns into the project site at this location are not permitted.
60. The applicant shall install a "No Right Turn" sign at the project street exit to advise motorists that only left turn exiting is possible from the project site.
61. To prevent sedimentation and discharge of contaminants off-site during project construction, the project applicant shall have the construction contractor implement the approved erosion control plan discussed in mitigation measure GEO-2 and implement a best management practice/hazardous materials containment plan during the entire time construction activities are occurring. The hazardous materials containment plan shall be approved by City Planning staff prior to commencement of land alteration and construction activities for the project. It shall contain the following elements:
- a. Stationary equipment such as motors, pumps, welding equipment shall be placed over drip pans or other containment apparatus;
 - b. Construction materials shall not be stockpiled or stored where they could be accidentally discharged downslope or in to Scotts Valley Drive; and

- c. Any petroleum, lubricants or other hazardous materials used during construction shall be stored in a special storage location equipped with double containment and this location shall be shown on the erosion control plan and approved by the agencies that review this plan. (Mitigation Measure Applicant shall construct all storm drain facilities in conformance with data and analysis in the adopted *City of Scotts Valley Stormwater Technical Guide*, February 2014.
- 62. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted *City of Scotts Valley Stormwater Technical Guide*. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
- 63. A copy of all required documents, including the recorded final map sheets, City-approved HOA agreements, CC&Rs, developer security bond agreements for improvements, shall be provided to appropriate City departments prior to the application of any Grading or Building Permit.

Name and Signature of Property Owner

Date

RESOLUTION NO. 1910.2

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY APPROVING A PLANNED DEVELOPMENT PERMIT (PD14-002) FOR A 19 UNIT PLANNED DEVELOPMENT (THE TERRACE AT SCOTTS VALLEY) LOCATED ON SCOTTS VALLEY DRIVE / APN'S 022-162-69 & 74.

WHEREAS, the Planning Department of the City of Scotts Valley has received the application filed by Chris Perri, Apple Homes Development, for a Planned Development PD14-002, Land Division LD14-001 and Design Review DR14-09 for a 19-dwelling unit townhouse project on two adjoining vacant parcels located on Scotts Valley Drive / APN'S 022-162-69 & 74 (collectively referred to as "Application"); and,

WHEREAS, Apple Homes Development has presented substantial evidence which supports the Application; and

WHEREAS, the Application was reviewed for completeness and is determined to be a "project" as defined by the California Environmental Quality Act (CEQA); and,

WHEREAS, a Mitigated Negative Declaration has been prepared pursuant to Section 15162 of the California Environmental Quality Act (CEQA); and

WHEREAS, as mitigated, the project is determined to not have a significant impact on the environment based upon the results of the initial study; and

WHEREAS, the Planning Commission held a public hearing on September 10, 2015, to consider the Application and after consideration of public testimony, the staff report and evidence submitted to support the Application, the Planning Commission recommended approval of the Application to the City Council; and

WHEREAS, a public hearing on the proposed project was held by the City Council on October 21, 2015, and such hearing was noticed pursuant to the requirements of the Scotts Valley Municipal Code and State Law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scotts Valley as follows:

SECTION 1: The City Council of the City of Scotts Valley does hereby make the following findings, as further clarified in the staff report dated October 21, 2015:

1. *The Planned Development Permit, as issued, furthers the policies of the General Plan* by providing housing within land designated for housing with the necessary infrastructure to adequately serve the housing and its future residents.

2. *The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property.* Planned Development district and permit will allow the development to be designed to meet the needs of the individual property while maintaining the character of the neighborhood. This permit will enable the applicant to implement the project with 19 individual townhouse lots and one larger common-owned parcel to provide additional housing opportunities in the city.
3. *The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious.* The project meets the requirements of this finding in that the siting and size of the proposed buildings are designed in a compatible and cohesive manner for the 2.6-acre site. The aggregate footprint of the development is approximately 19,800 sq. ft. or about 17% of total site area. Natural and landscaped open space will surround the townhouse buildings, the project street and parking area. While the townhouses will be three stories with a height of 35 feet, they will be setback 64 feet—212 feet from the front property line and Scotts Valley Drive. Further, each building will be set into the slope so only two stories are visible from existing residences in the Oak Creek Estates neighborhood. These features will make the development harmonize with the surrounding area.
4. *The environmental impacts of the project have been reviewed and considered.* An Initial Study was prepared in accordance with the California environmental Quality Act and concluded a Mitigated Negative Declaration was appropriate for this project. The Initial Study and Mitigated Negative Declaration were released for public review and comment. All comments received have been reviewed and considered. All mitigation measures have been incorporated into the project design or as conditions of approval.

NOW THEREFORE, BE IT FURTHER RESOLVED that, after careful consideration of the Application and related materials, plans, maps, facts, exhibits, staff report, testimony and other evidence submitted in this matter, and incorporated herein by this reference, the City Council approves Planned Development Permit No. PD14-002 for the Terrace at Scotts Valley townhouse project located on Scotts Valley Drive (APN'S 022-162-69 & 74), subject to the Conditions of Approval set forth in Exhibit A, which are incorporated herein by this reference.

THE ABOVE AND FOREGOING RESOLUTION was duly and regularly passed by the City Council of the City of Scotts Valley at a meeting held on the 21st day of October, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dene Bustichi, Mayor

Tracy Ferrara, City Clerk

EXHIBIT A
CONDITIONS OF APPROVAL
FOR
SCOTTS VALLEY CITY COUNCIL RESOLUTION NOS. 1910.1, 1910.2 & 1910.3
(LD14-001, PD14-002 & DR14-009)

Standard

1. Developer has agreed to and shall defend, indemnify and hold harmless the City of Scotts Valley, its officers, agents and employees from any claim, action or proceeding against the City or its officers, agents or employees to attach, set aside, void or annul any action of the City in connection with approvals under the California Environmental Quality Act or with respect to approval of the project, which action is brought within the time period(s) prescribed by law. The City shall promptly notify the developer of any such claim, action or proceeding and shall fully cooperate in defense.
2. After City Council approval, the property owner shall sign the Conditions of Approval (Exhibit A) agreeing to the Conditions of Approval prior to recordation of the Final Subdivision Map for this project, transfer of title, or within 30 days of approval of this application, whichever occurs first.
3. After City Council approval, the property owner shall have a signed and notarized copy of the Notice of Conditions of Approval recognizing this application (provided by the City) recorded at the County Recorder's Office prior to the issuance of any building permits, transfer of title, or recording of the Final Map, whichever occurs first.
4. All required Grading and Building Permits shall be obtained and the application shall pay all appropriate fees prior to commencement of any construction on the property.
5. Any peer review work required by the project applicant to comply with the Conditions of Approval shall be done at the project applicant's expense through a reimbursement agreement with the City.

Planning Department

Site and Building Design

6. The colors, materials, size, location, and design of the improvements shall match that shown on the approved plans and material boards for all buildings. Modifications to the approved project may require approval at the discretion of the Community Development Director.

7. The Final Subdivision Map and all constructed improvements shall be in conformance with the plans prepared for this project by William E. Kempf, Architect and C2G Consultants stamped received by the City Planning Department on June 16, 2015 & September 2, 2015. Minor modifications to these plans that do not alter the overall concept or density of this project may be approved by the Community Development Director.
8. Project plans for grading and landscaping shall be revised to designate an area of 1,800 sq. ft. or greater within the common lot south of the most southerly unit for outdoor human use. The designated area shall be graded or otherwise developed in a manner that facilitates passive human use.
9. All Landscaping improvements shall be permanently maintained.
10. The landscaping improvements shall use native landscaping as shown on Sheet L1 of the approved plans.
11. All landscape irrigation shall be installed to recycled water plumbing standards as prescribed by the Scotts Valley Water District.
12. Any new landscape irrigation system shall be metered separately from domestic (potable) water service for the new townhouses. Purple pipe shall be used for landscape lines to facilitate constructed use. A minimum 10-foot spacing shall be maintained between all potable and purple-pipe landscape lines.
13. To the maximum extent feasible, landscape installation shall provide for low water consumption plantings, drip irrigation technology, programmable irrigation control, and permeable hard surfaces.
14. The planning department shall review and approve all fence designs and heights prior installation and/or building permit final.
15. All signs shall be in compliance with the Scotts Valley Municipal Code.
16. All exterior lighting shall be the minimum necessary for security and all lighting shall be downward shining with the light source not directly visible from adjacent properties. The lighting plan shall be reviewed and approved by the Community Development Director prior to issuance of all Building Permits. Where deemed necessary by the Community Development Director, light cutoffs/shields shall be installed and lighting heights shall be adjusted.
17. Light standards shall not exceed 15 feet in height.

Trees

18. Tree removal shall not occur until a Grading or Building Permit has been issued for the project and furthermore not until immediately before commencement of site grading.

19. The specifications of the Tree Resource Evaluation/Construction Impact Assessment/Tree Protection Plan prepared by James P. Allen and Associates is incorporated into these conditions of approval and shall be followed by the applicant and project contractors. These specifications include, but are not limited to the following:
 - a. The final grading plans and improvement plans shall be reviewed and approved by the City Arborist prior to any grading and if deemed necessary additional tree preservation measures shall be applied to the project.
 - b. Prior to issuance of a Grading or Building Permit, the applicant shall deposit a monetary security in the amount of \$178,906 and held in trust by the City of Scotts Valley as a security for "Protected Trees" located within the grading zone for the project. If damage occurs to the "Protected Trees" retained on the site during development and/or construction, funds will be drawn from the deposited amount and used to correct the damage. Funds remaining in the account will be returned to the applicant upon final inspection of the project.
 - c. Prior to any site disturbance, the City Arborist shall inspect tree protection fencing installed to preserve those trees retained on the site. All recommendations of the City Arborist shall be implemented by the applicant prior to site disturbance. The City Arborist shall routinely inspect the development site through the term of project construction.
 - d. The cost of the city arborist review and implementation of conditions, site inspection, and related work shall be borne by the applicant.
20. To compensate for the loss of 56 City Protected Trees and to minimize impacts to trees retained on the site, the project applicant shall implement the construction impact assessment and tree protection plan prepared by J.P. Allen and Associates dated September 2, 2014. Planting of new trees at a 2:1 replacement ratio may be done on-site and/or at another site approved by the City Arborist prior to any project grading. This planting may be included in the project landscape plan as approved by the City Arborist. All replacement planting shall be inspected and approved by the City Arborist. Plan specifications to protect retained trees shall be included in the construction contracts with all project contractors involved with land alteration, and foundation construction. The project arborist shall inspect the site prior to any grading activities and thereafter on a weekly basis to ensure tree preservation measures are in place throughout the construction phase of this project. All replacement plantings shall be monitored for 5 years or longer, as specified in the report, until the success criteria of 80% survival rate has been met. Monitoring shall be performed by either the City Arborist or another qualified professional approved by the City. (Mitigation Measure BIO-5)

Biotic Resources

21. To avoid impacting nesting raptors or passerine species, the project applicant shall schedule all construction outside of the nesting season of February 1 to July 31. If this is not feasible the applicant shall implement the following alternative measure. To minimize impacts to nesting raptors or migratory passerines on the site, a qualified wildlife biologist, under contract to the project proponent, shall conduct pre-construction surveys for nesting raptors and migratory passerines to determine if they occur on the site or in close proximity to the site. The surveys shall be conducted no earlier than 30 days prior to commencement of construction. If raptors or migratory passerines are observed nesting on the site, or on an adjoining site within 300 feet, the project proponent shall postpone construction within 300 feet of a raptor nest site and 50 feet from a migratory passerine nest site until all young have fledged. The wildlife biologist shall document that the young have fledged prior to commencement of proximate construction work. (Mitigation Measure BIO-1)
22. To avoid harm or loss of the pallid bat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any roosting bats are present on the site. If any are discovered, the biologist shall recommend mitigation measures to allow the bats to escape their roosts unharmed prior to tree removal. If necessary, the biologist shall consult with CDFW on a bat removal plan. The project applicant shall implement the recommendations of the biologist. (Mitigation Measure BIO-2)
23. To avoid harm or loss of the Dusky-footed woodrat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any occupied woodrat nests are present on the site. If any are discovered, the biologist shall consult with CDFW to formulate a plan to either relocate the woodrat nests or construct a human-made woodrat nest on another site suitable for the species. (Mitigation Measure BIO-3)
24. To compensate for the loss of about 2 acres of habitat for the endangered species, Mt. Hermon June beetle, the applicant shall complete the HCP/Incidental Take Permit process with the USFWS as specified by Section 10 of the Endangered Species Act and continue to employ a qualified entomologist to implement the approved HCP according to the requirements and the schedule specified by USFWS and the approved HCP for this project. Written documentation of USFWS approval of the HCP and a Take Permit for this project shall be submitted to the City of Scotts Valley Planning Department prior to commencing any ground disturbance at the project property. (Mitigation Measure BIO-4)

Grading

25. The limits of grading shall be clearly marked with temporary construction fencing on the site prior to the issuance of a Grading Permit or Building Permit.
26. All excess material exported from the site shall be deposited at an approved landfill for this purpose or at another project site with an approved Grading Permit from the City of Scotts Valley or another jurisdiction. Prior to any site disturbance, the applicant shall identify the location of the property where the excess material is proposed to be taken and provide all necessary documentation to comply with the intent of this condition. The off-site location shall be approved by City staff before site disturbance.

Archaeology and Paleontology

27. To ensure that archaeological resources are not destroyed if accidentally discovered during project grading or other subsurface work, the contractor shall immediately halt all work activities within a 150-foot radius of the discovery and immediately contact the City Planning Department so the City can retain an archaeologist to examine the find to make appropriate recommendations to conserve the resource. The project applicant shall include this requirement in the contract for all contractors involved with grading and subsurface work. (Mitigation Measure CUL-1)
28. If an any archaeological find is determined to be an historical or unique archaeological resource, and if avoidance of the resource would not be feasible, the archaeological or cultural resources consultant shall prepare a plan for the methodical excavation of those portions of the site that would be adversely affected. The plan shall be designed to result in the extraction of sufficient volumes of non-redundant archaeological data to address important regional research considerations. The work shall be performed by the archaeological or cultural resources consultant, and shall result in detailed technical reports. This report shall be deposited with the California Historical Resources Regional Information Center. Construction in the vicinity of the find shall be accomplished in accordance with current professional standards and shall not recommence until this work is completed.
29. The project applicant shall assure that project personnel are informed that collecting significant historical or unique archaeological resources discovered during development of the project is prohibited by law. Prehistoric or Native American resources can include chert or obsidian flakes, projectile points, mortars, and pestles; and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources can include nails, bottles, or other items often found in refuse deposits.
30. If human remains are discovered, there shall be no further excavation or disturbance of the discovery site or any nearby area reasonably suspected to

overlie adjacent human remains until the project applicant has complied with the provisions of State CEQA Guidelines Section 15064.5(e). In general, these provisions require that the County Coroner shall be notified immediately. If the remains are found to be Native American, the County Coroner shall notify the Native American Heritage Commission within 24 hours. The most likely descendant of the deceased Native American shall be notified by the Commission and given the chance to make recommendations for the remains. If the Commission is unable to identify the most likely descendent, or if no recommendations are made within 24 hours, remains may be reinterred with appropriate dignity elsewhere on the property in a location not subject to further subsurface disturbance. If recommendations are made and not accepted, the Native American Heritage Commission will mediate the problem.

31. To ensure that paleontological resources are not destroyed during project grading, the project proponent will include the following measures:
 - a. Provide the project paleontologist with a copy of the final grading plans for review prior to any project grading;
 - b. Provide for daily monitoring during grading activities by the project paleontologist to determine if paleontological resources are encountered in excavated areas;
 - c. Allow for the recovery of any discovered paleontological resources according to a recovery plan/methods specified by the project paleontologist, including the donation of the recovered resources to a suitable repository (museum, school, etc.);
 - d. If recovery occurs, ensure that the project paleontologist prepare a recovery report that details the type of resources recovered and the repository locations where they were taken; and
 - e. Specify in the construction contract with the project grading contractor(s), that grading personnel are to cooperate with and assist the project paleontologist during monitoring and any recovery activities, including assisting with recovery efforts if necessary. (Mitigation Measure CUL-2)

32. A brief report shall be prepared by both the archaeological and paleontological consultants at the end of earth moving activities, stating the results of their monitoring and sent to the City of Scotts Valley. If no resources were found, resources, this report shall signify the end of mitigation. If resources were encountered, this report shall describe the tasks taken to conserve the resources in accordance with Conditions 22-26 above.

Noise

33. To reduce construction noise emanating beyond the site to acceptable levels, the project applicant shall require all contractors to limit their work to 8:00 A.M. to 5:00 P.M. weekdays. If gasoline generators are used, they shall be contained in an enclosure that prevents their noise from being heard at properties south of the project site. This requirement will be included in all construction contracts for grading and building construction on the site. (Mitigation Measure N-1)

Air Quality

34. To reduce dust generation from project grading and construction to minimal levels, the project proponent shall require the grading contractor to implement best management practices (BMPs) for dust control, including watering down exposed earth surfaces each non-rainfall day at intervals that attenuate dust problems. Any dirt tracked on to Scotts Valley Drive shall be removed daily in a manner that does not create substantial airborne dust. The following BMPs shall be implemented during site grading:
- a. Excavation of the site shall be done in phases by grading only those areas where immediate activity will take place, leaving the remaining areas in their original condition with ground cover;
 - b. A water truck, using recycled water, shall be available on a repeated basis each day throughout the grading phase of the project to spray exposed earth surfaces;
 - c. In addition to regular water spraying, a biodegradable chemical pallative shall be sprayed on any graded areas that will remain exposed without additional grading for three or more days in succession;
 - d. The site entrance shall be base rocked to avoid or minimize tracking mud on Scotts Valley Drive by construction vehicles;
 - e. The segment of Scotts Valley Drive along the project frontage shall be mechanically swept at the end of each work day when any dirt or mud has been tracked on the street;

- f. No grading activities shall occur during days of high wind velocity;
- g. Finished graded areas that are designated as open space and landscape areas of project, shall be covered with an accepted erosion control substance such as straw mulch or hydromulch with a tackifier; and
- h. Construction staff shall monitor daily all areas that have received a chemical palliative spray or application of mulch to determine if these areas remain in a dust-free condition and take corrective action as needed to maintain a dust-free environment.

These requirements shall be included in the construction contract for the project.
(Mitigation Measure AQ-1)

BUILDING DEPARTMENT

- 35. All recommendations in the Geotechnical Report prepared by Dees and Associates for this project, dated July 2014 are incorporated as conditions of project approval. This includes, a requirement that the project geotechnical (soils) engineer shall review and approve the final site grading, drainage, erosion control, and foundation design details prior to issuance of a Grading and Building Permit.
- 36. Construction plans for all townhouse buildings shall be submitted to the City of Scotts to obtain Building Permits for their construction. Plans and construction shall comply with the California Building Code requirements. Grading plans for all site grading and RWQCB approved SWPPP plans shall accompany building construction plans.
- 37. To reduce the effects of seismic shaking to acceptable levels, the project proponent shall have all dwellings designed to California Building Code standards for the design level earthquake for the area. The design details shall be provided on the building plans submitted to the City for a Building Permit for each dwelling. (Mitigation Measure GEO-1)
- 38. The applicant shall comply with all Conditions of this permit regarding export of excess soil.
- 39. To prevent erosion from occurring during or after grading and development of the project site, the project applicant shall have a qualified professional prepare an SWPPP/erosion control plan and submit it to both the RWQCB and the City Building Department for review and approval prior to approval of the final subdivision map. The approved plan shall be implemented with grading of the site. The erosion control measures should be functional prior, during and after construction. Specific measures shall be identified in the project plans and specifications should include the following features: use of coir rolls, straw bales and/or similar measures to prevent sediments from leaving the site, erosion

control seeding and mulching following construction and other measures as appropriate. The plan shall include the following performance standards: Limit grading activities to the dry season of April 15–October 15; Seed and mulch/hydromulch exposed areas as soon as possible following Stabilize all finished graded slopes of 15% or greater by installing additional features, such as erosion control netting or coir rolls;

- a. Provide sediment traps, including temporary siltation basins at downstream end of drainage channels;
 - b. Keep all drainageways clear of debris and clean them when debris is observed;
 - c. Implement all dust control BMPs specified in Mitigation Measure AQ-1;and
 - d. Monitoring the site on a regular basis to determine the effectiveness of all stormwater/erosion control measures and correct any identified problems. (Mitigation Measure GEO-2)
40. To protect project improvements from the effects of soil instability, the project applicant shall design project improvements according to the recommendations of the geotechnical report prepared by Dees and Associates dated July 10, 2014. The geotechnical engineer shall review and approve construction plans prior to submitting plans to the City Building Department for a Grading Permit and Building Permit application. The applicant shall submit written documentation that the project engineer has verified that site grading work and the construction of each dwelling meets the recommendations of the approved geotechnical report. (Mitigation Measure GEO-2)

WASTEWATER AND WATER

- 41. The project shall comply with all Scotts Valley Water District and Scotts Valley Fire Protection District fire flow requirements.
- 42. Scotts Valley Water District approved backflow devices shall be installed at all new service connections, as determined applicable by Scotts Valley Water District.
- 43. Water-conserving plumbing fixtures shall be used exclusively in the townhouse units, such as high efficiency toilets (1.28 gallons per flush), and low-flow showerheads.
- 44. The project shall connect to the sanitary sewer system. The manhole labeled “SSM1” on sheet C4.1 of the project plans shall be relocated closer to Scotts Valley Drive as specified by the Wastewater Division of the Public Works Department.

45. To compensate for the loss of groundwater recharge area, the project applicant shall install the drainage design feature of pervious pavement underlain with a series of concrete check dams that promote infiltration of collected surface drainage as proposed by the project plans prepared by C2G consultants dated, January 21, 2015. (Mitigation Measure HYD-2)

FIRE DISTRICT

46. A final site map shall be submitted to the Fire District prior to the issuance of any Fire District permits. The site map shall include each parcel, each building footprint, all access ways and fire hydrant location. Drawings of the plans shall be submitted on an Auto CAD drawing up to version 13 or a DWG file, on a high density 3.5" floppy disk. A legend of all the layers contained on the disk must be attached. An 11" x 17" hard copy of the site map must also be included.
47. Automatic fire sprinkler plans shall be submitted directly to the Fire District for review and permit prior to starting work on the system and prior to issuance of Building Permits for townhouse dwellings.
48. All requirements of the Scotts Valley Fire Protection District shall be met, including construction of the emergency vehicle turn-around and installation of the fire hydrant and fire sprinkler systems. Upon completion of all conditions of the permit, the Fire District shall sign-off each Building Permit prior to the allowance of occupancy. Written verification of these sign-offs shall be provided by the Fire District to the City of Scotts Valley prior to occupancy of dwellings.
49. The selected street name for the new project street is subject to the approval of the Scotts Valley Fire District and shall be shown on the Final Subdivision Map. Address numbers will be assigned by the Fire District.
50. The Fire District shall make the final determination for placement of the automatic fire sprinkler control valve and fire department connection prior to the approval of the final site map drawings.

DEPARTMENT OF PUBLIC WORKS

51. A Final Subdivision Map in conformance with the California Government Code, Section 66410 *et seq*, and with the City Subdivision Ordinance, and including the conditions of the tentative subdivision map, shall be filed to the satisfaction of the Public Works Director/City Engineer. The final map shall be submitted to the City's Public Works Department on an Auto CAD drawing up to version 2004 electronic version prior to recording.
52. All required documents, final or parcel map sheets, covenants, developer and City improvement agreements and bonds, shall be provided to the satisfaction of the Public Works Director/City Engineer prior to the recordation of any final map

or application for any building permit. (Applicant should be advised that officials of Santa Cruz County, such as the Auditor--Controller, Recorder and Clerk of the Board have requirements, such as payment of taxes and present title guarantee, which precede recordation of the final map.)

53. Engineered Improvement Plans shall be submitted for all on-site and off-site work and will be approved by the Public Works Director/City Engineer. On-site and off-site (encroachment) civil engineering permits must be issued by the City prior to commencing any work. Improvement Plans shall include any necessary grading, drainage, masonry retaining walls, driveway, utilities, utility pole relocation, frontage improvement and/or repair of sidewalk, curb and gutter or similar facilities required to satisfy tentative map conditions to the satisfaction of the Public Works Director/City Engineer. All improvements shall conform to the design standards contained in text and illustration in the "City of Scotts Valley Standard Details", latest revision adopted by the City Council. Engineered improvement plans for all work, signed and prepared under the direction of a registered civil engineer, shall be approved by the Public Works Director/City Engineer prior to commencing work.
54. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts in accordance with Condition #40 above. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted City of Scotts Valley Storm Drainage Master Plan. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
55. All work and/or activity in the public right-of-way will require an Encroachment Permit application made to the satisfaction of the Public Works Director/City Engineer. This application shall include a traffic control plan that shows how traffic will be safely controlled and motorists will be alerted during times when construction vehicles are entering and exiting the project site. The civil on-site work, and plan reviewed by the Public Works Department, will require an on-site civil engineering permit and inspection.
56. Concurrent with submittal of the Final Subdivision Map, the applicant shall submit a Homeowners' Association Agreement (HOA) and Conditions, Covenants and Restrictions (CC&Rs) for review by the Public Works Department, Planning Department and the City Attorney. The HOA shall include a maintenance agreement or reference an HOA maintenance agreement document that describes how all common lot utilities and other features, including open space areas, will be permanently maintained and the funding for such maintenance. Both the HOA and CC&Rs shall be approved by the City before the Final Subdivision Map can be recorded.

57. To prevent drainage problems related to the lack of proper maintenance of privately owned and operated drainage facilities on the site, a homeowners maintenance agreement and homeowners funding agreement shall be submitted to the City for review and approval prior to approval and recordation of the final subdivision map that includes the following:
- a. Adequate funding by each homeowner on an equal basis for the regular maintenance of the common-owned drainage facilities and any other drainage improvements not owned by the City.
 - b. Regular monitoring inspection by qualified professionals (civil engineer, erosion control specialist) to assess the functional capability of the drainage improvements and to provide recommendations for repairs and maintenance. This monitoring should occur at least annually in the spring or summer and include professionals qualified in the area of drainage engineering.
 - c. Maintenance of the drainage facilities by a qualified professional in accordance with the recommendations of the monitoring inspections. (Mitigation Measure HYD-3)
58. All public improvements shall be guaranteed by written Agreement with the City, Faithful Performance Bond, and Labor and Material men's Bond, to the satisfaction of the Public Works Director/City Engineer.
59. The applicant shall install a "No Left Turn" at the southbound lane side of Scotts Valley Drive at the approach to Bean Creek Road to the satisfaction of the Public Works Director to advise motorists that left-turns into the project site at this location are not permitted.
60. The applicant shall install a "No Right Turn" sign at the project street exit to advise motorists that only left turn exiting is possible from the project site.
61. To prevent sedimentation and discharge of contaminants off-site during project construction, the project applicant shall have the construction contractor implement the approved erosion control plan discussed in mitigation measure GEO-2 and implement a best management practice/hazardous materials containment plan during the entire time construction activities are occurring. The hazardous materials containment plan shall be approved by City Planning staff prior to commencement of land alteration and construction activities for the project. It shall contain the following elements:
- a. Stationary equipment such as motors, pumps, welding equipment shall be placed over drip pans or other containment apparatus;
 - b. Construction materials shall not be stockpiled or stored where they could be accidentally discharged downslope or in to Scotts Valley Drive; and

- c. Any petroleum, lubricants or other hazardous materials used during construction shall be stored in a special storage location equipped with double containment and this location shall be shown on the erosion control plan and approved by the agencies that review this plan. (Mitigation Measure Applicant shall construct all storm drain facilities in conformance with data and analysis in the adopted *City of Scotts Valley Stormwater Technical Guide*, February 2014.
- 62. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted *City of Scotts Valley Stormwater Technical Guide*. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
- 63. A copy of all required documents, including the recorded final map sheets, City-approved HOA agreements, CC&Rs, developer security bond agreements for improvements, shall be provided to appropriate City departments prior to the application of any Grading or Building Permit.

Name and Signature of Property Owner

Date

RESOLUTION NO. 1910.3

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY APPROVING DESIGN REVIEW NO.DR14-009 FOR A 19 UNIT PLANNED DEVELOPMENT (THE TERRACE AT SCOTTS VALLEY) LOCATED ON SCOTTS VALLEY DRIVE / APN'S 022-162-69 & 74.

WHEREAS, the Planning Department of the City of Scotts Valley has received the application filed by Chris Perri, Apple Homes Development, for a Planned Development PD14-002, Land Division LD14-001 and Design Review DR14-09 for a 19-dwelling unit townhouse project on two adjoining vacant parcels located on Scotts Valley Drive / APN'S 022-162-69 & 74 (collectively referred to as "Application"); and,

WHEREAS, Apple Homes Development has presented substantial evidence which supports the Application; and

WHEREAS, the Application was reviewed for completeness and is determined to be a "project" as defined by the California Environmental Quality Act (CEQA); and,

WHEREAS, a Mitigated Negative Declaration has been prepared pursuant to Section 15162 of the California Environmental Quality Act (CEQA); and

WHEREAS, as mitigated, the project is determined to not have a significant impact on the environment based upon the results of the initial study; and

WHEREAS, the Planning Commission held a public hearing on September 10, 2015, to consider the Application and after consideration of public testimony, the staff report and evidence submitted to support the Application, the Planning Commission recommended approval of the Application to the City Council; and

WHEREAS, a public hearing on the proposed project was held by the City Council on October 21, 2015, and such hearing was noticed pursuant to the requirements of the Scotts Valley Municipal Code and State Law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scotts Valley as follows:

SECTION 1: The City Council of the City of Scotts Valley does hereby make the following findings, as further clarified in the staff report dated October 21, 2015:

1. *The siting of the structure on the site as compared with the siting of other structures in the immediate neighborhood is appropriate.* As stated further in the Planned Development Permit findings, the project has been designed to set the townhouse buildings back from property lines distances that exceed the required

setbacks for the R-M-6 zoning district; thereby providing more privacy for adjacent residential uses and reduced visual impact from vantage points from all surrounding properties. In addition, locating the townhouses between the rear open space and the street/parking area will shield residences in Oak Creek Estates from views of and noise from the new street and parking area. Therefore, the proposed new structures will be compatible with the existing neighborhood setting.

2. *The materials, colors, proportion, mass, and detail of the exterior improvements are in good proportion, have simplicity of mass and detail, and are compatible with the appearance of the surrounding structures.* All of the proposed townhouse buildings will be constructed using a mixture of exterior materials including horizontal cedar (wood) siding, seam metal roofing and cement plaster that will be painted a variety of muted colors. None of the proposed new buildings will exceed the maximum height limit of 35 feet for the R-M-6 zoning district. The proposed materials, colors, proportion, mass, and detail of exterior improvements will be compatible with the surrounding neighborhood.
3. *The landscaping is in keeping with the character and design of the proposed development.* Extensive tree planting is proposed throughout the project site to re-establish a more natural forest environment on the site. A primary objective of the project landscape plan is to replace native oak trees that will be removed during project grading. Other native tree species and drought-tolerant understory plants are proposed to compliment and reinforce a forest setting on the site.
4. *The size, location, and arrangement of on-site parking and paved areas.* The 59 parking spaces proposed for on-site parking for the site, exceed the number required (44 spaces) by the City parking requirements (Municipal Code Section 17.44.030). The size, location, and arrangement of on-site parking is in compliance with City parking requirements.
5. *Ingress, egress and internal traffic circulation.* Ingress, egress, and internal traffic will be provided in compliance with City requirements. Access to the site is provided via a new dead-end street that connects with the northbound lanes of Scotts Valley Drive. The street exit will be posted with a “No left-turn” sign to prevent operational conflicts on Scotts Valley Drive. The existing traffic circulation on Scotts Valley Drive will be maintained without a need to realign travel lanes or reconfigure other existing street improvements. Northbound motorists on Scotts Valley Drive will enter the project directly from the outer northbound travel lane of Scotts Valley Drive. Southbound motorist will travel past the project and make an allowed U-turn at the Mt. Hermon road intersection and travel north on Scotts Valley Drive to enter the project. This southbound then northbound traffic route has been evaluated by the project traffic engineer and peer reviewed by another traffic engineer hired by the City. Both evaluations conclude the traffic movement, including U-turns at the Mt. Hermon Road intersection, will not degrade level of service operations at the intersection or associated roadways.

NOW THEREFORE, BE IT FURTHER RESOLVED that, after careful consideration of the application and related materials, plans, maps, facts, exhibits, staff report, testimony and other evidence submitted in this matter, and incorporated herein by this reference, the City Council approves Design Review No. DR14-009 for the Terrace at Scotts Valley townhouse project located on Scotts Valley Drive (APN'S 022-162-69 & 74), subject to the conditions of approval set forth in Exhibit A, which are incorporated herein by this reference.

THE ABOVE AND FOREGOING RESOLUTION was duly and regularly passed by the City Council of the City of Scotts Valley at a meeting held on the 21st day of October, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dene Bustichi, Mayor

Tracy Ferrara, City Clerk

EXHIBIT A
CONDITIONS OF APPROVAL
FOR
SCOTTS VALLEY CITY COUNCIL RESOLUTION NOS. 1910.1, 1910.2 & 1910.3
(LD14-001, PD14-002 & DR14-009)

Standard

1. Developer has agreed to and shall defend, indemnify and hold harmless the City of Scotts Valley, its officers, agents and employees from any claim, action or proceeding against the City or its officers, agents or employees to attach, set aside, void or annul any action of the City in connection with approvals under the California Environmental Quality Act or with respect to approval of the project, which action is brought within the time period(s) prescribed by law. The City shall promptly notify the developer of any such claim, action or proceeding and shall fully cooperate in defense.
2. After City Council approval, the property owner shall sign the Conditions of Approval (Exhibit A) agreeing to the Conditions of Approval prior to recordation of the Final Subdivision Map for this project, transfer of title, or within 30 days of approval of this application, whichever occurs first.
3. After City Council approval, the property owner shall have a signed and notarized copy of the Notice of Conditions of Approval recognizing this application (provided by the City) recorded at the County Recorder's Office prior to the issuance of any building permits, transfer of title, or recording of the Final Map, whichever occurs first.
4. All required Grading and Building Permits shall be obtained and the application shall pay all appropriate fees prior to commencement of any construction on the property.
5. Any peer review work required by the project applicant to comply with the Conditions of Approval shall be done at the project applicant's expense through a reimbursement agreement with the City.

Planning Department

Site and Building Design

6. The colors, materials, size, location, and design of the improvements shall match that shown on the approved plans and material boards for all buildings. Modifications to the approved project may require approval at the discretion of the Community Development Director.

7. The Final Subdivision Map and all constructed improvements shall be in conformance with the plans prepared for this project by William E. Kempf, Architect and C2G Consultants stamped received by the City Planning Department on June 16, 2015 & September 2, 2015. Minor modifications to these plans that do not alter the overall concept or density of this project may be approved by the Community Development Director.
8. Project plans for grading and landscaping shall be revised to designate an area of 1,800 sq. ft. or greater within the common lot south of the most southerly unit for outdoor human use. The designated area shall be graded or otherwise developed in a manner that facilitates passive human use.
9. All Landscaping improvements shall be permanently maintained.
10. The landscaping improvements shall use native landscaping as shown on Sheet L1 of the approved plans.
11. All landscape irrigation shall be installed to recycled water plumbing standards as prescribed by the Scotts Valley Water District.
12. Any new landscape irrigation system shall be metered separately from domestic (potable) water service for the new townhouses. Purple pipe shall be used for landscape lines to facilitate constructed use. A minimum 10-foot spacing shall be maintained between all potable and purple-pipe landscape lines.
13. To the maximum extent feasible, landscape installation shall provide for low water consumption plantings, drip irrigation technology, programmable irrigation control, and permeable hard surfaces.
14. The planning department shall review and approve all fence designs and heights prior installation and/or building permit final.
15. All signs shall be in compliance with the Scotts Valley Municipal Code.
16. All exterior lighting shall be the minimum necessary for security and all lighting shall be downward shining with the light source not directly visible from adjacent properties. The lighting plan shall be reviewed and approved by the Community Development Director prior to issuance of all Building Permits. Where deemed necessary by the Community Development Director, light cutoffs/shields shall be installed and lighting heights shall be adjusted.
17. Light standards shall not exceed 15 feet in height.

Trees

18. Tree removal shall not occur until a Grading or Building Permit has been issued for the project and furthermore not until immediately before commencement of site grading.

19. The specifications of the Tree Resource Evaluation/Construction Impact Assessment/Tree Protection Plan prepared by James P. Allen and Associates is incorporated into these conditions of approval and shall be followed by the applicant and project contractors. These specifications include, but are not limited to the following:
 - a. The final grading plans and improvement plans shall be reviewed and approved by the City Arborist prior to any grading and if deemed necessary additional tree preservation measures shall be applied to the project.
 - b. Prior to issuance of a Grading or Building Permit, the applicant shall deposit a monetary security in the amount of \$178,906 and held in trust by the City of Scotts Valley as a security for "Protected Trees" located within the grading zone for the project. If damage occurs to the "Protected Trees" retained on the site during development and/or construction, funds will be drawn from the deposited amount and used to correct the damage. Funds remaining in the account will be returned to the applicant upon final inspection of the project.
 - c. Prior to any site disturbance, the City Arborist shall inspect tree protection fencing installed to preserve those trees retained on the site. All recommendations of the City Arborist shall be implemented by the applicant prior to site disturbance. The City Arborist shall routinely inspect the development site through the term of project construction.
 - d. The cost of the city arborist review and implementation of conditions, site inspection, and related work shall be borne by the applicant.
20. To compensate for the loss of 56 City Protected Trees and to minimize impacts to trees retained on the site, the project applicant shall implement the construction impact assessment and tree protection plan prepared by J.P. Allen and Associates dated September 2, 2014. Planting of new trees at a 2:1 replacement ratio may be done on-site and/or at another site approved by the City Arborist prior to any project grading. This planting may be included in the project landscape plan as approved by the City Arborist. All replacement planting shall be inspected and approved by the City Arborist. Plan specifications to protect retained trees shall be included in the construction contracts with all project contractors involved with land alteration, and foundation construction. The project arborist shall inspect the site prior to any grading activities and thereafter on a weekly basis to ensure tree preservation measures are in place throughout the construction phase of this project. All replacement plantings shall be monitored for 5 years or longer, as specified in the report, until the success criteria of 80% survival rate has been met. Monitoring shall be performed by either the City Arborist or another qualified professional approved by the City. (Mitigation Measure BIO-5)

Biotic Resources

21. To avoid impacting nesting raptors or passerine species, the project applicant shall schedule all construction outside of the nesting season of February 1 to July 31. If this is not feasible the applicant shall implement the following alternative measure. To minimize impacts to nesting raptors or migratory passerines on the site, a qualified wildlife biologist, under contract to the project proponent, shall conduct pre-construction surveys for nesting raptors and migratory passerines to determine if they occur on the site or in close proximity to the site. The surveys shall be conducted no earlier than 30 days prior to commencement of construction. If raptors or migratory passerines are observed nesting on the site, or on an adjoining site within 300 feet, the project proponent shall postpone construction within 300 feet of a raptor nest site and 50 feet from a migratory passerine nest site until all young have fledged. The wildlife biologist shall document that the young have fledged prior to commencement of proximate construction work. (Mitigation Measure BIO-1)
22. To avoid harm or loss of the pallid bat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any roosting bats are present on the site. If any are discovered, the biologist shall recommend mitigation measures to allow the bats to escape their roosts unharmed prior to tree removal. If necessary, the biologist shall consult with CDFW on a bat removal plan. The project applicant shall implement the recommendations of the biologist. (Mitigation Measure BIO-2)
23. To avoid harm or loss of the Dusky-footed woodrat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any occupied woodrat nests are present on the site. If any are discovered, the biologist shall consult with CDFW to formulate a plan to either relocate the woodrat nests or construct a human-made woodrat nest on another site suitable for the species. (Mitigation Measure BIO-3)
24. To compensate for the loss of about 2 acres of habitat for the endangered species, Mt. Hermon June beetle, the applicant shall complete the HCP/Incidental Take Permit process with the USFWS as specified by Section 10 of the Endangered Species Act and continue to employ a qualified entomologist to implement the approved HCP according to the requirements and the schedule specified by USFWS and the approved HCP for this project. Written documentation of USFWS approval of the HCP and a Take Permit for this project shall be submitted to the City of Scotts Valley Planning Department prior to commencing any ground disturbance at the project property. (Mitigation Measure BIO-4)

Grading

25. The limits of grading shall be clearly marked with temporary construction fencing on the site prior to the issuance of a Grading Permit or Building Permit.
26. All excess material exported from the site shall be deposited at an approved landfill for this purpose or at another project site with an approved Grading Permit from the City of Scotts Valley or another jurisdiction. Prior to any site disturbance, the applicant shall identify the location of the property where the excess material is proposed to be taken and provide all necessary documentation to comply with the intent of this condition. The off-site location shall be approved by City staff before site disturbance.

Archaeology and Paleontology

27. To ensure that archaeological resources are not destroyed if accidentally discovered during project grading or other subsurface work, the contractor shall immediately halt all work activities within a 150-foot radius of the discovery and immediately contact the City Planning Department so the City can retain an archaeologist to examine the find to make appropriate recommendations to conserve the resource. The project applicant shall include this requirement in the contract for all contractors involved with grading and subsurface work. (Mitigation Measure CUL-1)
28. If an any archaeological find is determined to be an historical or unique archaeological resource, and if avoidance of the resource would not be feasible, the archaeological or cultural resources consultant shall prepare a plan for the methodical excavation of those portions of the site that would be adversely affected. The plan shall be designed to result in the extraction of sufficient volumes of non-redundant archaeological data to address important regional research considerations. The work shall be performed by the archaeological or cultural resources consultant, and shall result in detailed technical reports. This report shall be deposited with the California Historical Resources Regional Information Center. Construction in the vicinity of the find shall be accomplished in accordance with current professional standards and shall not recommence until this work is completed.
29. The project applicant shall assure that project personnel are informed that collecting significant historical or unique archaeological resources discovered during development of the project is prohibited by law. Prehistoric or Native American resources can include chert or obsidian flakes, projectile points, mortars, and pestles; and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources can include nails, bottles, or other items often found in refuse deposits.
30. If human remains are discovered, there shall be no further excavation or disturbance of the discovery site or any nearby area reasonably suspected to

overlie adjacent human remains until the project applicant has complied with the provisions of State CEQA Guidelines Section 15064.5(e). In general, these provisions require that the County Coroner shall be notified immediately. If the remains are found to be Native American, the County Coroner shall notify the Native American Heritage Commission within 24 hours. The most likely descendant of the deceased Native American shall be notified by the Commission and given the chance to make recommendations for the remains. If the Commission is unable to identify the most likely descendent, or if no recommendations are made within 24 hours, remains may be reinterred with appropriate dignity elsewhere on the property in a location not subject to further subsurface disturbance. If recommendations are made and not accepted, the Native American Heritage Commission will mediate the problem.

31. To ensure that paleontological resources are not destroyed during project grading, the project proponent will include the following measures:
 - a. Provide the project paleontologist with a copy of the final grading plans for review prior to any project grading;
 - b. Provide for daily monitoring during grading activities by the project paleontologist to determine if paleontological resources are encountered in excavated areas;
 - c. Allow for the recovery of any discovered paleontological resources according to a recovery plan/methods specified by the project paleontologist, including the donation of the recovered resources to a suitable repository (museum, school, etc.);
 - d. If recovery occurs, ensure that the project paleontologist prepare a recovery report that details the type of resources recovered and the repository locations where they were taken; and
 - e. Specify in the construction contract with the project grading contractor(s), that grading personnel are to cooperate with and assist the project paleontologist during monitoring and any recovery activities, including assisting with recovery efforts if necessary. (Mitigation Measure CUL-2)

32. A brief report shall be prepared by both the archaeological and paleontological consultants at the end of earth moving activities, stating the results of their monitoring and sent to the City of Scotts Valley. If no resources were found, resources, this report shall signify the end of mitigation. If resources were encountered, this report shall describe the tasks taken to conserve the resources in accordance with Conditions 22-26 above.

Noise

33. To reduce construction noise emanating beyond the site to acceptable levels, the project applicant shall require all contractors to limit their work to 8:00 A.M. to 5:00 P.M. weekdays. If gasoline generators are used, they shall be contained in an enclosure that prevents their noise from being heard at properties south of the project site. This requirement will be included in all construction contracts for grading and building construction on the site. (Mitigation Measure N-1)

Air Quality

34. To reduce dust generation from project grading and construction to minimal levels, the project proponent shall require the grading contractor to implement best management practices (BMPs) for dust control, including watering down exposed earth surfaces each non-rainfall day at intervals that attenuate dust problems. Any dirt tracked on to Scotts Valley Drive shall be removed daily in a manner that does not create substantial airborne dust. The following BMPs shall be implemented during site grading:
- a. Excavation of the site shall be done in phases by grading only those areas where immediate activity will take place, leaving the remaining areas in their original condition with ground cover;
 - b. A water truck, using recycled water, shall be available on a repeated basis each day throughout the grading phase of the project to spray exposed earth surfaces;
 - c. In addition to regular water spraying, a biodegradable chemical pallative shall be sprayed on any graded areas that will remain exposed without additional grading for three or more days in succession;
 - d. The site entrance shall be base rocked to avoid or minimize tracking mud on Scotts Valley Drive by construction vehicles;
 - e. The segment of Scotts Valley Drive along the project frontage shall be mechanically swept at the end of each work day when any dirt or mud has been tracked on the street;

- f. No grading activities shall occur during days of high wind velocity;
- g. Finished graded areas that are designated as open space and landscape areas of project, shall be covered with an accepted erosion control substance such as straw mulch or hydromulch with a tackifier; and
- h. Construction staff shall monitor daily all areas that have received a chemical palliative spray or application of mulch to determine if these areas remain in a dust-free condition and take corrective action as needed to maintain a dust-free environment.

These requirements shall be included in the construction contract for the project. (Mitigation Measure AQ-1)

BUILDING DEPARTMENT

- 35. All recommendations in the Geotechnical Report prepared by Dees and Associates for this project, dated July 2014 are incorporated as conditions of project approval. This includes, a requirement that the project geotechnical (soils) engineer shall review and approve the final site grading, drainage, erosion control, and foundation design details prior to issuance of a Grading and Building Permit.
- 36. Construction plans for all townhouse buildings shall be submitted to the City of Scotts to obtain Building Permits for their construction. Plans and construction shall comply with the California Building Code requirements. Grading plans for all site grading and RWQCB approved SWPPP plans shall accompany building construction plans.
- 37. To reduce the effects of seismic shaking to acceptable levels, the project proponent shall have all dwellings designed to California Building Code standards for the design level earthquake for the area. The design details shall be provided on the building plans submitted to the City for a Building Permit for each dwelling. (Mitigation Measure GEO-1)
- 38. The applicant shall comply with all Conditions of this permit regarding export of excess soil.
- 39. To prevent erosion from occurring during or after grading and development of the project site, the project applicant shall have a qualified professional prepare an SWPPP/erosion control plan and submit it to both the RWQCB and the City Building Department for review and approval prior to approval of the final subdivision map. The approved plan shall be implemented with grading of the site. The erosion control measures should be functional prior, during and after construction. Specific measures shall be identified in the project plans and specifications should include the following features: use of coir rolls, straw bales and/or similar measures to prevent sediments from leaving the site, erosion

control seeding and mulching following construction and other measures as appropriate. The plan shall include the following performance standards: Limit grading activities to the dry season of April 15–October 15; Seed and mulch/hydromulch exposed areas as soon as possible following Stabilize all finished graded slopes of 15% or greater by installing additional features, such as erosion control netting or coir rolls;

- a. Provide sediment traps, including temporary siltation basins at downstream end of drainage channels;
 - b. Keep all drainageways clear of debris and clean them when debris is observed;
 - c. Implement all dust control BMPs specified in Mitigation Measure AQ-1;and
 - d. Monitoring the site on a regular basis to determine the effectiveness of all stormwater/erosion control measures and correct any identified problems. (Mitigation Measure GEO-2)
40. To protect project improvements from the effects of soil instability, the project applicant shall design project improvements according to the recommendations of the geotechnical report prepared by Dees and Associates dated July 10, 2014. The geotechnical engineer shall review and approve construction plans prior to submitting plans to the City Building Department for a Grading Permit and Building Permit application. The applicant shall submit written documentation that the project engineer has verified that site grading work and the construction of each dwelling meets the recommendations of the approved geotechnical report. (Mitigation Measure GEO-2)

WASTEWATER AND WATER

- 41. The project shall comply with all Scotts Valley Water District and Scotts Valley Fire Protection District fire flow requirements.
- 42. Scotts Valley Water District approved backflow devices shall be installed at all new service connections, as determined applicable by Scotts Valley Water District.
- 43. Water-conserving plumbing fixtures shall be used exclusively in the townhouse units, such as high efficiency toilets (1.28 gallons per flush), and low-flow showerheads.
- 44. The project shall connect to the sanitary sewer system. The manhole labeled “SSM1” on sheet C4.1 of the project plans shall be relocated closer to Scotts Valley Drive as specified by the Wastewater Division of the Public Works Department.

45. To compensate for the loss of groundwater recharge area, the project applicant shall install the drainage design feature of pervious pavement underlain with a series of concrete check dams that promote infiltration of collected surface drainage as proposed by the project plans prepared by C2G consultants dated, January 21, 2015. (Mitigation Measure HYD-2)

FIRE DISTRICT

46. A final site map shall be submitted to the Fire District prior to the issuance of any Fire District permits. The site map shall include each parcel, each building footprint, all access ways and fire hydrant location. Drawings of the plans shall be submitted on an Auto CAD drawing up to version 13 or a DWG file, on a high density 3.5" floppy disk. A legend of all the layers contained on the disk must be attached. An 11" x 17" hard copy of the site map must also be included.
47. Automatic fire sprinkler plans shall be submitted directly to the Fire District for review and permit prior to starting work on the system and prior to issuance of Building Permits for townhouse dwellings.
48. All requirements of the Scotts Valley Fire Protection District shall be met, including construction of the emergency vehicle turn-around and installation of the fire hydrant and fire sprinkler systems. Upon completion of all conditions of the permit, the Fire District shall sign-off each Building Permit prior to the allowance of occupancy. Written verification of these sign-offs shall be provided by the Fire District to the City of Scotts Valley prior to occupancy of dwellings.
49. The selected street name for the new project street is subject to the approval of the Scotts Valley Fire District and shall be shown on the Final Subdivision Map. Address numbers will be assigned by the Fire District.
50. The Fire District shall make the final determination for placement of the automatic fire sprinkler control valve and fire department connection prior to the approval of the final site map drawings.

DEPARTMENT OF PUBLIC WORKS

51. A Final Subdivision Map in conformance with the California Government Code, Section 66410 *et seq*, and with the City Subdivision Ordinance, and including the conditions of the tentative subdivision map, shall be filed to the satisfaction of the Public Works Director/City Engineer. The final map shall be submitted to the City's Public Works Department on an Auto CAD drawing up to version 2004 electronic version prior to recording.
52. All required documents, final or parcel map sheets, covenants, developer and City improvement agreements and bonds, shall be provided to the satisfaction of the Public Works Director/City Engineer prior to the recordation of any final map

or application for any building permit. (Applicant should be advised that officials of Santa Cruz County, such as the Auditor--Controller, Recorder and Clerk of the Board have requirements, such as payment of taxes and present title guarantee, which precede recordation of the final map.)

53. Engineered Improvement Plans shall be submitted for all on-site and off-site work and will be approved by the Public Works Director/City Engineer. On-site and off-site (encroachment) civil engineering permits must be issued by the City prior to commencing any work. Improvement Plans shall include any necessary grading, drainage, masonry retaining walls, driveway, utilities, utility pole relocation, frontage improvement and/or repair of sidewalk, curb and gutter or similar facilities required to satisfy tentative map conditions to the satisfaction of the Public Works Director/City Engineer. All improvements shall conform to the design standards contained in text and illustration in the "City of Scotts Valley Standard Details", latest revision adopted by the City Council. Engineered improvement plans for all work, signed and prepared under the direction of a registered civil engineer, shall be approved by the Public Works Director/City Engineer prior to commencing work.
54. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts in accordance with Condition #40 above. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted City of Scotts Valley Storm Drainage Master Plan. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
55. All work and/or activity in the public right-of-way will require an Encroachment Permit application made to the satisfaction of the Public Works Director/City Engineer. This application shall include a traffic control plan that shows how traffic will be safely controlled and motorists will be alerted during times when construction vehicles are entering and exiting the project site. The civil on-site work, and plan reviewed by the Public Works Department, will require an on-site civil engineering permit and inspection.
56. Concurrent with submittal of the Final Subdivision Map, the applicant shall submit a Homeowners' Association Agreement (HOA) and Conditions, Covenants and Restrictions (CC&Rs) for review by the Public Works Department, Planning Department and the City Attorney. The HOA shall include a maintenance agreement or reference an HOA maintenance agreement document that describes how all common lot utilities and other features, including open space areas, will be permanently maintained and the funding for such maintenance. Both the HOA and CC&Rs shall be approved by the City before the Final Subdivision Map can be recorded.

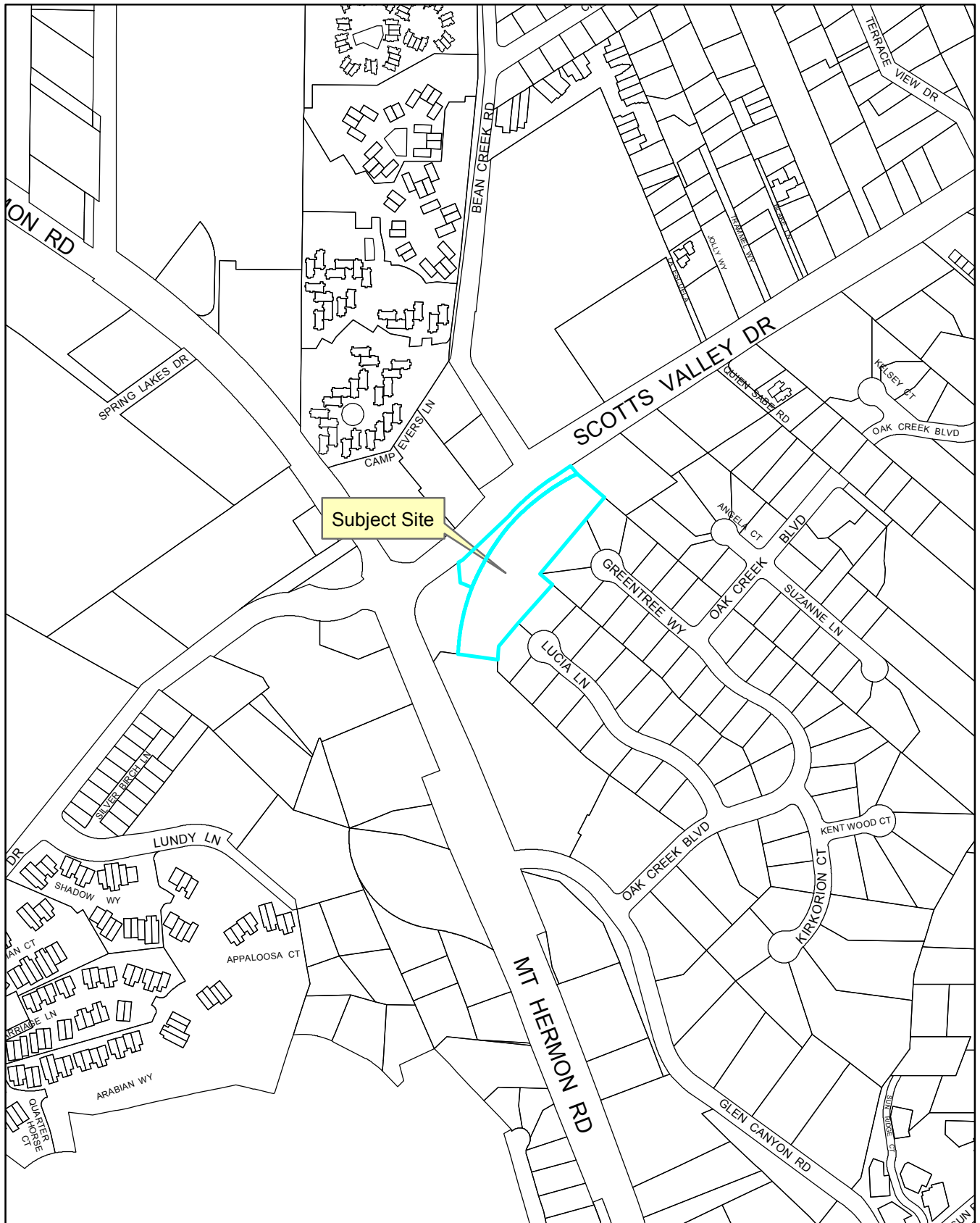
57. To prevent drainage problems related to the lack of proper maintenance of privately owned and operated drainage facilities on the site, a homeowners maintenance agreement and homeowners funding agreement shall be submitted to the City for review and approval prior to approval and recordation of the final subdivision map that includes the following:
- a. Adequate funding by each homeowner on an equal basis for the regular maintenance of the common-owned drainage facilities and any other drainage improvements not owned by the City.
 - b. Regular monitoring inspection by qualified professionals (civil engineer, erosion control specialist) to assess the functional capability of the drainage improvements and to provide recommendations for repairs and maintenance. This monitoring should occur at least annually in the spring or summer and include professionals qualified in the area of drainage engineering.
 - c. Maintenance of the drainage facilities by a qualified professional in accordance with the recommendations of the monitoring inspections. (Mitigation Measure HYD-3)
58. All public improvements shall be guaranteed by written Agreement with the City, Faithful Performance Bond, and Labor and Material men's Bond, to the satisfaction of the Public Works Director/City Engineer.
59. The applicant shall install a "No Left Turn" at the southbound lane side of Scotts Valley Drive at the approach to Bean Creek Road to the satisfaction of the Public Works Director to advise motorists that left-turns into the project site at this location are not permitted.
60. The applicant shall install a "No Right Turn" sign at the project street exit to advise motorists that only left turn exiting is possible from the project site.
61. To prevent sedimentation and discharge of contaminants off-site during project construction, the project applicant shall have the construction contractor implement the approved erosion control plan discussed in mitigation measure GEO-2 and implement a best management practice/hazardous materials containment plan during the entire time construction activities are occurring. The hazardous materials containment plan shall be approved by City Planning staff prior to commencement of land alteration and construction activities for the project. It shall contain the following elements:
- a. Stationary equipment such as motors, pumps, welding equipment shall be placed over drip pans or other containment apparatus;
 - b. Construction materials shall not be stockpiled or stored where they could be accidentally discharged downslope or in to Scotts Valley Drive; and

- c. Any petroleum, lubricants or other hazardous materials used during construction shall be stored in a special storage location equipped with double containment and this location shall be shown on the erosion control plan and approved by the agencies that review this plan. (Mitigation Measure Applicant shall construct all storm drain facilities in conformance with data and analysis in the adopted *City of Scotts Valley Stormwater Technical Guide*, February 2014.
- 62. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted *City of Scotts Valley Stormwater Technical Guide*. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
- 63. A copy of all required documents, including the recorded final map sheets, City-approved HOA agreements, CC&Rs, developer security bond agreements for improvements, shall be provided to appropriate City departments prior to the application of any Grading or Building Permit.

Name and Signature of Property Owner

Date

Location Map



Scotts Valley Drive
APN's 022-162-69 & 74



CITY OF SCOTTS VALLEY

PLANNING DEPARTMENT

One Civic Center Drive • Scotts Valley • California • 95066
Phone (831) 440-5630 • Facsimile (831) 438-2793 • www.scottsvally.org

Planning Commission Action Meeting Minutes

DATE / TIME:

Thursday, September 10, 2015 at 6:00PM

MEETING LOCATION:

City Hall Council Chambers at One Civic Center Drive

POSTING:

Agenda posted at the City of Scotts Valley City Hall and Senior Center, and the Public Library on September 3, 2015

Planning Commissioners Steve Horlock, Chair Russ Patterson, Vice-Chair Carlos Arcangeli, Commissioner Deborah Muth, Commissioner Derek Timm, Commissioner	City Staff Members Corrie Kates, Community Development Director/ Deputy City Manager Taylor Bateman, Principal Planner Michelle Fodge, Senior Planner
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CALL TO ORDER: Planning Commission Chair called the meeting to order at 6:00PM.

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE: The Planning Commission Chair lead the pledge of allegiance.

ROLL CALL: Present: Arcangeli, Horlock, Muth, Patterson and Timm.

ORAL COMMUNICATIONS: None.

ALTERATIONS TO CONSENT AGENDA: None.

CONSENT AGENDA:

Action: Planning Commission approved the Action Meeting Minutes from August 13, 2015, as prepared.

ALTERATIONS TO REGULAR OR PUBLIC HEARING AGENDA: None.

PUBLIC HEARING AGENDA:

2. **Address:** None. Project located on Scotts Valley Drive opposite the intersection with Bean Creek Road / APN 022-162-69 & 74
Planning Permit Application: LD14-001, PD14-002, DR14-009 & MND14-002
Applicant / Property Owner: Apple Homes Development, Inc.
Project Description: Consideration for recommendation to City Council of a proposed Planned Development consisting of 20 townhouses and related improvements on two vacant lots (2.6 acres) located on Scotts Valley Drive.
Staff Planner: Taylor Bateman, Principal Planner, (831) 440-5633 or tbateman@scottsvalley.org

Action: Planning Commission approved via Resolution No. 1694 with a 4/1/0 vote.

REGULAR AGENDA: None.

DISCUSSION ITEMS: None.

FUTURE AGENDA ITEMS: None.

WRITTEN COMMUNICATIONS - FOR INFORMATION ONLY: *City Council Minutes or other items are provided if available.*

ADJOURNMENT: 7:35 p.m.

RESOLUTION NO. 1694

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SCOTTS VALLEY RECOMMENDING THAT THE CITY COUNCIL CERTIFY THE MITIGATED NEGATIVE DECLARATION, APPROVE A PLANNED DEVELOPMENT DISTRICT AND PERMIT, LAND DIVISION AND DESIGN REVIEW FOR THE TERRACE AT SCOTTS VALLEY TOWNHOUSE PROJECT LOCATED ON SCOTTS VALLEY DRIVE / APN'S 022-162-69 & 74.

WHEREAS, the Planning Department of the City of Scotts Valley has received the application filed by Chris Perri, Apple Homes Development for a Planned Development PD14-002, Land Division LD14-001 and Design Review DR14-09 for a 20-dwelling unit townhouse project on two adjoining vacant parcels located on Scotts Valley Drive / APN'S 022-162-69 & 74; and,

WHEREAS, Apple Home Development, (referred to as "applicant") has presented substantial evidence which supports the application; and

WHEREAS, the application is a "project" pursuant to the California Environmental Quality Act ("CEQA"); and

WHEREAS, a Mitigated Negative Declaration has been prepared pursuant to Section 15162 of the California Environmental Quality Act (CEQA); and

WHEREAS, as mitigated, the project is determined to not have a significant impact on the environment based upon the results of the Initial Study; and

WHEREAS, the Scotts Valley Planning Commission staff report prepared for the September 10, 2015 meeting of the Planning Commission is an Addendum to the Mitigated Negative Declaration; and

WHEREAS, a public hearing on the proposed project was noticed pursuant to the requirements of the Scotts Valley Municipal Code and State Law and a duly noticed hearing was held by the Planning Commission on September 10, 2015.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Scotts Valley ("Commission"), that the Commission hereby recommends that the City Council:

SECTION 1: Certify the Mitigated Negative Declaration and its Addendum based on the following findings:

1. *The Mitigated Negative Declaration for the project has been completed in compliance with the California Environmental Quality Act (CEQA).* The Mitigated Negative Declaration for the project has been completed in compliance with

CEQA, and the requirements of CEQA Guidelines Section 15063 have been met. The Addendum meets the requires of CEQA Guidelines Section 15164 in that is provides information on a minor technical change in the project that does not result in a new or exacerbated impacts from that discussed in the Initial Study prepared and circulated for the project.

2. *All mitigation measures identified in the Mitigated Negative Declaration are included in the resolution approving the project and are made conditions of approval for the project.* All mitigation measures have been included in the project design or as conditions of approval.
3. *Documents and other materials constituting the record of the proceedings upon which the City's decision and its findings are based will be located at the Department of Planning of the City of Scotts Valley in the custody of the Community Development Director.* Copies of the Initial Study and Mitigated Negative Declaration have been made available to the public for review pursuant to CEQA requirements.
4. *The Mitigated Negative Declaration represents the independent judgement of the City.* The City prepared the Mitigated Negative Declaration. All supporting information has been reviewed and approved by the City.

SECTION 2: Approve the Planned Development Overlay Zoning and Permit and Land Division as shown on the plans as submitted to the Planning Commission with the Conditions of Approval provided in Exhibit A and the Mitigation Monitoring Reporting Program provided in Exhibit C based on the following findings:

Tentative Subdivision Map

5. *The location of the residential use is in accordance with the objectives of the Zoning Ordinance and purposes of the district in which the site is located.* The townhouse project will be located on a property zoned "RM-6" (Multi-family Residential). Together with the Planned Development overlay zoning, the project will comply all applicable site standards of the zoning district.
6. *The proposed tentative map and subdivision together with the provision for its design and improvement is consistent with the General Plan.* The tentative map will create 20 residential lots and one common lot. The overall residential density of the project is 7.63 dwellings/acre. The General Plan land use designation is "Multi-family Residential" for the site specifies a residential density range of 5—9 dwellings/acre. The project is within this density range.
7. *The project site is physically suitable for the subdivision.* The 2.6-acres site is physically suitable for the subdivision in that no public easements encumber any portion of the site and there are no environmental constraints, such as landslides, that make part of the site unbuildable. Slopes on the site can be successfully

graded to reduce their gradients without generating unmitigatable impacts to make the site suitable for the type construction that is proposed. While some environmental resources occur on the site, such as habitat for an endangered insect species, the loss of all identified resources can be mitigated as discussed in the Initial Study prepared for this project and Findings #1 - 4 above.

8. *The project site is physically suitable for the proposed density of development.* As discussed in finding #6 above, the 20-unit project meets the density range of the land use designation for the project property.
9. *The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.* The Initial Study prepared for this project evaluated all environmental impacts and potential environmental impacts generated by the project and concluded all such impacts or potential impacts can and will be avoided or otherwise mitigated to a level of insignificance through project design features or mitigation measures that have been incorporated into the conditions of approval.
10. *The design of the subdivision or the type of improvements is not likely to cause serious health problems.* The Initial Study prepared for this project evaluated noise impacts to future project residents and concluded there are no significant impacts. The Initial Study also evaluated hazardous materials and concluded that potential exposure to hazardous materials was limited to the construction phase of the project, and these materials would be vehicle fuels and lubricants. Mitigation measures have been adopted that will keep these materials from affecting people or properties.
11. *The design of the subdivision will not conflict with easements acquired by the public at large for access through or use of property within the subdivision.* There are no existing easements on the project property.

Planned Development Zoning

12. *The proposed Planned Development zoning is consistent with the underlying zoning designation and the City of Scotts Valley General Plan.* The proposed project is consistent with the "Multi-family Residential" land use designation of the property prescribed in the General Plan. The project is consistent with the purpose and intent of the "RM-6" zoning district.

Planned Development Permit

13. *The Planned Development Permit, as issued, furthers the policies of the General Plan* by providing housing within land designated for housing with the necessary infrastructure to adequately serve the housing and its future residents.

14. *The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property.* Planned Development district and permit will allow the development to be designed to meet the needs of the individual property while maintaining the character of the neighborhood. This permit will enable the applicant to implement the project with 20 individual townhouse lots and one larger common-owned parcel to provide additional housing opportunities in the city.
15. *The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious.* The project meets the requirements of this finding in that the siting and size of the proposed buildings are designed in a compatible and cohesive manner for the 2.6-acre site. The aggregate footprint of the development is approximately 19,800 sq. ft. or 17% of total site area. Natural and landscaped open space will surround the townhouse buildings, the project street and parking area. While the townhouses will be three stories with a height of 35 feet, they will be setback 64 feet—212 feet from the front property line and Scotts Valley Drive. Further, each building will be set into the slope so only two stories are visible from existing residences in the Oak Creek Estates neighborhood. These features will make the development harmonize with the surrounding area.
16. *The environmental impacts of the project have been reviewed and considered.* An Initial Study was prepared in accordance with the California environmental Quality Act and concluded a Mitigated Negative Declaration was appropriate for this project. The Initial Study and Mitigated Negative Declaration were released for public review and comment. All comments received have been reviewed and considered. All mitigation measures have been incorporated into the project design or as conditions of approval.

Design Review

17. *The siting of the structure on the site as compared with the siting of other structures in the immediate neighborhood is appropriate.* As stated in finding #15 above, the project has been designed to set the townhouse buildings back from property lines distances that exceed the required setbacks for the R-M-6 zoning district; thereby providing more privacy for adjacent residential uses and reduced visual impact from vantage points from all surrounding properties. In addition, locating the townhouses between the rear open space and the street/parking area will shield residences in Oak Creek Estates from views of and noise from the new street and parking area. Therefore, the proposed new structures will be compatible with the existing neighborhood setting.
18. *The materials, colors, proportion, mass, and detail of the exterior improvements are in good proportion, have simplicity of mass and detail, and are compatible with the appearance of the surrounding structures.* All of the proposed townhouse

buildings will be constructed using a mixture of exterior materials including horizontal cedar (wood) siding, seam metal roofing and cement plaster that will be painted a variety of muted colors. None of the proposed new buildings will exceed the maximum height limit of 35 feet for the R-M-6 zoning district. The proposed materials, colors, proportion, mass, and detail of exterior improvements will be compatible with the surrounding neighborhood.

19. *The landscaping is in keeping with the character and design of the proposed development.* Extensive tree planting is proposed throughout the project site to re-establish a more natural forest environment on the site. A primary objective of the project landscape plan is to replace native oak trees that will be removed during project grading. Other native tree species and drought-tolerant understory plants are proposed to compliment and reinforce a forest setting on the site.
20. *The size, location, and arrangement of on-site parking and paved areas.* The 59 parking spaces proposed for on-site parking for the site, exceed the number required (44 spaces) by the City parking requirements (Municipal Code Section 17.44.030). The size, location, and arrangement of on-site parking is in compliance with City parking requirements.
21. *Ingress, egress and internal traffic circulation.* Ingress, egress, and internal traffic will be provided in compliance with City requirements. Access to the site is provided via a new dead-end street that connects with the northbound lanes of Scotts Valley Drive. The street exit will be posted with a "No left-turn" sign to prevent operational conflicts on Scotts Valley Drive. The existing traffic circulation on Scotts Valley Drive will be maintained without a need to realign travel lanes or reconfigure other existing street improvements. Northbound motorists on Scotts Valley Drive will enter the project directly from the outer northbound travel lane of Scotts Valley Drive. Southbound motorist will travel past the project and make an allowed U-turn at the Mt. Hermon road intersection and travel north on Scotts Valley Drive to enter the project. This southbound then northbound traffic route has been evaluated by the project traffic engineer and peer reviewed by another traffic engineer hired by the City. Both evaluations conclude the traffic movement, including U-turns at the Mt. Hermon Road intersection, will not degrade level of service operations at the intersection or associated roadways.

NOW THEREFORE, BE IT FURTHER RESOLVED that, after careful consideration of the application and related materials, plans, maps, facts, exhibits, staff report, testimony and other evidence submitted in this matter, and incorporated herein by this reference, the Planning Commission recommends that the City Council certify the Mitigated Negative Declaration MND14-002 and approve, Planned Development PD14-002; Land Division LD14-001; and Design Review No. DR14-009 for the Terrace at Scotts Valley townhouse project located on Scotts Valley Drive / APN'S 022-162-69 & 74, subject to the conditions of approval set forth in Exhibit A, the Mitigated Negative Declaration set forth in Exhibit B, and the Mitigation Monitoring Reporting Program set forth in Exhibit C, which are incorporated herein by this reference.

THE ABOVE AND FOREGOING RESOLUTION was duly and regularly passed by the Planning Commission of the City of Scotts Valley at a meeting held on the 10th day of September, 2015, by the following vote:

AYES: Arcangeli, Horlock, Patterson and Timm
NOES: Muth
ABSTAIN:
ABSENT:

Chair, Steve Horlock

Corrie Kates, Community Development Director

EXHIBIT A

CONDITIONS OF APPROVAL (LD14-001; PD14-002 & DR14-009)

Standard

1. Developer has agreed to and shall defend, indemnify and hold harmless the City of Scotts Valley, its officers, agents and employees from any claim, action or proceeding against the City or its officers, agents or employees to attach, set aside, void or annul any action of the City in connection with approvals under the California Environmental Quality Act or with respect to approval of the project, which action is brought within the time period(s) prescribed by law. The City shall promptly notify the developer of any such claim, action or proceeding and shall fully cooperate in defense.
2. After City Council approval, the property owner shall sign the Conditions of Approval (Exhibit A) agreeing to the Conditions of Approval prior to recordation of the Final Subdivision Map for this project, transfer of title, or within 30 days of approval of this application, whichever occurs first.
3. All required Grading and Building Permits shall be obtained and the application shall pay all appropriate fees prior to commencement of any construction on the property.
4. Any peer review work required by the project applicant to comply with the Conditions of Approval shall be done at the project applicant's expense through a reimbursement agreement with the City.

Planning Department

Site and Building Design

5. The colors, materials, size, location, and design of the improvements shall match that shown on the approved plans and material boards for all buildings. Modifications to the approved project may require approval at the discretion of the Community Development Director.
6. The Final Subdivision Map and all constructed improvements shall be in conformance with the plans prepared for this project by William E. Kempf, Architect and C2G Consultants stamped received by the City Planning Department on June 16, 2015 & September 2, 2015. Minor modifications to these plans that do not alter the overall concept or density of this project may be approved by the Community Development Director.

7. Project plans for grading and landscaping shall be revised to designate an area of 1,800 sq. ft. or greater within the common lot south of the most southerly unit for outdoor human use. The designated area shall be graded or otherwise developed in a manner that facilitates passive human use.
8. All Landscaping improvements shall be permanently maintained.
9. The landscaping improvements shall use native landscaping as shown on Sheet L1 of the approved plans.
10. All landscape irrigation shall be installed to recycled water plumbing standards as prescribed by the Scotts Valley Water District.
11. Any new landscape irrigation system shall be metered separately from domestic (potable) water service for the new townhouses. Purple pipe shall be used for landscape lines to facilitate constructed use. A minimum 10-foot spacing shall be maintained between all potable and purple-pipe landscape lines.
12. To the maximum extent feasible, landscape installation shall provide for low water consumption plantings, drip irrigation technology, programmable irrigation control, and permeable hard surfaces.
13. The planning department shall review and approve all fence designs and heights prior installation and/or building permit final.
14. All signs shall be in compliance with the Scotts Valley Municipal Code.
15. All exterior lighting shall be the minimum necessary for security and all lighting shall be downward shining with the light source not directly visible from adjacent properties. The lighting plan shall be reviewed and approved by the Community Development Director prior to issuance of all Building Permits. Where deemed necessary by the Community Development Director, light cutoffs/shields shall be installed and lighting heights shall be adjusted.
16. Light standards shall not exceed 15 feet in height.

Trees

17. Tree removal shall not occur until a Grading or Building Permit has been issued for the project and furthermore not until immediately before commencement of site grading.
18. The specifications of the Tree Resource Evaluation/Construction Impact Assessment/Tree Protection Plan prepared by James P. Allen and Associates is incorporated into these conditions of approval and shall be followed by the applicant and project contractors. These specifications include, but are not limited to the following:

- a. The final grading plans and improvement plans shall be reviewed and approved by the City Arborist prior to any grading and if deemed necessary additional tree preservation measures shall be applied to the project.
 - b. Prior to issuance of a Grading or Building Permit, the applicant shall deposit a monetary security in the amount of \$178,906 and held in trust by the City of Scotts Valley as a security for "Protected Trees" located within the grading zone for the project. If damage occurs to the "Protected Trees" retained on the site during development and/or construction, funds will be drawn from the deposited amount and used to correct the damage. Funds remaining in the account will be returned to the applicant upon final inspection of the project.
 - c. Prior to any site disturbance, the City Arborist shall inspect tree protection fencing installed to preserve those trees retained on the site. All recommendations of the City Arborist shall be implemented by the applicant prior to site disturbance. The City Arborist shall routinely inspect the development site through the term of project construction.
 - d. The cost of the city arborist review and implementation of conditions, site inspection, and related work shall be borne by the applicant.
19. To compensate for the loss of 56 City Protected Trees and to minimize impacts to trees retained on the site, the project applicant shall implement the construction impact assessment and tree protection plan prepared by J.P. Allen and Associates dated September 2, 2014. Planting of new trees at a 2:1 replacement ratio may be done on-site and/or at another site approved by the City Arborist prior to any project grading. This planting may be included in the project landscape plan as approved by the City Arborist. All replacement planting shall be inspected and approved by the City Arborist. Plan specifications to protect retained trees shall be included in the construction contracts with all project contractors involved with land alteration, and foundation construction. The project arborist shall inspect the site prior to any grading activities and thereafter on a weekly basis to ensure tree preservation measures are in place throughout the construction phase of this project. All replacement plantings shall be monitored for 5 years or longer, as specified in the report, until the success criteria of 80% survival rate has been met. Monitoring shall be performed by either the City Arborist or another qualified professional approved by the City. (Mitigation Measure BIO-5)

Biotic Resources

20. To avoid impacting nesting raptors or passerine species, the project applicant shall schedule all construction outside of the nesting season of February 1 to July 31. If this is not feasible the applicant shall implement the following alternative measure. To minimize impacts to nesting raptors or migratory passerines on the site, a qualified wildlife biologist, under contract to the project proponent, shall conduct pre-construction surveys for nesting raptors and migratory passerines to determine if they occur on the site or in close proximity to the site. The surveys

shall be conducted no earlier than 30 days prior to commencement of construction. If raptors or migratory passerines are observed nesting on the site, or on an adjoining site within 300 feet, the project proponent shall postpone construction within 300 feet of a raptor nest site and 50 feet from a migratory passerine nest site until all young have fledged. The wildlife biologist shall document that the young have fledged prior to commencement of proximate construction work. (Mitigation Measure BIO-1)

21. To avoid harm or loss of the pallid bat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any roosting bats are present on the site. If any are discovered, the biologist shall recommend mitigation measures to allow the bats to escape their roosts unharmed prior to tree removal. If necessary, the biologist shall consult with CDFW on a bat removal plan. The project applicant shall implement the recommendations of the biologist. (Mitigation Measure BIO-2)
22. To avoid harm or loss of the Dusky-footed woodrat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any occupied woodrat nests are present on the site. If any are discovered, the biologist shall consult with CDFW to formulate a plan to either relocate the woodrat nests or construct a human-made woodrat nest on another site suitable for the species. (Mitigation Measure BIO-3)
23. To compensate for the loss of about 2 acres of habitat for the endangered species, Mt. Hermon June beetle, the applicant shall complete the HCP/Incidental Take Permit process with the USFWS as specified by Section 10 of the Endangered Species Act and continue to employ a qualified entomologist to implement the approved HCP according to the requirements and the schedule specified by USFWS and the approved HCP for this project. Written documentation of USFWS approval of the HCP and a Take Permit for this project shall be submitted to the City of Scotts Valley Planning Department prior to commencing any ground disturbance at the project property. (Mitigation Measure BIO-4)

Grading

24. The limits of grading shall be clearly marked with temporary construction fencing on the site prior to the issuance of a Grading Permit or Building Permit.
25. All excess material exported from the site shall be deposited at an approved landfill for this purpose or at another project site with an approved Grading Permit from the City of Scotts Valley or another jurisdiction. Prior to any site disturbance, the applicant shall identify the location of the property where the excess material is proposed to be taken and provide all necessary documentation to comply with the intent of this condition. The off-site location shall be approved by City staff before site disturbance.

Archaeology and Paleontology

26. To ensure that archaeological resources are not destroyed if accidentally discovered during project grading or other subsurface work, the contractor shall immediately halt all work activities within a 150-foot radius of the discovery and immediately contact the City Planning Department so the City can retain an archaeologist to examine the find to make appropriate recommendations to conserve the resource. The project applicant shall include this requirement in the contract for all contractors involved with grading and subsurface work. (Mitigation Measure CUL-1)
27. If an any archaeological find is determined to be an historical or unique archaeological resource, and if avoidance of the resource would not be feasible, the archaeological or cultural resources consultant shall prepare a plan for the methodical excavation of those portions of the site that would be adversely affected. The plan shall be designed to result in the extraction of sufficient volumes of non-redundant archaeological data to address important regional research considerations. The work shall be performed by the archaeological or cultural resources consultant, and shall result in detailed technical reports. This report shall be deposited with the California Historical Resources Regional Information Center. Construction in the vicinity of the find shall be accomplished in accordance with current professional standards and shall not recommence until this work is completed.
28. The project applicant shall assure that project personnel are informed that collecting significant historical or unique archaeological resources discovered during development of the project is prohibited by law. Prehistoric or Native American resources can include chert or obsidian flakes, projectile points, mortars, and pestles; and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources can include nails, bottles, or other items often found in refuse deposits.
29. If human remains are discovered, there shall be no further excavation or disturbance of the discovery site or any nearby area reasonably suspected to overlie adjacent human remains until the project applicant has complied with the provisions of State CEQA Guidelines Section 15064.5(e). In general, these provisions require that the County Coroner shall be notified immediately. If the remains are found to be Native American, the County Coroner shall notify the Native American Heritage Commission within 24 hours. The most likely descendant of the deceased Native American shall be notified by the Commission and given the chance to make recommendations for the remains. If the Commission is unable to identify the most likely descendent, or if no recommendations are made within 24 hours, remains may be reinterred with appropriate dignity elsewhere on the property in a location not subject to further subsurface disturbance. If recommendations are made and not accepted, the Native American Heritage Commission will mediate the problem.

30. To ensure that paleontological resources are not destroyed during project grading, the project proponent will include the following measures:
- a. Provide the project paleontologist with a copy of the final grading plans for review prior to any project grading;
 - b. Provide for daily monitoring during grading activities by the project paleontologist to determine if paleontological resources are encountered in excavated areas;
 - c. Allow for the recovery of any discovered paleontological resources according to a recovery plan/methods specified by the project paleontologist, including the donation of the recovered resources to a suitable repository (museum, school, etc.);
 - d. If recovery occurs, ensure that the project paleontologist prepare a recovery report that details the type of resources recovered and the repository locations where they were taken; and
 - e. Specify in the construction contract with the project grading contractor(s), that grading personnel are to cooperate with and assist the project paleontologist during monitoring and any recovery activities, including assisting with recovery efforts if necessary. (Mitigation Measure CUL-2)

31. A brief report shall be prepared by both the archaeological and paleontological consultants at the end of earth moving activities, stating the results of their monitoring and sent to the City of Scotts Valley. If no resources were found, resources, this report shall signify the end of mitigation. If resources were encountered, this report shall describe the tasks taken to conserve the resources in accordance with Conditions 22-26 above.

Noise

32. To reduce construction noise emanating beyond the site to acceptable levels, the project applicant shall require all contractors to limit their work to 8:00 A.M. to 5:00 P.M. weekdays. If gasoline generators are used, they shall be contained in an enclosure that prevents their noise from being heard at properties south of the project site. This requirement will be included in all construction contracts for grading and building construction on the site. (Mitigation Measure N-1)

Air Quality

33. To reduce dust generation from project grading and construction to minimal levels, the project proponent shall require the grading contractor to implement best management practices (BMPs) for dust control, including watering down exposed earth surfaces each non-rainfall day at intervals that attenuate dust problems. Any dirt tracked on to Scotts Valley Drive shall be removed daily in a manner that does not create substantial airborne dust. The following BMPs shall be implemented during site grading:
 - a. Excavation of the site shall be done in phases by grading only those areas where immediate activity will take place, leaving the remaining areas in their original condition with ground cover;
 - b. A water truck, using recycled water, shall be available on a repeated basis each day throughout the grading phase of the project to spray exposed earth surfaces;
 - c. In addition to regular water spraying, a biodegradable chemical pallative shall be sprayed on any graded areas that will remain exposed without additional grading for three or more days in succession;
 - d. The site entrance shall be base rocked to avoid or minimize tracking mud on Scotts Valley Drive by construction vehicles;

- e. The segment of Scotts Valley Drive along the project frontage shall be mechanically swept at the end of each work day when any dirt or mud has been tracked on the street;
- f. No grading activities shall occur during days of high wind velocity;
- g. Finished graded areas that are designated as open space and landscape areas of project, shall be covered with an accepted erosion control substance such as straw mulch or hydromulch with a tackifier; and
- h. Construction staff shall monitor daily all areas that have received a chemical pallative spray or application of mulch to determine if these areas remain in a dust-free condition and take corrective action as needed to maintain a dust-free environment.

These requirements shall be included in the construction contract for the project.
(Mitigation Measure AQ-1)

BUILDING DEPARTMENT

- 34. All recommendations in the Geotechnical Report prepared by Dees and Associates for this project, dated July 2014 are incorporated as conditions of project approval. This includes, a requirement that the project geotechnical (soils) engineer shall review and approve the final site grading, drainage, erosion control, and foundation design details prior to issuance of a Grading and Building Permit.
- 35. Construction plans for all townhouse buildings shall be submitted to the City of Scotts to obtain Building Permits for their construction. Plans and construction shall comply with the California Building Code requirements. Grading plans for all site grading and RWQCB approved SWPPP plans shall accompany building construction plans.
- 36. To reduce the effects of seismic shaking to acceptable levels, the project proponent shall have all dwellings designed to California Building Code standards for the design level earthquake for the area. The design details shall be provided on the building plans submitted to the City for a Building Permit for each dwelling.
(Mitigation Measure GEO-1)
- 37. The applicant shall comply with all Conditions of this permit regarding export of excess soil.
- 38. To prevent erosion from occurring during or after grading and development of the project site, the project applicant shall have a qualified professional prepare an SWPPP/erosion control plan and submit it to both the RWQCB and the City Building Department for review and approval prior to approval of the final

subdivision map. The approved plan shall be implemented with grading of the site. The erosion control measures should be functional prior, during and after construction. Specific measures shall be identified in the project plans and specifications should include the following features: use of coir rolls, straw bales and/or similar measures to prevent sediments from leaving the site, erosion control seeding and mulching following construction and other measures as appropriate. The plan shall include the following performance standards: Limit grading activities to the dry season of April 15–October 15; Seed and mulch/hydromulch exposed areas as soon as possible following Stabilize all finished graded slopes of 15% or greater by installing additional features, such as erosion control netting or coir rolls;

- a. Provide sediment traps, including temporary siltation basins at downstream end of drainage channels;
 - b. Keep all drainageways clear of debris and clean them when debris is observed;
 - c. Implement all dust control BMPs specified in Mitigation Measure AQ-1;and
 - d. Monitoring the site on a regular basis to determine the effectiveness of all stormwater/erosion control measures and correct any identified problems.
(Mitigation Measure GEO-2)
39. To protect project improvements from the effects of soil instability, the project applicant shall design project improvements according to the recommendations of the geotechnical report prepared by Dees and Associates dated July 10, 2014. The geotechnical engineer shall review and approve construction plans prior to submitting plans to the City Building Department for a Grading Permit and Building Permit application. The applicant shall submit written documentation that the project engineer has verified that site grading work and the construction of each dwelling meets the recommendations of the approved geotechnical report.
(Mitigation Measure GEO-2)

WASTEWATER AND WATER

- 40. The project shall comply with all Scotts Valley Water District and Scotts Valley Fire Protection District fire flow requirements.
- 41. Scotts Valley Water District approved backflow devices shall be installed at all new service connections, as determined applicable by Scotts Valley Water District.
- 42. Water-conserving plumbing fixtures shall be used exclusively in the townhouse units, such as high efficiency toilets (1.28 gallons per flush), and low-flow showerheads.
- 43. The project shall connect to the sanitary sewer system. The manhole labeled “SSM1” on sheet C4.1 of the project plans shall be relocated closer to Scotts

Valley Drive as specified by the Wastewater Division of the Public Works Department.

44. To compensate for the loss of groundwater recharge area, the project applicant shall install the drainage design feature of pervious pavement underlain with a series of concrete check dams that promote infiltration of collected surface drainage as proposed by the project plans prepared by C2G consultants dated, January 21, 2015. (Mitigation Measure HYD-2)

FIRE DISTRICT

45. A final site map shall be submitted to the Fire District prior to the issuance of any Fire District permits. The site map shall include each parcel, each building footprint, all access ways and fire hydrant location. Drawings of the plans shall be submitted on an Auto CAD drawing up to version 13 or a DWG file, on a high density 3.5" floppy disk. A legend of all the layers contained on the disk must be attached. An 11" x 17" hard copy of the site map must also be included.
46. Automatic fire sprinkler plans shall be submitted directly to the Fire District for review and permit prior to starting work on the system and prior to issuance of Building Permits for townhouse dwellings.
47. All requirements of the Scotts Valley Fire Protection District shall be met, including construction of the emergency vehicle turn-around and installation of the fire hydrant and fire sprinkler systems. Upon completion of all conditions of the permit, the Fire District shall sign-off each Building Permit prior to the allowance of occupancy. Written verification of these sign-offs shall be provided by the Fire District to the City of Scotts Valley prior to occupancy of dwellings.
48. The selected street name for the new project street is subject to the approval of the Scotts Valley Fire District and shall be shown on the Final Subdivision Map. Address numbers will be assigned by the Fire District.
49. The Fire District shall make the final determination for placement of the automatic fire sprinkler control valve and fire department connection prior to the approval of the final site map drawings.

DEPARTMENT OF PUBLIC WORKS

50. A Final Subdivision Map in conformance with the California Government Code, Section 66410 *et seq*, and with the City Subdivision Ordinance, and including the conditions of the tentative subdivision map, shall be filed to the satisfaction of the Public Works Director/City Engineer. The final map shall be submitted to the City's Public Works Department on an Auto CAD drawing up to version 2004 electronic version prior to recording.

51. All required documents, final or parcel map sheets, covenants, developer and City improvement agreements and bonds, shall be provided to the satisfaction of the Public Works Director/City Engineer prior to the recordation of any final map or application for any building permit. (Applicant should be advised that officials of Santa Cruz County, such as the Auditor--Controller, Recorder and Clerk of the Board have requirements, such as payment of taxes and present title guarantee, which precede recordation of the final map.)
52. Engineered Improvement Plans shall be submitted for all on-site and off-site work and will be approved by the Public Works Director/City Engineer. On-site and off-site (encroachment) civil engineering permits must be issued by the City prior to commencing any work. Improvement Plans shall include any necessary grading, drainage, masonry retaining walls, driveway, utilities, utility pole relocation, frontage improvement and/or repair of sidewalk, curb and gutter or similar facilities required to satisfy tentative map conditions to the satisfaction of the Public Works Director/City Engineer. All improvements shall conform to the design standards contained in text and illustration in the "City of Scotts Valley Standard Details", latest revision adopted by the City Council. Engineered improvement plans for all work, signed and prepared under the direction of a registered civil engineer, shall be approved by the Public Works Director/City Engineer prior to commencing work.
53. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts in accordance with Condition #40 above. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted City of Scotts Valley Storm Drainage Master Plan. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
54. All work and/or activity in the public right-of-way will require an Encroachment Permit application made to the satisfaction of the Public Works Director/City Engineer. This application shall include a traffic control plan that shows how traffic will be safely controlled and motorists will be alerted during times when construction vehicles are entering and exiting the project site. The civil on-site work, and plan reviewed by the Public Works Department, will require an on-site civil engineering permit and inspection.
55. Concurrent with submittal of the Final Subdivision Map, the applicant shall submit a Homeowners' Association Agreement (HOA) and Conditions, Covenants and Restrictions (CC&Rs) for review by the Public Works Department, Planning Department and the City Attorney. The HOA shall include a maintenance agreement or reference an HOA maintenance agreement document that describes how all common lot utilities and other features, including open space areas, will be permanently maintained and the funding for such maintenance. Both the HOA and

CC&Rs shall be approved by the City before the Final Subdivision Map can be recorded.

56. To prevent drainage problems related to the lack of proper maintenance of privately owned and operated drainage facilities on the site, a homeowners maintenance agreement and homeowners funding agreement shall be submitted to the City for review and approval prior to approval and recordation of the final subdivision map that includes the following:
 - a. Adequate funding by each homeowner on an equal basis for the regular maintenance of the common-owned drainage facilities and any other drainage improvements not owned by the City.
 - b. Regular monitoring inspection by qualified professionals (civil engineer, erosion control specialist) to assess the functional capability of the drainage improvements and to provide recommendations for repairs and maintenance. This monitoring should occur at least annually in the spring or summer and include professionals qualified in the area of drainage engineering.
 - c. Maintenance of the drainage facilities by a qualified professional in accordance with the recommendations of the monitoring inspections. (Mitigation Measure HYD-3)
57. All public improvements shall be guaranteed by written Agreement with the City, Faithful Performance Bond, and Labor and Material men's Bond, to the satisfaction of the Public Works Director/City Engineer.
58. The applicant shall install a "No Left Turn" at the southbound lane side of Scotts Valley Drive at the approach to Bean Creek Road to the satisfaction of the Public Works Director to advise motorists that left-turns into the project site at this location are not permitted.
59. The applicant shall install a "No Right Turn" sign at the project street exit to advise motorists that only left turn exiting is possible from the project site.
60. To prevent sedimentation and discharge of contaminants off-site during project construction, the project applicant shall have the construction contractor implement the approved erosion control plan discussed in mitigation measure GEO-2 and implement a best management practice/hazardous materials containment plan during the entire time construction activities are occurring. The hazardous materials containment plan shall be approved by City Planning staff prior to commencement of land alteration and construction activities for the project. It shall contain the following elements:
 - a. Stationary equipment such as motors, pumps, welding equipment shall be placed over drip pans or other containment apparatus;

- b. Construction materials shall not be stockpiled or stored where they could be accidentally discharged downslope or in to Scotts Valley Drive; and
 - c. Any petroleum, lubricants or other hazardous materials used during construction shall be stored in a special storage location equipped with double containment and this location shall be shown on the erosion control plan and approved by the agencies that review this plan. (Mitigation Measure Applicant shall construct all storm drain facilities in conformance with data and analysis in the adopted *City of Scotts Valley Stormwater Technical Guide*, February 2014.
61. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted *City of Scotts Valley Stormwater Technical Guide*. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
62. A copy of all required documents, including the recorded final map sheets, City-approved HOA agreements, CC&Rs, developer security bond agreements for improvements, shall be provided to appropriate City departments prior to the application of any Grading or Building Permit.

STAFF REPORT

Applicant: Chris Perri, Apple Homes Development

Property Owner: Apple Homes Development

Application: Mitigated Negative Declaration MND14-002
Planned Development PD14-002
Land Division LD14-001
Design Review DR14-009

Location: Scotts Valley Drive opposite the intersection with Bean Creek Road (no address) / APN's 022-162-69 & 74

General Plan/Zoning: "Multi-family Residential" land use / R-M-6 Zoning

Environmental Status: A Mitigated Negative Declaration has been prepared

Request: Consideration for recommendation to City Council of a proposed Planned Development consisting of 20 townhouses and related improvements on two vacant lots (2.6 acres) located on Scotts Valley Drive.

Staff Planner: Kim Tschantz, Cypress Environmental and Land Use Planning (contract planner)

STAFF RECOMMENDATION

It is recommended that the Planning Commission recommend to the City Council approval of the project by adoption of the attached resolution, subject to the conditions in Exhibit A, Exhibit B and Exhibit C.

PROJECT BACKGROUND

The project site is 2.6-acre vacant site consisting of two adjoining parcels. The site is mostly forested and mostly surrounded by existing development. Site topography is characterized by a northwest facing slope that slopes downward towards Scotts Valley Drive. An artificial cut slope was made at the base of this slope several years ago to

construct a concrete block retaining wall. This wall, which adjoins the sidewalk, is the only structural improvement on the property. It will be retained by the project. The property is adjacent to the Oak Creek Estates residential neighborhood. Five residential properties in that neighborhood are located to the rear of the site. Commercial uses occur to the southwest and a commercially zoned vacant property occurs to the northeast. Scotts Valley Middle School is located to the northwest on the opposite side of Scotts Valley Drive.

PROJECT DESCRIPTION

The proposed project, known as the Terrace at Scotts Valley, is a 20-unit townhouse project consisting of 20 individual lots with one dwelling/each and one common owned parcel for vehicle access, parking and open space. Each lot would contain a three-story townhouse unit with a rear patio. A common owned parcel, owned by the homeowners of the 20 lots, would encompass the remainder of the site. It would include the dead-end project street, outdoor parking and open space. All residential lots (townhouses) would be accessed by the new project street that connects with Scotts Valley Drive. An emergency vehicle turn-around is proposed at the end of the new dead-end street.

The project also includes 9,557 cubic yards of grading to prepare the sloping site for development. Grading, drainage and soils are discussed in the "Project Discussion" section of the report.

The design locates the townhouse buildings towards the rear of the elongated site with the new street and unenclosed parking towards the front of the site near Scotts Valley Drive. Project landscaping includes dense tree, shrub and groundcover planting between the parking area and Scotts Valley Drive.

PROPOSED ENTITLEMENTS

The project requests the following approvals: 1) Planned Development Zoning and Permit 2) Land Division and 3) Design Review Approval. The project will also need approval of a Habitat Conservation Plan by the U.S. Fish and Wildlife Service. The USFWS is currently reviewing the HCP. Final approval of the HCP is not required prior to City Council action on the project but will be required prior to any site grading or land disturbance.

According to the General Plan, the purpose of Planned Development Zoning is to "provide the means to tailor zoning regulations and to apply specific standards for the development of a particular site. This process enables the City Council to consider the unique characteristics of a site and its surroundings to better implement the citywide objectives, goals and policies of the General Plan and to provide site-specific development standards. Anytime Planned Development zoning is utilized, the standards established for the zoning district which reflects the General Plan designation are tailored

as part of a General Development Plan. Tailored zoning regulations include, but are not limited to, site intensities, location, height, coverage and appearance of structures.”

The Land Division would create 20 lots of the same size and a larger common lot in accordance with the State Subdivision Map Act.

Design Review requires architectural and site plan review for all structures by the Planning Commission and the Council. The Design Review process is established to carry out the objectives of the City's General Plan and related zoning regulations and to ensure that permits for construction as set out hereinafter will be carried out in a manner which is not detrimental to the surrounding uses and is consistent with the overall planning goals of the city.

Issues associated with the requested entitlements are discussed in the following sections of the staff report.

PROJECT DISCUSSION

Architecture and Design

Development Density

The General Plan designates the property as “Multi-family Residential”, also known as “Medium Density Residential” land use with a density range of 5 - 9 dwelling units/acre. The 20-unit project will result in an overall residential density of 7.63 units/acre and is therefore consistent with the General Plan designation for the site. The property is zoned R-M-6 which as a stand-alone base zoning would limit the density to 6,000 sq. ft./dwelling. With density averaging, the project has an overall density of 5,706 sq. ft./dwelling. However, as stated above, the requested Planned Development approval can tailor zoning density and site standards to a particular site. Approval of a Planned Development would make the project consistent with zoning regulations.

Lot Design

The project has been designed to locate the new street and outdoor parking towards Scotts Valley Drive and the three-story dwellings towards the rear of the site. The common owned parcel would “wrap around” the sides and rear of the buildings so open space would also be located between the townhouse dwellings and the adjoining residential properties in Oak Creek Estates. Each lot would be 22 feet wide with lengths varying from 50 feet to 58 feet; thereby having site areas of 1,100 sq. ft. to 1,276 sq. ft. Each lot would encompass the footprint of its dwelling and a 198 sq. ft. rear patio. All land beyond the 20 townhouse lots would be held as a common lot (parcel) owned by the 20 lot owners and managed through a homeowners association. The common lot would include the improvements discussed in the “Project Description” section above. An 893 sq. ft.

area directly south of the dwellings is proposed for passive outdoor use for residents. This issue is discussed in more detail below.

Buildings

As with other townhouse projects, this project includes attached dwellings with a 1-inch airspace between each of the attached walls. The project has been designed to group the townhouses in four separate structures (referred to as "blocks" on the plans) that are separated by narrow open space areas which will include drainage improvements and will convey drainage downslope to the street and parking area, which are designed to allow infiltration. The separate blocks will reduce building mass. The architecture of the townhouses is sometimes referred to as contemporary industrial modern architecture that has become popular in some cities in recent years. This project will have alternating exteriors of cement plaster and cedar siding. Units will also be painted in varying colors.

The townhouses will be 35 feet in height, which complies with the height standard for the zoning district. They will be built into a graded slope so that each unit will appear as three stories facing Scotts Valley Drive but as two stories at the rear. The ground story facing Scotts Valley Drive will include a garage sized for one vehicle, a mechanical room, storage space and a foyer that leads to a stairway to the two upper living levels of each unit. The second story will have a kitchen, dining room, living room and lavatory. Three bedrooms and two bathrooms will be provided in the third story.

Roofs will be primarily flat with smaller portions composed of metal seam roofing with a minor pitch. Solar panels will be installed on each roof; and due to the design of the buildings, they will not be visible from view from Scotts Valley Drive.

Common Area and Private Out Door Areas

Private open space is provided by the patios at the rear of each dwelling. The patios will extend from the second story of each unit, which is the ground floor at the rear side of the dwellings. The applicant states a 50-gallon rain water harvesting tank will be located on each patio. The 198 sq. ft. patios, by themselves, provide limited open space for outdoor uses that typically occur on residential properties.

At the request of staff, the applicant has agreed to designate an area on the common parcel for passive outdoor use for townhouse residents. To make the area useable for sitting, picnicking or similar passive uses, some grading must occur to create level or nearly surfaces. The applicant has designated an 893 sq. ft. area directly south of the most southerly unit for this purpose. Staff believes the proposed area should be, at least, doubled in size to adequately serve townhouse residents. The project has been conditioned to require a useable outdoor to the south of the most southerly unit that is approximately 1,800 sq. ft. in area.

Landscaping and Aesthetics

Extensive tree, shrub and ground cover planting is proposed throughout the site. One feature of the plan is extensive replacement planting to mitigate for the loss of native oak trees removed during grading, while also retaining several mature oaks on the site. A second feature of the plan is a mixture of tree and shrub planting along the project frontage with Scotts Valley Drive. This will moderate the view of the buildings from off-site and soften views of Scotts Valley Drive for townhouse residents. New utilities will include a reclaimed water line that will be used for landscape irrigation.

The proposed landscaping is an important aesthetic and biotic feature, but the project will result in a visual change to a prominently located site on one of the City's main thoroughfares. In addition to the townhouse buildings, the new street and parking area discussed above, the project will include a concrete block retaining wall and fencing along the entire frontage of the street/parking area. The concrete wall will be of varying heights not to exceed 4.5 feet. It will retain the cut and fill terrace for site improvements. The applicant is proposing a horizontal wood slat fence not to exceed a height of 6 feet on top of the concrete wall and extending north and south of the wall along the edge of the new street. The fencing is proposed to block views of parked vehicles and the first level of the townhouse units as viewed from Scotts Valley Drive. While proposed as an aesthetic feature, the fencing will have its own visual effects, especially where it is installed on the top of the concrete wall. The benefit of including a 6-foot fence should be considered by the Planning Commission. It may be that fencing of a lesser height or of a material that is more uniform with the concrete wall better achieves visual enhancement of the project. The project has been conditioned to require planning department review and approval of the final design and height of all fences.

Environmental Issues

Grading

A geotechnical investigation was conducted in 2014 by Dees and Associates culminating with a report dated July 10, 2014. Preliminary grading plans prepared by the applicant's civil engineer (sheet C3.1 of Attachment 3) show 9,557 cubic yards will be excavated on the project site, with 1,606 cubic yards re-distributed on site as fill material and 7,951 cubic yards to be exported off site. The grading is necessary to convert the sloping site to elongated terracing able to support a street, parking area and buildings. Based on earlier information on the project plans, the Draft Initial Study stated the total grading volume was 7,951 cubic yards. This has been corrected in the Initial Study (Attachment 2).

The geotechnical investigation did not observe any signs of landslide or unstable soils that would require special requirements to provide a stable substrate at finished grading. The report concludes that the primary geotechnical concerns are embedding building foundations into firm material, mitigating loose soils below improvements, controlling site drainage and designing structures to withstand seismic shaking. The report provides

recommendations to address each of these issues which have been incorporated as mitigation measures that project construction must comply with. Mitigation measures also require the applicant to implement an erosion and stormwater control plan according to several performance standards. Both State and federal law require preparation and approval of a detailed stormwater pollution prevention plan (SWPPP) before any site disturbance. The SWPPP must be approved by the Regional Water Quality Control Board. In addition, recommended permit conditions require the applicant to transport the excess fill to an approved dumpsite or project location that has an approved Grading Permit. The firm, Pacific Sunshine Development, who is proposing a large subdivision in Watsonville has requested the fill be deposited at their subdivision site. Apple Homes is currently discussing fill export to the Watsonville site with this other development company.

Hydrology

At completion the project will cover 42,227 sq. ft. (0.97 acre) with buildings and surfaced areas for access and parking which will substantially reduce the previous area of the site and thereby generating a potential impact regarding surface drainage and loss of groundwater recharge. The first impact can be mitigated through implementation of the erosion control plans and the SWPPP. The applicant's civil engineer, in cooperation with Dees and Associates, has designed the parking area to allow infiltration of storm runoff to address the second potential impact. The entire project street will be surfaced with pervious pavement. The new street located at the lower portion of the site will capture the vast majority of site drainage. The street has been designed with a series of subsurface check dams that will retard horizontal subsurface flows and promote vertical infiltration of storm drainage into the aquifer. The geotechnical investigation concludes native soil at this location has a good percolation rate. The street design will provide on-site retention of storm runoff for up to a 2-year storm events and adequate detention for up to 10-year storm events. This will allow recharge of the Santa Margarita aquifer to occur at the same rate as present. The drainage plan complies with the City's Low Impact Design (LID) Guidelines.

Biological Resources

A biological report was prepared for the site by the Biotic Resources Group, dated August 28, 2014. The report and the Initial Study conclude the project will generate *potential* impacts to nesting birds and two mammal "Species of Special Concern". Permit conditions incorporate mitigation measures to avoid or significantly reduce all identified potential impacts. Mitigation measures include a survey for nesting bats and birds prior to commencement of grading and tree removal; and if raptor nests are discovered, grading and tree removal shall be postponed until nestlings have fledged. Measures regarding the protection of woodrats and the protection of on-site trees have also been identified for the project.

An entomological habitat assessment was prepared Dr. Richard Arnold dated June 19,

2014. The assessment concludes an endangered insect species, Mt. Hermon June beetle, inhabits the site. Pursuant to the U. S. Endangered Species Act, the applicant prepared a Draft Habitat Conservation Plan (HCP) and submitted it to the U.S. Fish and Wildlife Service (USFWS) for review. The HCP (Exhibit H of Attachment 2) provides a plan to mitigate for the loss of about 2 acres of Mt. Hermon June beetle habitat. The applicant will purchase conservation credits from the Zayante Sandhills Preserve to improve 2 acres of protected habitat for the insect species. The draft HCP is currently being reviewed by the USFWS. According to USFWS supervisory staff person, Doug Cooper, purchase of conservation credits is the most accepted method to mitigate for habitat loss and he does not envision any substantial problems with content of the Draft HCP. Permit conditions require approval of a Final HCP by the USFWS before any construction permits can be issued for the project.

A tree resource evaluation was prepared by the City Arborist dated October 27, 2014. This evaluation includes a construction impact assessment regarding removed trees and tree protection plan for retained trees. Construction of the proposed project will require extensive grading to reconstruct the sloping terrain and construct site improvements. The evaluation concludes 71 trees or tree groups will be removed. Of these, 56 meet "Protected Tree" criteria as defined by Section 17.44.080 of the Scotts Valley Municipal Code. Permit conditions include required implementation of the evaluation's comprehensive replanting plan. City Arborist, James P. Allen and Associates, has designated areas on the site where tree replacement planting can occur at a 2:1 replacement ratio. Newly planted trees will be monitored for 5 years to guarantee success. Permit conditions also include construction monitoring of retained trees during construction.

Cultural Resources

The Scotts Valley General Plan, Figure OS-2 ("Archeological Sensitivity Zones"), indicates that the subject parcel is located within an area of high and moderate archaeological sensitivity. City regulations require that all grading for the project be monitored by a qualified archaeologist. Monitoring by a qualified archaeologist is included as a mitigation measure and recommended condition of approval. The subject parcel is underlain by Santa Margarita Sandstone, an indicator for paleontological sensitivity. Paleontological monitoring during any site disturbance of this bedrock layer is also a condition of project approval.

Noise

A traffic noise assessment of the project site was conducted by Edward Pack and Associates in September 2014 when Scotts Valley Middle School was in session (Exhibit F of Attachment 2). Acoustical measurements were taken at two locations the future unit closest to Scotts Valley Drive and the future unit closest to Mt. Hermon Road. Received

noise is primarily from traffic on these two roadways and the adjoining car wash. The average noise from these sources is 58 dBA, which is below the General Plan standard of 60 dBA.

During project construction, noise levels will increase due to grading and construction activities. The project is located adjacent to the Oak Creek Estates neighborhood and on the opposite site of Scotts Valley Drive from Scotts Valley Middle School which are considered sensitive receptors. A construction noise mitigation measure has been included in recommended conditions of approval. All construction will be limited to the hours between 8:00 AM and 5:00 PM, Monday through Friday. This is more restrictive than the normal City policy which restricts construction to the hours of 8:00 AM and 6:00 PM on weekdays and 9:00 AM to 5:00 PM on Saturday.

Traffic

A traffic analysis report was prepared by W-Trans, Inc., dated March 13, 2015 and peer reviewed by Hatch Mott MacDonald Traffic Engineers under contract with the City. The analysis concludes the 20 townhouse units will generate an average of 139 trips/day. Of these total trips 11 will occur during the morning peak period (7:00 - 9:00) and 12 trips will occur during the PM peak period (4:00 - 6:00). This level of trips will not cause nearby intersections to operate below their current level of service.

The project will construct a new dead-end street which will connect to the northbound lanes of Scotts Valley Drive about 60 feet north from the Bean Creek Road intersection. The new street is proposed as a right-turn only exit to maintain existing traffic patterns on Scotts Valley Drive. The traffic report evaluated three access/circulation alternatives:

- No changes to existing roadway conditions as proposed by the project;
- Access improvements to provide a dedicated southbound left-turn lane into the project; and
- Alignment of the new project street with Bean Creek Road.

A plan view of each alternative is shown in the project plans (Attachment 3). Each alternative is described on pages 39 - 42 of the Initial Study (Attachment 2). The proposed alternative has the benefit of retaining existing roadway conditions and circulation patterns. However, southbound traffic to the project site, will have to travel past the project site to the Mt. Hermon Road intersection to make a U-turn and travel northbound for 630 feet to the project entry. While this will add vehicle activity to the Mt. Hermon road intersection, the traffic study concludes it will not reduce its level of service below its current rating of D during peak periods.

The second alternative has the benefit of avoiding the need for southbound traffic to make a 1,260-foot round-trip discussed above to enter the site. However, this alternative requires extensive roadway improvements including reconfiguring the traffic median, converting a segment of a southbound through lane to a left-turn lane and installing a

traffic signal at the new intersection 60 feet north of the signal controlled intersection at Bean Creek Road. Converting one lane to a left-turn lane will still leave two southbound through lanes along this segment of Scotts Valley Drive. According to the traffic study the loss of this one through lane will not impact traffic if circulation improvements are constructed as recommended in the study.

The third alternative would move the project entry road 60 feet to the south to align it with Bean Creek Road; thereby converting the existing three-way intersection to a four-way intersection. Southbound traffic could enter the project street when permitted by the signal and traffic exiting the site could turn in either direction when allowed by the signal. This alternative requires converting the innermost southbound through lane to a left-turn lane, with commensurate reconfiguration of the landscape median as also required in the second alternative. This alternative would also locate the entry/exit segment of the project street at a steeper portion of the site and require substantially more grading to construct the street compared to the proposed project. According to the applicant, this location of the project street will require removal of two townhouse units from the project.

Parking and Lighting

Municipal Code Section 17.44.030 requires 44 parking spaces for a 20-unit project. However, there are no streets adjoining the project site where on-street parking can occur. Both Planning and Police Department staff believe 44 spaces would not be adequate for project parking needs especially if the inhabitants of just one townhouse unit hosted a social event. To address this concern, the applicant revised the project plans to provide a total of 59 parking spaces.

Lighting consists of seven freestanding street/parking lot lights on 20-foot high standards as shown on sheets C2.3 and C2.4 of Attachment 2. This lighting will generate an average of 1.64 footcandles which is adequate for security purposes on the site, but will not result in significant lighting or glares to pedestrians or motorists using Scotts Valley Drive. The height of the townhouses will block this lighting from casting glares to existing residences in Oak Creek Estates which adjoin the rear of the site.

Upon review of the project it appears as though the proposed 20-foot height of this lighting may be unnecessary for this type of lighting plan. Lowering the light standards to 15 feet would provide for security lighting while providing a more pleasing visual appearance at the front of the site. The project has been conditioned to have the final lighting heights to be reviewed and approved by the planning department and not to exceed 15 feet in height.

CEQA REVIEW

A Mitigated Negative Declaration has been prepared for this project based on the analysis of the Initial Study. Draft versions of the two companion CEQA documents were circulated for a 30-day public review period beginning on July 15, 2015. The site was posted and a public notice was posted on the City's website and a notice was mailed to surrounding property owners within 300 feet of the project site pursuant to State law. The City received the following written comment letters on the Initial Study/Mitigated Negative Declaration (IS/MND):

1. Monterey Bay Unified Air Pollution control District
2. William Parkin, attorney for Bill and Sherilyn Jager
3. Matt, David and Kathryn Bartlett

These letters are attached as Exhibits to the attached Initial Study. Final Comments on the IS/MND focused on the following issues:

- Post-construction air quality impacts from project use;
- Airborne dust impacts during construction;
- Need for a better description of the provisions of the HCP;
- Better explanation of mitigating the potential impact for erosion;
- Funding and management of drainage improvements;
- Preservation of trees on the site; and
- Traffic increase in area intersections.

All comments received on the IS/MND were reviewed and considered by the City. The City determined that in no instance did the comments result in the identification of a new or previously unidentified significant adverse impact to the environment. However, the Initial Study was revised to provide more clarity in response to some of the comments and two mitigation measures were expanded to provide more specificity. The revisions are shown as underlined text in the updated Initial Study (Attachment 2). Responses to comments received are provided in Attachment 4 to this report.

As stated above, the total grading volume was misstated in the Draft version of the Initial Study as 7,951 cubic yards rather than 9,557 cubic yards. While this did not change the conclusions of the Initial Study, it represents a minor technical change to the project as described during the CEQA review and comment period. This minor change in the project description together with staff responses to comments received during the review and comment period (Attachment 4) make it prudent to include this staff report as an Addendum to the Mitigated Negative Declaration. CEQA Guidelines Section 15164 allow preparation of an Addendum when minor technical changes have occurred in a project since preparation of the CEQA analysis but none of the changes result in new or exacerbated impacts from that described in the previously circulated CEQA document. Addendums do not need to be circulated for public review.

PUBLIC NOTICE

The site was posted and a public notice was posted as stated above. Additionally, the IS/MND was submitted to the State of California Governor's Office of Planning and Research (State Clearinghouse). The public review period of the IS/MND occurred between July 15 and August 17, 2015. Public notice included the hearing date for the Planning Commission meeting. The planning department did receive one letter in support of the project (Attachment 5).

ATTACHMENTS

PAGE No.

<i>Resolution Recommending the City Council Certify MND14-002 and approve PD14-002, LD14-001 & DR14-009 (Action Item)</i>	12
Exhibit A – Recommend Conditions of Approval Map	18
Exhibit B – Mitigated Negative Declaration	31
Exhibit C – Mitigation Monitoring Reporting Program	39
1. Location Map	53
2. Initial Study (updated 09/10/15)	Attached
3. Project Plans (received 06/16/15 & 09/02/15)	Attached
4. Responses to Comments on the Draft MND/IS	54
5. Letter from Adjacent Property Owner	60
6. Aerial with Building Foot Print (received 09/02/15)	Attached

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SCOTTS VALLEY RECOMMENDING THAT THE CITY COUNCIL CERTIFY THE MITIGATED NEGATIVE DECLARATION, APPROVE A PLANNED DEVELOPMENT DISTRICT AND PERMIT, LAND DIVISION AND DESIGN REVIEW FOR THE TERRACE AT SCOTTS VALLEY TOWNHOUSE PROJECT LOCATED ON SCOTTS VALLEY DRIVE / APN'S 022-162-69 & 74.

WHEREAS, the Planning Department of the City of Scotts Valley has received the application filed by Chris Perri, Apple Homes Development for a Planned Development PD14-002, Land Division LD14-001 and Design Review DR14-09 for a 20-dwelling unit townhouse project on two adjoining vacant parcels located on Scotts Valley Drive / APN'S 022-162-69 & 74; and,

WHEREAS, Apple Home Development, (referred to as "applicant") has presented substantial evidence which supports the application; and

WHEREAS, the application is a "project" pursuant to the California Environmental Quality Act ("CEQA"); and

WHEREAS, a Mitigated Negative Declaration has been prepared pursuant to Section 15162 of the California Environmental Quality Act (CEQA); and

WHEREAS, as mitigated, the project is determined to not have a significant impact on the environment based upon the results of the Initial Study; and

WHEREAS, the Scotts Valley Planning Commission staff report prepared for the September 10, 2015 meeting of the Planning Commission is an Addendum to the Mitigated Negative Declaration; and

WHEREAS, a public hearing on the proposed project was noticed pursuant to the requirements of the Scotts Valley Municipal Code and State Law and a duly noticed hearing was held by the Planning Commission on September 10, 2015.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Scotts Valley ("Commission"), that the Commission hereby recommends that the City Council:

SECTION 1: Certify the Mitigated Negative Declaration and its Addendum based on the following findings:

1. *The Mitigated Negative Declaration for the project has been completed in compliance with the California Environmental Quality Act (CEQA). The Mitigated*

Negative Declaration for the project has been completed in compliance with CEQA, and the requirements of CEQA Guidelines Section 15063 have been met. The Addendum meets the requires of CEQA Guidelines Section 15164 in that is provides information on a minor technical change in the project that does not result in a new or exacerbated impacts from that discussed in the Initial Study prepared and circulated for the project.

2. *All mitigation measures identified in the Mitigated Negative Declaration are included in the resolution approving the project and are made conditions of approval for the project.* All mitigation measures have been included in the project design or as conditions of approval.
3. *Documents and other materials constituting the record of the proceedings upon which the City's decision and its findings are based will be located at the Department of Planning of the City of Scotts Valley in the custody of the Community Development Director.* Copies of the Initial Study and Mitigated Negative Declaration have been made available to the public for review pursuant to CEQA requirements.
4. *The Mitigated Negative Declaration represents the independent judgement of the City.* The City prepared the Mitigated Negative Declaration. All supporting information has been reviewed and approved by the City.

SECTION 2: Approve the Planned Development Overlay Zoning and Permit and Land Division as shown on the plans as submitted to the Planning Commission with the Conditions of Approval provided in Exhibit A and the Mitigation Monitoring Reporting Program provided in Exhibit C based on the following findings:

Tentative Subdivision Map

5. *The location of the residential use is in accordance with the objectives of the Zoning Ordinance and purposes of the district in which the site is located.* The townhouse project will be located on a property zoned "RM-6" (Multi-family Residential). Together with the Planned Development overlay zoning, the project will comply all applicable site standards of the zoning district.
6. *The proposed tentative map and subdivision together with the provision for its design and improvement is consistent with the General Plan.* The tentative map will create 20 residential lots and one common lot. The overall residential density of the project is 7.63 dwellings/acre. The General Plan land use designation as "Multi-family Residential" for the site specifies a residential density range of 5—9 dwellings/acre. The project is within this density range.

7. *The project site is physically suitable for the subdivision.* The 2.6-acres site is physically suitable for the subdivision in that no public easements encumber any portion of the site and there are no environmental constraints, such as landslides, that make part of the site unbuildable. Slopes on the site can be successfully graded to reduce their gradients without generating unmitigatable impacts to make the site suitable for the type construction that is proposed. While some environmental resources occur on the site, such as habitat for an endangered insect species, the loss of all identified resources can be mitigated as discussed in the Initial Study prepared for this project and Findings #1 - 4 above.
8. *The project site is physically suitable for the proposed density of development.* As discussed in finding #6 above, the 20-unit project meets the density range of the land use designation for the project property.
9. *The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.* The Initial Study prepared for this project evaluated all environmental impacts and potential environmental impacts generated by the project and concluded all such impacts or potential impacts can and will be avoided or otherwise mitigated to a level of insignificance through project design features or mitigation measures that have been incorporated into the conditions of approval.
10. *The design of the subdivision or the type of improvements is not likely to cause serious health problems.* The Initial Study prepared for this project evaluated noise impacts to future project residents and concluded there are no significant impacts. The Initial Study also evaluated hazardous materials and concluded that potential exposure to hazardous materials was limited to the construction phase of the project, and these materials would be vehicle fuels and lubricants. Mitigation measures have been adopted that will keep these materials from affecting people or properties.
11. *The design of the subdivision will not conflict with easements acquired by the public at large for access through or use of property within the subdivision.* There are no existing easements on the project property.

Planned Development Zoning

12. *The proposed Planned Development zoning is consistent with the underlying zoning designation and the City of Scotts Valley General Plan.* The proposed project is consistent with the "Multi-family Residential" land use designation of the property prescribed in the General Plan. The project is consistent with the purpose and intent of the "RM-6" zoning district.

Planned Development Permit

13. *The Planned Development Permit, as issued, furthers the policies of the General Plan by providing housing within land designated for housing with the necessary infrastructure to adequately serve the housing and its future residents.*
14. *The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property. Planned Development district and permit will allow the development to be designed to meet the needs of the individual property while maintaining the character of the neighborhood. This permit will enable the applicant to implement the project with 20 individual townhouse lots and one larger common-owned parcel to provide additional housing opportunities in the city.*
15. *The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious. The project meets the requirements of this finding in that the siting and size of the proposed buildings are designed in a compatible and cohesive manner for the 2.6-acre site. The aggregate footprint of the development is approximately 19,800 sq. ft. or 17% of total site area. Natural and landscaped open space will surround the townhouse buildings, the project street and parking area. While the townhouses will be three stories with a height of 35 feet, they will be setback 64 feet—212 feet from the front property line and Scotts Valley Drive. Further, each building will be set into the slope so only two stories are visible from existing residences in the Oak Creek Estates neighborhood. These features will make the development harmonize with the surrounding area.*
16. *The environmental impacts of the project have been reviewed and considered. An Initial Study was prepared in accordance with the California environmental Quality Act and concluded a Mitigated Negative Declaration was appropriate for this project. The Initial Study and Mitigated Negative Declaration were released for public review and comment. All comments received have been reviewed and considered. All mitigation measures have been incorporated into the project design or as conditions of approval.*

Design Review

17. *The siting of the structure on the site as compared with the siting of other structures in the immediate neighborhood is appropriate. As stated in finding #15 above, the project has been designed to set the townhouse buildings back from property lines distances that exceed the required setbacks for the R-M-6 zoning district; thereby providing more privacy for adjacent residential uses and reduced*

visual impact from vantage points from all surrounding properties. In addition, locating the townhouses between the rear open space and the street/parking area will shield residences in Oak Creek Estates from views of and noise from the new street and parking area. Therefore, the proposed new structures will be compatible with the existing neighborhood setting.

18. *The materials, colors, proportion, mass, and detail of the exterior improvements are in good proportion, have simplicity of mass and detail, and are compatible with the appearance of the surrounding structures.* All of the proposed townhouse buildings will be constructed using a mixture of exterior materials including horizontal cedar (wood) siding, seam metal roofing and cement plaster that will be painted a variety of muted colors. None of the proposed new buildings will exceed the maximum height limit of 35 feet for the R-M-6 zoning district. The proposed materials, colors, proportion, mass, and detail of exterior improvements will be compatible with the surrounding neighborhood.
19. *The landscaping is in keeping with the character and design of the proposed development.* Extensive tree planting is proposed throughout the project site to re-establish a more natural forest environment on the site. A primary objective of the project landscape plan is to replace native oak trees that will be removed during project grading. Other native tree species and drought-tolerant understory plants are proposed to compliment and reinforce a forest setting on the site.
20. *The size, location, and arrangement of on-site parking and paved areas.* The 59 parking spaces proposed for on-site parking for the site, exceed the number required (44 spaces) by the City parking requirements (Municipal Code Section 17.44.030). The size, location, and arrangement of on-site parking is in compliance with City parking requirements.
21. *Ingress, egress and internal traffic circulation.* Ingress, egress, and internal traffic will be provided in compliance with City requirements. Access to the site is provided via a new dead-end street that connects with the northbound lanes of Scotts Valley Drive. The street exit will be posted with a "No left-turn" sign to prevent operational conflicts on Scotts Valley Drive. The existing traffic circulation on Scotts Valley Drive will be maintained without a need to realign travel lanes or reconfigure other existing street improvements. Northbound motorists on Scotts Valley Drive will enter the project directly from the outer northbound travel lane of Scotts Valley Drive. Southbound motorist will travel past the project and make an allowed U-turn at the Mt. Hermon road intersection and travel north on Scotts Valley Drive to enter the project. This southbound then northbound traffic route has been evaluated by the project traffic engineer and peer reviewed by another traffic engineer hired by the City. Both evaluations conclude the traffic movement, including U-turns at the Mt. Hermon Road intersection, will not degrade level of service operations at the intersection or associated roadways.

NOW THEREFORE, BE IT FURTHER RESOLVED that, after careful consideration of the application and related materials, plans, maps, facts, exhibits, staff report, testimony and other evidence submitted in this matter, and incorporated herein by this reference, the Planning Commission recommends that the City Council certify the Mitigated Negative Declaration MND14-002 and approve, Planned Development PD14-002; Land Division LD14-001; and Design Review No. DR14-009 for the Terrace at Scotts Valley townhouse project located on Scotts Valley Drive / APN'S 022-162-69 & 74, subject to the conditions of approval set forth in Exhibit A and the Mitigation Monitoring Reporting Program set forth in Exhibit C, which are incorporated herein by this reference.

THE ABOVE AND FOREGOING RESOLUTION was duly and regularly passed by the Planning Commission of the City of Scotts Valley at a meeting held on the 10th day of September, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chair, Steve Horlock

Corrie Kates, Community Development Director

EXHIBIT A

CONDITIONS OF APPROVAL (LD14-001; PD14-002 & DR14-009)

Standard

1. Developer has agreed to and shall defend, indemnify and hold harmless the City of Scotts Valley, its officers, agents and employees from any claim, action or proceeding against the City or its officers, agents or employees to attach, set aside, void or annul any action of the City in connection with approvals under the California Environmental Quality Act or with respect to approval of the project, which action is brought within the time period(s) prescribed by law. The City shall promptly notify the developer of any such claim, action or proceeding and shall fully cooperate in defense.
2. After City Council approval, the property owner shall sign the Conditions of Approval (Exhibit A) agreeing to the Conditions of Approval prior to recordation of the Final Subdivision Map for this project, transfer of title, or within 30 days of approval of this application, whichever occurs first.
3. All required Grading and Building Permits shall be obtained and the application shall pay all appropriate fees prior to commencement of any construction on the property.
4. Any peer review work required by the project applicant to comply with the Conditions of Approval shall be done at the project applicant's expense through a reimbursement agreement with the City.

Planning Department

Site and Building Design

5. The colors, materials, size, location, and design of the improvements shall match that shown on the approved plans and material boards for all buildings. Modifications to the approved project may require approval at the discretion of the Community Development Director.
6. The Final Subdivision Map and all constructed improvements shall be in conformance with the plans prepared for this project by William E. Kempf, Architect and C2G Consultants stamped received by the City Planning Department on June 16, 2015 & September 2, 2015. Minor modifications to these plans that do not alter the overall concept or density of this project may be approved by the Community Development Director.

7. Project plans for grading and landscaping shall be revised to designate an area of 1,800 sq. ft. or greater within the common lot south of the most southerly unit for outdoor human use. The designated area shall be graded or otherwise developed in a manner that facilitates passive human use.
8. All Landscaping improvements shall be permanently maintained.
9. The landscaping improvements shall use native landscaping as shown on Sheet L1 of the approved plans.
10. All landscape irrigation shall be installed to recycled water plumbing standards as prescribed by the Scotts Valley Water District.
11. Any new landscape irrigation system shall be metered separately from domestic (potable) water service for the new townhouses. Purple pipe shall be used for landscape lines to facilitate constructed use. A minimum 10-foot spacing shall be maintained between all potable and purple-pipe landscape lines.
12. To the maximum extent feasible, landscape installation shall provide for low water consumption plantings, drip irrigation technology, programmable irrigation control, and permeable hard surfaces.
13. The planning department shall review and approve all fence designs and heights prior installation and/or building permit final.
14. All signs shall be in compliance with the Scotts Valley Municipal Code.
15. All exterior lighting shall be the minimum necessary for security and all lighting shall be downward shining with the light source not directly visible from adjacent properties. The lighting plan shall be reviewed and approved by the Community Development Director prior to issuance of all Building Permits. Where deemed necessary by the Community Development Director, light cutoffs/shields shall be installed and lighting heights shall be adjusted.
16. Light standards shall not exceed 15 feet in height.

Trees

17. Tree removal shall not occur until a Grading or Building Permit has been issued for the project and furthermore not until immediately before commencement of site grading.
18. The specifications of the Tree Resource Evaluation/Construction Impact Assessment/Tree Protection Plan prepared by James P. Allen and Associates is incorporated into these conditions of approval and shall be followed by the applicant and project contractors. These specifications include, but are not limited to the following:

- a. The final grading plans and improvement plans shall be reviewed and approved by the City Arborist prior to any grading and if deemed necessary additional tree preservation measures shall be applied to the project.
 - b. Prior to issuance of a Grading or Building Permit, the applicant shall deposit a monetary security in the amount of \$178,906 and held in trust by the City of Scotts Valley as a security for "Protected Trees" located within the grading zone for the project. If damage occurs to the "Protected Trees" retained on the site during development and/or construction, funds will be drawn from the deposited amount and used to correct the damage. Funds remaining in the account will be returned to the applicant upon final inspection of the project.
 - c. Prior to any site disturbance, the City Arborist shall inspect tree protection fencing installed to preserve those trees retained on the site. All recommendations of the City Arborist shall be implemented by the applicant prior to site disturbance. The City Arborist shall routinely inspect the development site through the term of project construction.
 - d. The cost of the city arborist review and implementation of conditions, site inspection, and related work shall be borne by the applicant.
19. To compensate for the loss of 56 City Protected Trees and to minimize impacts to trees retained on the site, the project applicant shall implement the construction impact assessment and tree protection plan prepared by J.P. Allen and Associates dated September 2, 2014. Planting of new trees at a 2:1 replacement ratio may be done on-site and/or at another site approved by the City Arborist prior to any project grading. This planting may be included in the project landscape plan as approved by the City Arborist. All replacement planting shall be inspected and approved by the City Arborist. Plan specifications to protect retained trees shall be included in the construction contracts with all project contractors involved with land alteration, and foundation construction. The project arborist shall inspect the site prior to any grading activities and thereafter on a weekly basis to ensure tree preservation measures are in place throughout the construction phase of this project. All replacement plantings shall be monitored for 5 years or longer, as specified in the report, until the success criteria of 80% survival rate has been met. Monitoring shall be performed by either the City Arborist or another qualified professional approved by the City. (Mitigation Measure BIO-5)

Biotic Resources

20. To avoid impacting nesting raptors or passerine species, the project applicant shall schedule all construction outside of the nesting season of February 1 to July 31. If this is not feasible the applicant shall implement the following alternative measure. To minimize impacts to nesting raptors or migratory passerines on the site, a qualified wildlife biologist, under contract to the project proponent, shall conduct pre-construction surveys for nesting raptors and migratory passerines to

determine if they occur on the site or in close proximity to the site. The surveys shall be conducted no earlier than 30 days prior to commencement of construction. If raptors or migratory passerines are observed nesting on the site, or on an adjoining site within 300 feet, the project proponent shall postpone construction within 300 feet of a raptor nest site and 50 feet from a migratory passerine nest site until all young have fledged. The wildlife biologist shall document that the young have fledged prior to commencement of proximate construction work. (Mitigation Measure BIO-1)

21. To avoid harm or loss of the pallid bat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any roosting bats are present on the site. If any are discovered, the biologist shall recommend mitigation measures to allow the bats to escape their roosts unharmed prior to tree removal. If necessary, the biologist shall consult with CDFW on a bat removal plan. The project applicant shall implement the recommendations of the biologist. (Mitigation Measure BIO-2)
22. To avoid harm or loss of the Dusky-footed woodrat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any occupied woodrat nests are present on the site. If any are discovered, the biologist shall consult with CDFW to formulate a plan to either relocate the woodrat nests or construct a human-made woodrat nest on another site suitable for the species. (Mitigation Measure BIO-3)
23. To compensate for the loss of about 2 acres of habitat for the endangered species, Mt. Hermon June beetle, the applicant shall complete the HCP/Incidental Take Permit process with the USFWS as specified by Section 10 of the Endangered Species Act and continue to employ a qualified entomologist to implement the approved HCP according to the requirements and the schedule specified by USFWS and the approved HCP for this project. Written documentation of USFWS approval of the HCP and a Take Permit for this project shall be submitted to the City of Scotts Valley Planning Department prior to commencing any ground disturbance at the project property. (Mitigation Measure BIO-4)

Grading

24. The limits of grading shall be clearly marked with temporary construction fencing on the site prior to the issuance of a Grading Permit or Building Permit.
25. All excess material exported from the site shall be deposited at an approved landfill for this purpose or at another project site with an approved Grading Permit from the City of Scotts Valley or another jurisdiction. Prior to any site disturbance, the applicant shall identify the location of the property where the excess material is proposed to be taken and provide all necessary documentation to comply with the

intent of this condition. The off-site location shall be approved by City staff before site disturbance.

Archaeology and Paleontology

26. To ensure that archaeological resources are not destroyed if accidentally discovered during project grading or other subsurface work, the contractor shall immediately halt all work activities within a 150-foot radius of the discovery and immediately contact the City Planning Department so the City can retain an archaeologist to examine the find to make appropriate recommendations to conserve the resource. The project applicant shall include this requirement in the contract for all contractors involved with grading and subsurface work. (Mitigation Measure CUL-1)
27. If an any archaeological find is determined to be an historical or unique archaeological resource, and if avoidance of the resource would not be feasible, the archaeological or cultural resources consultant shall prepare a plan for the methodical excavation of those portions of the site that would be adversely affected. The plan shall be designed to result in the extraction of sufficient volumes of non-redundant archaeological data to address important regional research considerations. The work shall be performed by the archaeological or cultural resources consultant, and shall result in detailed technical reports. This report shall be deposited with the California Historical Resources Regional Information Center. Construction in the vicinity of the find shall be accomplished in accordance with current professional standards and shall not recommence until this work is completed.
28. The project applicant shall assure that project personnel are informed that collecting significant historical or unique archaeological resources discovered during development of the project is prohibited by law. Prehistoric or Native American resources can include chert or obsidian flakes, projectile points, mortars, and pestles; and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources can include nails, bottles, or other items often found in refuse deposits.
29. If human remains are discovered, there shall be no further excavation or disturbance of the discovery site or any nearby area reasonably suspected to overlie adjacent human remains until the project applicant has complied with the provisions of State CEQA Guidelines Section 15064.5(e). In general, these provisions require that the County Coroner shall be notified immediately. If the remains are found to be Native American, the County Coroner shall notify the Native American Heritage Commission within 24 hours. The most likely descendant of the deceased Native American shall be notified by the Commission and given the chance to make recommendations for the remains. If the Commission is unable to identify the most likely descendent, or if no recommendations are made within 24 hours, remains may be reinterred with

appropriate dignity elsewhere on the property in a location not subject to further subsurface disturbance. If recommendations are made and not accepted, the Native American Heritage Commission will mediate the problem.

30. To ensure that paleontological resources are not destroyed during project grading, the project proponent will include the following measures:
- a. Provide the project paleontologist with a copy of the final grading plans for review prior to any project grading;
 - b. Provide for daily monitoring during grading activities by the project paleontologist to determine if paleontological resources are encountered in excavated areas;
 - c. Allow for the recovery of any discovered paleontological resources according to a recovery plan/methods specified by the project paleontologist, including the donation of the recovered resources to a suitable repository (museum, school, etc.);
 - d. If recovery occurs, ensure that the project paleontologist prepare a recovery report that details the type of resources recovered and the repository locations where they were taken; and
 - e. Specify in the construction contract with the project grading contractor(s), that grading personnel are to cooperate with and assist the project paleontologist during monitoring and any recovery activities, including assisting with recovery efforts if necessary. (Mitigation Measure CUL-2)

31. A brief report shall be prepared by both the archaeological and paleontological consultants at the end of earth moving activities, stating the results of their monitoring and sent to the City of Scotts Valley. If no resources were found, resources, this report shall signify the end of mitigation. If resources were encountered, this report shall describe the tasks taken to conserve the resources in accordance with Conditions 22-26 above.

Noise

32. To reduce construction noise emanating beyond the site to acceptable levels, the project applicant shall require all contractors to limit their work to 8:00 A.M. to 5:00 P.M. weekdays. If gasoline generators are used, they shall be contained in an enclosure that prevents their noise from being heard at properties south of the project site. This requirement will be included in all construction contracts for grading and building construction on the site. (Mitigation Measure N-1)

Air Quality

33. To reduce dust generation from project grading and construction to minimal levels, the project proponent shall require the grading contractor to implement best management practices (BMPs) for dust control, including watering down exposed earth surfaces each non-rainfall day at intervals that attenuate dust problems. Any dirt tracked on to Scotts Valley Drive shall be removed daily in a manner that does not create substantial airborne dust. The following BMPs shall be implemented during site grading:
- a. Excavation of the site shall be done in phases by grading only those areas where immediate activity will take place, leaving the remaining areas in their original condition with ground cover;
 - b. A water truck, using recycled water, shall be available on a repeated basis each day throughout the grading phase of the project to spray exposed earth surfaces;
 - c. In addition to regular water spraying, a biodegradable chemical pallative shall be sprayed on any graded areas that will remain exposed without additional grading for three or more days in succession;
 - d. The site entrance shall be base rocked to avoid or minimize tracking mud on Scotts Valley Drive by construction vehicles;

- e. The segment of Scotts Valley Drive along the project frontage shall be mechanically swept at the end of each work day when any dirt or mud has been tracked on the street;
- f. No grading activities shall occur during days of high wind velocity;
- g. Finished graded areas that are designated as open space and landscape areas of project, shall be covered with an accepted erosion control substance such as straw mulch or hydromulch with a tackifier; and
- h. Construction staff shall monitor daily all areas that have received a chemical pallative spray or application of mulch to determine if these areas remain in a dust-free condition and take corrective action as needed to maintain a dust-free environment.

These requirements shall be included in the construction contract for the project.
(Mitigation Measure AQ-1)

BUILDING DEPARTMENT

- 34. All recommendations in the Geotechnical Report prepared by Dees and Associates for this project, dated July 2014 are incorporated as conditions of project approval. This includes, a requirement that the project geotechnical (soils) engineer shall review and approve the final site grading, drainage, erosion control, and foundation design details prior to issuance of a Grading and Building Permit.
- 35. Construction plans for all townhouse buildings shall be submitted to the City of Scotts to obtain Building Permits for their construction. Plans and construction shall comply with the California Building Code requirements. Grading plans for all site grading and RWQCB approved SWPPP plans shall accompany building construction plans.
- 36. To reduce the effects of seismic shaking to acceptable levels, the project proponent shall have all dwellings designed to California Building Code standards for the design level earthquake for the area. The design details shall be provided on the building plans submitted to the City for a Building Permit for each dwelling.
(Mitigation Measure GEO-1)
- 37. The applicant shall comply with all Conditions of this permit regarding export of excess soil.
- 38. To prevent erosion from occurring during or after grading and development of the project site, the project applicant shall have a qualified professional prepare an SWPPP/erosion control plan and submit it to both the RWQCB and the City Building Department for review and approval prior to approval of the final

subdivision map. The approved plan shall be implemented with grading of the site. The erosion control measures should be functional prior, during and after construction. Specific measures shall be identified in the project plans and specifications should include the following features: use of coir rolls, straw bales and/or similar measures to prevent sediments from leaving the site, erosion control seeding and mulching following construction and other measures as appropriate. The plan shall include the following performance standards: Limit grading activities to the dry season of April 15–October 15; Seed and mulch/hydromulch exposed areas as soon as possible following Stabilize all finished graded slopes of 15% or greater by installing additional features, such as erosion control netting or coir rolls;

- a. Provide sediment traps, including temporary siltation basins at downstream end of drainage channels;
 - b. Keep all drainageways clear of debris and clean them when debris is observed;
 - c. Implement all dust control BMPs specified in Mitigation Measure AQ-1; and
 - d. Monitoring the site on a regular basis to determine the effectiveness of all stormwater/erosion control measures and correct any identified problems.
(Mitigation Measure GEO-2)
39. To protect project improvements from the effects of soil instability, the project applicant shall design project improvements according to the recommendations of the geotechnical report prepared by Dees and Associates dated July 10, 2014. The geotechnical engineer shall review and approve construction plans prior to submitting plans to the City Building Department for a Grading Permit and Building Permit application. The applicant shall submit written documentation that the project engineer has verified that site grading work and the construction of each dwelling meets the recommendations of the approved geotechnical report.
(Mitigation Measure GEO-2)

WASTEWATER AND WATER

40. The project shall comply with all Scotts Valley Water District and Scotts Valley Fire Protection District fire flow requirements.
41. Scotts Valley Water District approved backflow devices shall be installed at all new service connections, as determined applicable by Scotts Valley Water District.
42. Water-conserving plumbing fixtures shall be used exclusively in the townhouse units, such as high efficiency toilets (1.28 gallons per flush), and low-flow showerheads.
43. The project shall connect to the sanitary sewer system. The manhole labeled

"SSM1" on sheet C4.1 of the project plans shall be relocated closer to Scotts Valley Drive as specified by the Wastewater Division of the Public Works Department.

44. To compensate for the loss of groundwater recharge area, the project applicant shall install the drainage design feature of pervious pavement underlain with a series of concrete check dams that promote infiltration of collected surface drainage as proposed by the project plans prepared by C2G consultants dated, January 21, 2015. (Mitigation Measure HYD-2)

FIRE DISTRICT

45. A final site map shall be submitted to the Fire District prior to the issuance of any Fire District permits. The site map shall include each parcel, each building footprint, all access ways and fire hydrant location. Drawings of the plans shall be submitted on an Auto CAD drawing up to version 13 or a DWG file, on a high density 3.5" floppy disk. A legend of all the layers contained on the disk must be attached. An 11" x 17" hard copy of the site map must also be included.
46. Automatic fire sprinkler plans shall be submitted directly to the Fire District for review and permit prior to starting work on the system and prior to issuance of Building Permits for townhouse dwellings.
47. All requirements of the Scotts Valley Fire Protection District shall be met, including construction of the emergency vehicle turn-around and installation of the fire hydrant and fire sprinkler systems. Upon completion of all conditions of the permit, the Fire District shall sign-off each Building Permit prior to the allowance of occupancy. Written verification of these sign-offs shall be provided by the Fire District to the City of Scotts Valley prior to occupancy of dwellings.
48. The selected street name for the new project street is subject to the approval of the Scotts Valley Fire District and shall be shown on the Final Subdivision Map. Address numbers will be assigned by the Fire District.
49. The Fire District shall make the final determination for placement of the automatic fire sprinkler control valve and fire department connection prior to the approval of the final site map drawings.

DEPARTMENT OF PUBLIC WORKS

50. A Final Subdivision Map in conformance with the California Government Code, Section 66410 *et seq*, and with the City Subdivision Ordinance, and including the conditions of the tentative subdivision map, shall be filed to the satisfaction of the Public Works Director/City Engineer. The final map shall be submitted to the City's

Public Works Department on an Auto CAD drawing up to version 2004 electronic version prior to recording.

51. All required documents, final or parcel map sheets, covenants, developer and City improvement agreements and bonds, shall be provided to the satisfaction of the Public Works Director/City Engineer prior to the recordation of any final map or application for any building permit. (Applicant should be advised that officials of Santa Cruz County, such as the Auditor--Controller, Recorder and Clerk of the Board have requirements, such as payment of taxes and present title guarantee, which precede recordation of the final map.)
52. Engineered Improvement Plans shall be submitted for all on-site and off-site work and will be approved by the Public Works Director/City Engineer. On-site and off-site (encroachment) civil engineering permits must be issued by the City prior to commencing any work. Improvement Plans shall include any necessary grading, drainage, masonry retaining walls, driveway, utilities, utility pole relocation, frontage improvement and/or repair of sidewalk, curb and gutter or similar facilities required to satisfy tentative map conditions to the satisfaction of the Public Works Director/City Engineer. All improvements shall conform to the design standards contained in text and illustration in the "City of Scotts Valley Standard Details", latest revision adopted by the City Council. Engineered improvement plans for all work, signed and prepared under the direction of a registered civil engineer, shall be approved by the Public Works Director/City Engineer prior to commencing work.
53. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts in accordance with Condition #40 above. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted City of Scotts Valley Storm Drainage Master Plan. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
54. All work and/or activity in the public right-of-way will require an Encroachment Permit application made to the satisfaction of the Public Works Director/City Engineer. This application shall include a traffic control plan that shows how traffic will be safely controlled and motorists will be alerted during times when construction vehicles are entering and exiting the project site. The civil on-site work, and plan reviewed by the Public Works Department, will require an on-site civil engineering permit and inspection.
55. Concurrent with submittal of the Final Subdivision Map, the applicant shall submit a Homeowners' Association Agreement (HOA) and Conditions, Covenants and Restrictions (CC&Rs) for review by the Public Works Department, Planning

Department and the City Attorney. The HOA shall include a maintenance agreement or reference an HOA maintenance agreement document that describes how all common lot utilities and other features, including open space areas, will be permanently maintained and the funding for such maintenance. Both the HOA and CC&Rs shall be approved by the City before the Final Subdivision Map can be recorded.

56. To prevent drainage problems related to the lack of proper maintenance of privately owned and operated drainage facilities on the site, a homeowners maintenance agreement and homeowners funding agreement shall be submitted to the City for review and approval prior to approval and recordation of the final subdivision map that includes the following:
 - a. Adequate funding by each homeowner on an equal basis for the regular maintenance of the common-owned drainage facilities and any other drainage improvements not owned by the City.
 - b. Regular monitoring inspection by qualified professionals (civil engineer, erosion control specialist) to assess the functional capability of the drainage improvements and to provide recommendations for repairs and maintenance. This monitoring should occur at least annually in the spring or summer and include professionals qualified in the area of drainage engineering.
 - c. Maintenance of the drainage facilities by a qualified professional in accordance with the recommendations of the monitoring inspections. (Mitigation Measure HYD-3)
57. All public improvements shall be guaranteed by written Agreement with the City, Faithful Performance Bond, and Labor and Material men's Bond, to the satisfaction of the Public Works Director/City Engineer.
58. The applicant shall install a "No Left Turn" at the southbound lane side of Scotts Valley Drive at the approach to Bean Creek Road to the satisfaction of the Public Works Director to advise motorists that left-turns into the project site at this location are not permitted.
59. The applicant shall install a "No Right Turn" sign at the project street exit to advise motorists that only left turn exiting is possible from the project site.
60. To prevent sedimentation and discharge of contaminants off-site during project construction, the project applicant shall have the construction contractor implement the approved erosion control plan discussed in mitigation measure GEO-2 and implement a best management practice/hazardous materials containment plan during the entire time construction activities are occurring. The hazardous materials containment plan shall be approved by City Planning staff

prior to commencement of land alteration and construction activities for the project. It shall contain the following elements:

- a. Stationary equipment such as motors, pumps, welding equipment shall be placed over drip pans or other containment apparatus;
 - b. Construction materials shall not be stockpiled or stored where they could be accidentally discharged downslope or in to Scotts Valley Drive; and
 - c. Any petroleum, lubricants or other hazardous materials used during construction shall be stored in a special storage location equipped with double containment and this location shall be shown on the erosion control plan and approved by the agencies that review this plan. (Mitigation Measure Applicant shall construct all storm drain facilities in conformance with data and analysis in the adopted *City of Scotts Valley Stormwater Technical Guide*, February 2014.
61. A registered civil engineer shall provide storm (hydrologic and hydraulic) calculations for appropriate storm drain facilities to control on-site drainage and mitigate off-site impacts. The design shall follow the criteria contained in the City of Scotts Valley Standard Details and the data and analysis contained in the latest adopted *City of Scotts Valley Stormwater Technical Guide*. Development shall not increase the rate of flow (cubic feet per second) or velocity (feet per second) of site run-off water to any off-site drainage areas beyond the measured or calculated pre-project rate and velocity.
62. A copy of all required documents, including the recorded final map sheets, City-approved HOA agreements, CC&Rs, developer security bond agreements for improvements, shall be provided to appropriate City departments prior to the application of any Grading or Building Permit.

The Terrace at Scotts Valley Townhouse Subdivision

INTRODUCTION

Project: Create 20 townhouse residential lots and one common lot from a vacant 2.6-acre lot and construct a townhouse dwelling on each lot and associated common owned improvements on the common lot.

Located at: No Situs; Scotts Valley Drive opposite its intersection with Bean Creek Road; APN 022-162-69 and -74

Prepared by: City of Scotts Valley Planning Department, 1 Civic Center Drive, Scotts Valley, California, 95066

Requested	Mitigated Negative Declaration	MND14-002
Planning	Subdivision/Tentative Map	LD14-001
Approvals	Planned Development Permit	PD14-002
& Permits:	Design Review	DR14-009

**Property Owner/
Applicant:** Chris Perri, Apple Homes Development

**Public Review Period
to Provide**

Written Comments: July 15 – August 17, 2015 (by 5:00 PM)

SUMMARY OF PROJECT AND A LISTING OF MITIGATION MEASURES RECOMMENDED TO AVOID OR REDUCE IMPACTS TO LESS THAN SIGNIFICANT LEVELS

A. Project Name and Address:	Requested Permits/Approvals:
Terrace at Scotts Valley Townhouse Subdivision	Mitigated Negative Declaration MND14-002
No situs; located on Scotts Valley Dr.	Subdivision/Tentative Map LD14-001
Scotts Valley, CA 95066	Planned Development No. PD14-002
Assessor Parcel No. 022-162-69 & -74	Design Review DR14-009

- B. Lead Agency Name and Address:** Planning Department
City of Scotts Valley - City Hall
One Civic Center Drive
Scotts Valley, CA 95066
ATTN: Taylor Bateman, Senior Planner
- Lead Agency Contact Person:** Kim Tschantz, MSP, CEP, Contract Planner
Phone: (831) 685-1007
Fax: (831) 685-1007
E-mail: kimt@cypressenv.com
- C. Project Applicant/Property Owner Name and Address:** Chris Perri
Apple Homes Development, Inc.
15 Sherman Court, Scotts Valley, CA 95066 <mailto:george@boltonhill.net>
- D. General Plan Designation:** "Multi-family Residential" land use
- E. Zoning:** "RM-6" (Multi-family Residential with a 6,000 sq. ft. minimum lot size)
- F. Existing Site Description:** The project site is a vacant mostly forested property located on the southeast side of Scotts Valley Drive 89 feet north from Mt. Hermon Road in the central area of the City of Scotts Valley (See the Location Map on following page). The property is adjacent to a single-family residential neighborhood, named Oak Creek Estates, to the east. Commercial uses occur to the southwest and a commercially zoned vacant parcel occurs to the northeast. Scotts Valley Middle School is located to the northwest on the opposite side of Scotts Valley Drive.
- G. Project Description:** The applicant is proposing a 20-unit townhouse project consisting of 20 individual residential lots with one dwelling/each and one common owned parcel for vehicle access, parking and open space on two adjoining vacant parcels that encompass 2.6 acres (See Exhibit A of the Initial Study). Each townhouse would be a separate lot of about 1,056 sq. ft. The individual lots would consist of a three-story townhouse unit with a rear patio. A common owned parcel, owned by the homeowners of the 20 lots, would encompass the remainder of the site and would include the access road, outdoor parking and open space. A garage is proposed as the first story of each townhouse unit. Each garage would provide enclosed parking for one vehicle and other storage. Unenclosed parking for an additional 39 vehicles would also be provided on the common parcel. The residential lots would be accessed by a new dead-end street. An emergency vehicle turn-around is proposed at the end of the street.
- The project has been designed to group the townhouses in four separate structures (referred to as "blocks" on the plans) that are divided by a narrow open space areas which include drainage improvements that will convey surface drainage downslope. The design locates the townhouse buildings in the rear of the site and the access roadway and unenclosed parking in the front of the site near Scotts Valley Drive. Exhibit A of the Initial Study provides project plans that include a copy of the tentative subdivision map and grading plan.
- H. Summary of Requested Planning Department Permits:** Required project entitlements include Tentative Subdivision Map, Planned Development and Design Review approvals. The project is subject to the California Environmental Quality Act (CEQA) and the CEQA Guidelines, which require this environmental review. The project entitlements and environmental review will be presented at two public hearings. The Planning Commission and subsequently the City Council will hold public hearings to discuss and act upon the requested entitlement and this environmental review. The project will also need

the approval of the U.S. Fish and Wildlife Service for the approval of a Habitat Conservation Plan. However, this approval is not required prior to City action on the project.

- I. Public Hearings at City Hall:** The project requires review and recommendation of the Planning Commission to the City Council, who will take final action on the planning permit applications. The date and time of the Planning Commission public hearing is:

Planning Commission

September 10, 2015

City Hall Council Chambers

6:00 PM

City Council

The date will be scheduled after Planning Commission hearing and action on the project

City Hall Council Chambers

6:30 PM

- J. Surrounding Land Uses:** The existing uses located around the subject property are:

Direction	Zoning District	Existing Uses	Address
North	"P" (Public/quasi-Public) and "C-S" (Commercial Service)	Scotts Valley Middle School	8 Bean Creek Road
		Retail commercial uses in the Camp Evers Center	Various on Scotts Valley Drive
South	"R-1-10" (single-family Residential with a min. lot size of 10,000 s.f.)	Single-family residential within the Oak Creek Estates neighborhood	Various on various streets
East	"C-P" (Commercial Professional)	Vacant	Not yet assigned
West	"C-S" (Commercial Service)	Mt. Hermon Shell Gas Station and Car Wash	90 Mt. Hermon Road

- K. Project Location Map:** See Project Plans attached as Exhibit A to the Initial Study.

- L. Environmental Factors Potentially Affected and Determination:** See the attached Initial Study for a complete discussion of factors.

M. List of Mitigation Measures

The following mitigation measures from the Initial Study are provided in the listing below. Underlined text shows additional language added to mitigation measures after the public review and comment period. This additional text is for clarification purposes only and does not represent a new mitigation measure or a change in the concept of any mitigation measure.

- Mitigation Measure AQ-1:** To reduce dust generation from project grading and construction to minimal levels, the project proponent shall require the grading contractor to implement best management practices for dust control, including watering down exposed earth surfaces each non-rainfall day at intervals that attenuate dust problems. Any dirt tracked on to Scotts Valley Drive shall be removed daily in a manner that does not create substantial airborne dust. These

requirements shall be included in the construction contract for the project. The following BMPs shall be implemented during site grading:

- a) Excavation of the site shall be done in phases by grading only those areas where immediate activity will take place, leaving the remaining areas in their original condition with ground cover;
- b) A water truck, using recycled water, shall be available on a repeated basis each day throughout the grading phase of the project to spray exposed earth surfaces;
- c) In addition to regular water spraying, a biodegradable chemical pallative shall be sprayed on any graded areas that will remain exposed without additional grading for three or more days in succession;
- d) The site entrance shall be base rocked to avoid or minimize tracking mud on Scotts Valley Drive by construction vehicles;
- e) The segment of Scotts Valley Drive along the project frontage shall be mechanically swept at the end of each work day when any dirt or mud has been tracked on the street;
- f) No grading activities shall occur during days of high wind velocity;
- g) Finished graded areas that are designated as open space and landscape areas of project, shall be covered with an accepted erosion control substance such as straw mulch or hydromulch with a tackifier; and
- h) Construction staff shall monitor daily all areas that have received a chemical pallative spray or application of mulch to determine if these areas remain in a dust-free condition and take corrective action as needed to maintain a dust-free environment.

- 2. **Mitigation Measure BIO-1:** To avoid impacting nesting raptors or passerine species, the project applicant shall schedule all construction outside of the nesting season of February 1 to July 31. If this is not feasible the applicant shall implement to following alternative measure. To minimize impacts to nesting raptors or migratory passerines on the site, a qualified wildlife biologist, under contract to the project proponent, shall conduct pre-construction surveys for nesting raptors and migratory passerines to determine if they occur on the site or in close proximity to the site. The surveys shall be conducted no earlier than 30 days prior to commencement of construction. If raptors or migratory passerines are observed nesting on the site, or on an adjoining site within 300 feet, the project proponent shall postpone construction within 300 feet of a raptor nest site and 50 feet from a migratory passerine next site until all young have fledged. The wildlife biologist shall document that the young have fledged prior to commencement of proximate construction work.
- 3. **Mitigation Measure BIO-2:** To avoid harm or loss of the pallid bat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any roosting bats are present on the site. If any are discovered, the biologist shall recommend mitigation measures to allow the bats to escape their roosts unharmed prior to tree removal. If necessary, the biologist shall consult with CDFW on a bat removal plan. The project applicant shall implement the recommendations of the biologist.
- 4. **Mitigation Measure BIO-3:** To avoid harm or loss of the Dusky-footed woodrat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any occupied woodrat nests are present on the site. If any are discovered, the biologist shall consult with CDFW to formulate a plan to either relocate the woodrat nests or construct a human-made woodrat nest on another site suitable for the species.

5. **Mitigation Measure BIO-4:** To compensate for the loss of about 2 acres of habitat for the endangered species, Mt. Hermon June beetle, the applicant shall complete the HCP/Incidental Take Permit process with the USFWS as specified by Section 10 of the Endangered Species Act and continue to employ a qualified entomologist to implement the approved HCP according to the requirements and the schedule specified by USFWS and the approved HCP for this project. Written documentation of USFWS approval of the HCP and a Take Permit for this project shall be submitted to the City of Scotts Valley Planning Department prior to commencing any ground disturbance at the project property.
6. **Mitigation Measure BIO-5:** To compensate for the loss of 56 City Protected Trees and to minimize impacts to trees retained on the site, the project applicant shall implement the construction impact assessment and tree protection plan prepared by J.P. Allen and Associates dated September 2, 2014. Planting of new trees at a 2:1 replacement ratio may be done on-site or at another site approved by the City Arborist prior to any project grading. This planting may be included in the project landscape plan as approved by the City Arborist. All replacement planting shall be inspected and approved by the City Arborist. Plan specifications to protect retained trees shall be included in the construction contracts with all project contractors involved with land alteration, and foundation construction. The project arborist shall inspect the site prior to any grading activities and thereafter on a weekly basis to ensure tree preservation measures are in place throughout the construction phase of this project. All replacement plantings shall be monitored for 5 years or longer, as specified in the report, until the success criteria of 80% survival rate has been met. Monitoring shall be performed by either the City Arborist or another qualified professional approved by the City.
7. **Mitigation Measure CUL-1:** To ensure that archaeological resources are not destroyed if accidentally discovered during project grading or other subsurface work, the contractor shall immediately halt all work activities within a 150 foot radius of the discovery and immediately contact the City Planning Department so the City can retain an archaeologist to examine the find to make appropriate recommendations to conserve the resource. The project applicant shall include this requirement in the contract for all contractors involved with grading and subsurface work.
8. **Mitigation Measure CUL-2:** To ensure that paleontological resources are not destroyed during project grading, the project proponent will include the following measures:
 - Provide the project paleontologist with a copy of the final grading plans for review prior to any project grading;
 - Provide for daily monitoring during grading activities by the project paleontologist to determine if paleontological resources are encountered in excavated areas;
 - Allow for the recovery of any discovered paleontological resources according to a recovery plan/methods specified by the project paleontologist, including the donation of the recovered resources to a suitable repository (museum, school, etc.);
 - If recovery occurs, ensure that the project paleontologist prepare a recovery report that details the type of resources recovered and the repository locations where they were taken; and

- Specify in the construction contract with the project grading contractor(s), that grading personnel are to cooperate with and assist the project paleontologist during monitoring and any recovery activities, including assisting with recovery efforts if necessary.
9. **Mitigation Measure GEO-1:** To reduce the effects of seismic shaking to acceptable levels, the project proponent shall have all dwellings designed to Uniform Building Code standards for the design level earthquake for the area. The design details shall be provided on the building plans submitted to the City for a Building Permit for each dwelling.
 10. **Mitigation Measure GEO-2:** To prevent erosion from occurring during or after grading/development of the project site, the project applicant shall have a qualified professional prepare an SWPPP/erosion control plan and submit it to both the RWQCB and the City Building Department for review and approval prior to approval of the final subdivision map. The approved plan shall be implemented with grading of the site. The erosion control measures should be functional prior, during and after construction. Specific measures shall be identified in the project plans and specifications should include the following features: use of coir rolls, straw bales and/or similar measures to prevent sediments from leaving the site, erosion control seeding and mulching following construction and other measures as appropriate. The plan shall include the following performance standards:
 - a) Limit grading activities to the dry season of April 15–October 15;
 - b) Seed and mulch/hydromulch exposed areas as soon as possible following grading, in no case later than October 15;
 - c) Stabilize all finished graded slopes of 15% or greater by installing additional features, such as erosion control netting or coir rolls;
 - d) Provide sediment traps, including temporary siltation basins at downstream end of drainage channels;
 - e) Keep all drainageways clear of debris and clean them when debris is observed;
 - f) Implement all dust control BMPs specified in Mitigation Measure AQ-1; and
 - g) Monitoring the site on a regular basis to determine the effectiveness of all stormwater/erosion control measures and correct any identified problems.
 11. **Mitigation Measure GEO-3:** To protect project improvements from the effects of soil instability, the project applicant shall design project improvements according to the recommendations of the geotechnical report prepared by Dees and Associates dated July 10, 2014. The geotechnical engineer shall review and approve construction plans prior to submitting plans to the City Building Department for a Grading Permit and Building Permit application. The applicant shall submit written documentation that the project engineer has verified that site grading work and the construction of each dwelling meets the recommendations of the approved geotechnical report.
 12. **Mitigation Measure HAZ-1:** Implement Mitigation Measures AQ-1 and HYD-1.

13. **Mitigation Measure HYD-1:** To prevent sedimentation and discharge of contaminants off-site during project construction, the project applicant shall have the construction contractor implement the approved erosion control plan discussed in mitigation measure GEO-2 and implement a best management practice/hazardous materials containment plan during the entire time construction activities are occurring. The hazardous materials containment plan shall be approved by City Planning staff prior to commencement of land alteration and construction activities for the project. It shall contain the following elements:
- Stationary equipment such as motors, pumps, welding equipment shall be placed over drip pans or other containment apparatus;
 - Construction materials shall not be stockpiled or stored where they could be accidentally discharged downslope or in to Scotts Valley Drive;
 - Any petroleum, lubricants or other hazardous materials used during construction shall be stored in a special storage location equipped with double containment and this location shall be shown on the erosion control plan and approved by the agencies that review this plan.
14. **Mitigation Measure HYD-2:** To compensate for the loss of groundwater recharge area, the project applicant shall install the drainage design feature of pervious pavement underlain with a series of concrete check dams that promote infiltration of collected surface drainage as proposed by the project plans prepared by C2G consultants dated, January 21, 2015 and date stamped by the City as received on June 16, 2015.
15. **Mitigation Measure HYD-3:** To prevent drainage problems related to the lack of proper maintenance of privately owned and operated drainage facilities on the site, a homeowners maintenance agreement and homeowners funding agreement shall be submitted to the City for review and approval prior to approval and recordation of the final subdivision map that includes the following:
- Adequate funding by each homeowner on an equal basis for the regular maintenance of the common-owned drainage facilities and any other drainage improvements not owned by the City.
 - Regular monitoring inspection by qualified professionals (civil engineer, erosion control specialist.) to assess the functional capability of the drainage improvements and to provide recommendations for repairs and maintenance. This monitoring should occur at least annually in the spring or summer and include professionals qualified in the area of drainage engineering.
 - Maintenance of the drainage facilities by a qualified professional in accordance with the recommendations of the monitoring inspections.

16. **Mitigation Measure N-1:** To reduce construction noise emanating beyond the site to acceptable levels, the project applicant shall require all contractors to limit their work to 8:00 A.M. to 5:00 P.M. weekdays. If gasoline generators are used, they shall be contained in an enclosure that prevents their noise from being heard at properties south of the project site. This requirement will be included in all construction contracts for grading and building construction on the site.

Exhibit C
Planning Commission Resolution

MITIGATION MONITORING AND REPORTING PROGRAM
for the Terrace at Scotts Valley Townhouse Project
LD14-001; PD14-002 & DR14-009

The Mitigation Monitoring and Reporting Program (MMRP) is a CEQA-required component of the Mitigated Negative Declaration (MND) process for the project. The results of the environmental analyses, including proposed mitigation measures, are documented in the Initial Study/MND.

CEQA requires that agencies adopting MNDs take affirmative steps to determine that approved mitigation measures are implemented subsequent to project approval.

As part of the CEQA environmental review procedures, Section 21081.6 requires a public agency to adopt a monitoring and reporting program to ensure efficacy and enforceability of any mitigation measures applied to a proposed project. The lead agency must adopt an MMRP for mitigation measures incorporated into the project or proposed as conditions of approval. The MMRP must be designed to ensure compliance during project implementation. As stated in Section 21081.6(a)(1):

The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead agency or a responsible agency, prepare and submit a proposed reporting or monitoring program.

Table 1 is the MMRP matrix. The table lists each of the mitigation measures proposed in the Initial Study/MND and specifies the agency responsible for implementation of the mitigation measure; the documentation that agency will retain to show how the measure was complied with as intended; the time period to implement the mitigation measure and the type of remedial actions that will occur to correct identified problems so each measure can be implemented successfully.

Mitigation Monitoring and Reporting Program

Environmental Impact	Mitigation Measure	Responsible Entity, Implementation and Remediation Method and Timing
Air Quality		
Impact AQ-1: Project grading on most of the 2.6-acre site generate substantial airborne dust that will affect surrounding properties, including people residing in dwellings east of the site.	Mitigation Measure AQ-1: To reduce dust generation from project grading and construction to minimal levels, the project proponent shall require the grading contractor to implement best management practices (BMPs) for dust control, including watering down exposed earth surfaces each non-rainfall day at intervals that attenuate dust problems. Any dirt tracked on to Scotts Valley Drive shall be removed daily in a manner that does not create substantial airborne dust. The following BMPs shall be implemented during site grading: Excavation of the site shall be done in phases by grading only those areas where immediate activity will take place, leaving the remaining areas in their original condition with ground cover; A water truck, using recycled water, shall be available on a repeated basis each day throughout the grading phase of the project to spray exposed earth surfaces; a) In addition to regular water spraying, a biodegradable chemical	Monitoring & Reporting: The project applicant shall provide City Planning staff with a copy of the provision in the construction contract requiring attenuation of dust prior to any grading on the site. Planning staff shall observe dust attenuation methods during routine inspections of project construction and respond to any citizen complaints regarding dust problems. Remediation: If City Planning staff observes problems, they shall be communicated immediately to contractors at the site and to the project applicant along with ideas on how to resolve the problem(s). Planning staff shall re-inspect the site within 24 hours to observe how the dust problem has been solved. Observed and reported dust problems and their solutions shall be recorded in an inspection log.

	pallative shall be sprayed on any graded areas that will remain exposed without additional grading for three or more days in succession; b) The site entrance shall be base rocked to avoid or minimize tracking mud on Scotts Valley Drive by construction vehicles; c) The segment of Scotts Valley Drive along the project frontage shall be mechanically swept at the end of each work day when any dirt or mud has been tracked on the street; d) No grading activities shall occur during days of high wind velocity; e) Finished graded areas that are designated as open space and landscape areas of project, shall be covered with an accepted erosion control substance such as straw mulch or hydromulch with a tackifier; and f) Construction staff shall monitor daily all areas that have received a chemical pallative spray or application of mulch to determine if these areas remain in a dust-free condition and take corrective action as needed to maintain a dust-free environment.	
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Biological Resources

Impact BIO-1: The removal of trees for project construction has the potential to disrupt the nesting period for raptors and special status song birds, two avian wildlife groups that are	Mitigation Measure BIO-1: To avoid impacting nesting raptors or passerine species, the project applicant shall schedule all construction outside of the nesting season of February 1 to July 31. If	Monitoring & Reporting: The project applicant shall submit a copy of the raptor survey to City Planning staff for review and acceptance prior to City approval to begin grading activities. The
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protected by State and federal laws	this is not feasible the applicant shall implement the following alternative measure. To minimize impacts to nesting raptors or migratory passerines on the site, a qualified wildlife biologist, under contract to the project proponent, shall conduct pre-construction surveys for nesting raptors and migratory passerines to determine if they occur on the site or in close proximity to the site. The surveys shall be conducted no earlier than 30 days prior to commencement of construction. If raptors or migratory passerines are observed nesting on the site, or on an adjoining site within 300 feet, the project proponent shall postpone construction within 300 feet of a raptor nest site and 50 feet from a migratory passerine nest site until all young have fledged. The wildlife biologist shall document that the young have fledged prior to commencement of proximate construction work.	accepted report shall be retained in the project file. Remediation: Non-acceptance of the adequacy of the report by the City will necessitate a subsequent survey and a successive report shall be done by the project proponent's ornithologist and submitted to City Planning for review and approval prior to any site disturbance.
Impact BIO-2: The removal of trees in project construction area has the potential to kill or injure roosting bats, including the pallid bat (<i>antrozous pallidus</i>), a mammal listed as a "species of special concern" by the California Department of Fish and Wildlife.	Mitigation Measure BIO-2: To avoid harm or loss of the pallid bat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any roosting bats are present on the site. If any are discovered, the biologist shall recommend mitigation measures to allow the bats to escape their roosts unharmed prior to tree removal. If	Monitoring & Reporting: The project applicant shall submit a copy of the pallid bat survey to City Planning staff for review and acceptance prior to City approval to begin grading activities. The accepted report shall be retained in the project file. Remediation: Non-acceptance of the adequacy of the report by the City will necessitate a subsequent survey and a successive report shall

	necessary, the biologist shall consult with CDFW on a bat removal plan. The project applicant shall implement the recommendations of the biologist.	be done by the project proponent's biologist and submitted to City Planning for review and approval prior to any site disturbance.
Impact BIO-3: Project construction has the potential to kill or injure San Francisco dusky-footed woodrats (<i>Neotoma fuscipes annectens</i>), a mammal listed as a "species of special concern" by the California Department of Fish and Wildlife.	Mitigation Measure BIO-3: To avoid harm or loss of the Dusky-footed woodrat, a qualified wildlife biologist, under contract to the project applicant, shall conduct pre-construction surveys, no more than 30 days before any vegetation removal, to determine if any occupied woodrat nests are present on the site. If any are discovered, the biologist shall consult with CDFW to formulate a plan to either relocate the woodrat nests or construct a human-made woodrat nest on another site suitable for the species.	Monitoring & Reporting: Same process as for BIO-2 above. Remediation: Same process as for BIO-2 above.
Impact BIO-4: Project construction will remove approximately 2 acres of known and occupied habitat of the Mt. Hermon June beetle (<i>Polyphylla barbata</i>), an insect listed as an endangered species by the U.S. Fish and Wildlife Service.	Mitigation Measure BIO-4: To compensate for the loss of about 2 acres of habitat for the endangered species, Mt. Hermon June beetle, the applicant shall complete the HCP/Incidental Take Permit process with the USFWS as specified by Section 10 of the Endangered Species Act and continue to employ a qualified entomologist to implement the approved HCP according to the requirements and the schedule specified by USFWS and the approved HCP for this project. Written documentation of USFWS approval of the HCP and a Take	Monitoring & Reporting: The applicant shall submit a copy of the USFWS-approved Final HCP along with a copy of the USFWS-approved Incidental Take Permit to City Planning prior to any land disturbance on the site. A copy of both these documents shall be permanently maintained in the project file. Remediation: The USFWS is the agency responsible for monitoring and enforcement of the HCP. The USFWS shall take enforcement action as specified in the HCP and

	Permit for this project shall be submitted to the City of Scotts Valley Planning Department prior to commencing any ground disturbance at the project property.	Take Permit to resolve any compliance problems. City staff shall cooperate with the USFWS to the degree feasible if the City is advised of any compliance problems.
Impact BIO-5: The project will remove 56 trees/tree groups that are protected by Section 17.44.080 of the Scotts Valley Municipal Code by meeting the criteria as a "protected tree". These include coast live trees (<i>Quercus agrifolia</i>) and other trees with trunk diameters of 8 inches or greater.	Mitigation Measure BIO-5: To compensate for the loss of 56 City Protected Trees and to minimize impacts to trees retained on the site, the project applicant shall implement the construction impact assessment and tree protection plan prepared by J.P. Allen and Associates dated September 2, 2014. Planting of new trees at a 2:1 replacement ratio may be done on-site <u>and/or</u> at another site approved by the City Arborist prior to any project grading. This planting may be included in the project landscape plan as approved by the City Arborist. All replacement planting shall be inspected and approved by the City Arborist. Plan specifications to protect retained trees shall be included in the construction contracts with all project contractors involved with land alteration, and foundation construction. The project arborist shall inspect the site prior to any grading activities and thereafter on a weekly basis to ensure tree preservation measures are in place throughout the construction phase of this project. All replacement plantings shall be monitored for 5 years or longer, as specified in the report, until the success criteria of 80% survival rate has been met.	Monitoring & Reporting: One copy of the approved plan shall be permanently retained in the project file. Approved & stamped copies shall be giving to the project applicant with issuance of the Permit and another copy to the City Arborist. City Arborist shall inspect the replanting to ensure it conforms with the approved plan. Inspection results shall be logged in Arborist's inspection log and supplemented with photographs. Repeat inspections, logging and photos shall continue for 5 years, or longer if success criteria has not been achieved at end of year 5. Remediation: If the City Arborist observes problems, they shall be recorded in the inspection log and a copy of the log entry shall be submitted to the project applicant and the Planning Dept. with recommendations to correct the problem. A Certificate for Occupancy of the townhouses will not be issues by Building staff until any problems observed during teh construction phase are corrected. The performance security will not be returned to applicant

	Monitoring shall be performed by either the City Arborist or another qualified professional approved by the City.	until the success criteria has been achieved at year 5.
Cultural Resources		
Impact CUL-1: Although not expected, it is possible that archaeological resources could be accidentally encountered during project grading.	Mitigation Measure CUL-1: To ensure that archaeological resources are not destroyed if accidentally discovered during project grading or other subsurface work, the contractor shall immediately halt all work activities within a 150 foot radius of the discovery and immediately contact the City Planning Department so the City can retain an archaeologist to examine the find to make appropriate recommendations to conserve the resource. The project applicant shall include this requirement in the contract for all contractors involved with grading and subsurface work.	Monitoring & Reporting: The project applicant shall provide City Planning staff with a copy of the provision in the construction contract pertaining to accidental discovery of archaeological resources prior to the issuance of a Grading Permit. If resources are found during grading, monitoring shall be conducted by a qualified archaeologist as specified by the Municipal Code. The archaeologist shall be hired by the project applicant and shall prepare log entries and reports to document all monitoring activities. A copy of the log and reports shall be maintained in the project file by Planning staff. Remediation: Any problems identified by the archaeologist shall be communicated immediately to the contractor on-site and the project applicant who shall remedy the problem immediately in the manner recommended by the archaeologist.
Impact CUL-2: The geologic stratigraphy at the development area of the property indicates a high sensitivity for buried	Mitigation Measure CUL-2: To ensure that paleontological resources are not destroyed during project grading, the project	Monitoring & Reporting: Prior to the issuance of a Grading Permit, the project proponent shall provide City Planning with: a) a copy of the

paleontological resources at the site. These resources could be destroyed during project grading.	proponent will include the following measures: a) Provide the project paleontologist with a copy of the final grading plans for review prior to any project grading; b) Provide for daily monitoring during grading activities by the project paleontologist to determine if paleontological resources are encountered in excavated areas; c) Allow for the recovery of any discovered paleontological resources according to a recovery plan/methods specified by the project paleontologist including the donation of the recovered resources to a suitable repository (museum, school, etc.); d) If recovery occurs, ensure that the project paleontologist prepare a recovery report that details the type of resources recovered and the repository locations where they were taken; and e) Specify in the construction contract with the project grading contractor(s), that grading personnel are to cooperate with and assist the project paleontologist during monitoring and any recovery activities, including assisting with recovery efforts if necessary.	provision in the construction contract pertaining to accidental discovery of paleontological resources; and b) a letter from a qualified paleontologist that the grading plans have been reviewed. The project paleontologist shall monitor grading activities on a daily basis during all grading activities. A final monitoring report shall be prepared by the project paleontologist and submitted to City Planning for retention in the project file. If resources are found, monitoring shall be conducted by a qualified paleontologist in the same manner as described in CUL-1 above Remediation: Any problems identified by the paleontologist shall be communicated and monitored in same manner as CUL-1 above
Geology and Soils		
Impact GEO-1: The development and use of 20 dwellings within a seismically	Mitigation Measure GEO-1: To reduce the effects of seismic shaking to acceptable levels, the project	Monitoring & Reporting: The project applicant shall submit construction drawings for a

active area will subject the dwellings and their inhabitants to periodic seismic shaking associated with the San Andreas Fault and other active faults within the Monterey Bay area.	proponent shall have all dwellings designed to California Building Code standards for the design level earthquake for the area. The design details shall be provided on the building plans submitted to the City for a Building Permit for each dwelling.	Building Permit application to the City Building Department. City Building staff shall review the plans to ensure they address seismic Requirements of the Building Code prior to issuance of the Building Permit for all dwellings. The City Building Inspector will inspect the construction of the townhouse dwellings to ensure seismic related features are constructed correctly. Remediation: Any inadequacies with the building plans identified during plan checking shall be specified in writing to the Building Permit applicant (plan check comments). The applicant will need to submit revised plans to address the identified inadequacies prior to issuance of the Building Permit for the dwelling.
Impact GEO-2: The grading of 9,557 cubic yards over most of the 2.6-acre site area will generate a high potential for accelerated erosion to occur. This would result in the loss of valuable top soil and damage project improvements.	Mitigation Measure GEO-2: To prevent erosion from occurring during or after grading and development of the project site, the project applicant shall have a qualified professional prepare an SWPPP/erosion control plan and submit it to both the RWQCB and the City Building Department for review and approval prior to approval of the final subdivision map. The approved plan shall be implemented with grading of the site. The erosion control measures should be functional prior, during and after construction. Specific measures shall be identified in the project plans and	Monitoring & Reporting: Project applicant shall submit the project erosion control plan to City Building Department for review and approval prior to approval of the Final Subdivision Map. This plan will actually be part of the Engineered Improvement Plan submitted with the Final Map. Stamped and approved copies of the plan shall be retained in both the project file and with the grading inspector assigned to the project. The inspector shall monitor implementation of the plan at the site during grading operations. (See HYD-1)

	specifications should include the following features: use of coir rolls, straw bales and/or similar measures to prevent sediments from leaving the site, erosion control seeding and mulching following construction and other measures as appropriate. <u>The</u> plan shall include the following performance standards: a) Limit grading activities to the dry season of April 15–October 15; b) Seed and mulch/hydromulch exposed areas as soon as possible following grading, in no case later than October 15; c) Stabilize all finished graded slopes of 15% or greater by installing additional features, such as erosion control netting or coir rolls; d) Provide sediment traps, including temporary siltation basins at downstream end of drainage channels; e) Keep all drainageways clear of debris and clean them when debris is observed; f) Implement all dust control BMPs specified in Mitigation Measure AQ-1; and g) Monitoring the site on a regular basis to determine the effectiveness of all stormwater/erosion control measures and correct any identified problems.	The project proponent shall also submit a copy of the approved RWQCB permit to City Planning. This permit copy shall be retained in the project file Remediation: Observed inconsistencies between plan implementation and the approved plan as well as observed erosion problems on-site shall be noted in the grading inspector's log and communicated immediately to the contractor at the site and the project applicant with recommendations to remedy the problem. The grading inspector shall return the site within 24 hours or less to determine if corrective actions are adequate.(See HYD-1)
Impact GEO-3: The volume of grading required on this steeply sloped site could result in soil	Mitigation Measure GEO-3: To protect project improvements from the effects of soil instability, the	Monitoring & Reporting: The project proponent shall submit the engineer's plan review letter to the

instability problems that could affect site improvements after they are constructed.	project applicant shall design project improvements according to the recommendations of the geotechnical report prepared by Dees and Associates dated July 10, 2014. The geotechnical engineer shall review and approve construction plans prior to submitting plans to the City Building Department for a Grading Permit and Building Permit application. The applicant shall submit written documentation that the project engineer has verified that site grading work and the construction of each dwelling meets the recommendations of the approved geotechnical report.	City Building Department for review and acceptance prior to approval of the Grading Permit and any Building Permits for dwellings in the project. The engineer's letter shall be retained in both the Planning project file and with the Office copy of the Building Plans. The project geotechnical engineer shall inspect the grading, drainage improvements and construction of townhouse foundations, as specified in the geotechnical report throughout the construction phase of the project. A copy of the engineer's inspection completion letters shall be retained in the project file. Remediation: Any problems observed by the project geotechnical engineer shall be remediated under his/her supervision prior to the City's final inspections and approvals of the Grading Permit and engineer-inspected improvements.
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Hazards		
Impact HAZ-1: The use of construction vehicles and machinery will bring oils, lubricants, fuels and similar hazardous substances to the site during the construction phase of the project. The regular use of these materials could include accidental release of these substances into proximate	Mitigation Measure HAZ-1: Implement Mitigation Measures AQ-1 and HYD-1.	Monitoring & Reporting: Same process as stated for GEO-2 above. Remediation: Same process as stated for GEO-2 above.

drainages, the roadway or other areas off the site.		
Hydrology		
Impact HYD-1: The use of heavy construction vehicles to grade 7,951 cubic yards over most of the 2.6 -acre area proximate to Scotts Valley Drive will generate a high potential for accelerated erosion that could add sediment to the arterial roadway and includes a potential to discharge vehicle lubricants into the street or an existing storm sewer inlet located at the base of the property's slope.	Mitigation Measure HYD-1: To prevent sedimentation and discharge of contaminants off-site during project construction, the project applicant shall have the construction contractor implement the approved erosion control plan discussed in mitigation measure GEO-2 and implement a best management practice/hazardous materials containment plan during the entire time construction activities are occurring. The hazardous materials containment plan shall be approved by City Planning staff prior to commencement of land alteration and construction activities for the project. It shall contain the following elements: a) Stationary equipment such as motors, pumps, welding equipment shall be placed over drip pans or other containment apparatus; b) Construction materials shall not be stockpiled or stored where they could be accidentally discharged downslope or in to Scotts Valley Drive; and c) Any petroleum, lubricants or other hazardous materials used during construction shall be stored in a special storage location equipped with double containment and this	Monitoring & Reporting: Same process as stated for GEO-2 above. Remediation: Same process as stated for GEO-2 above.

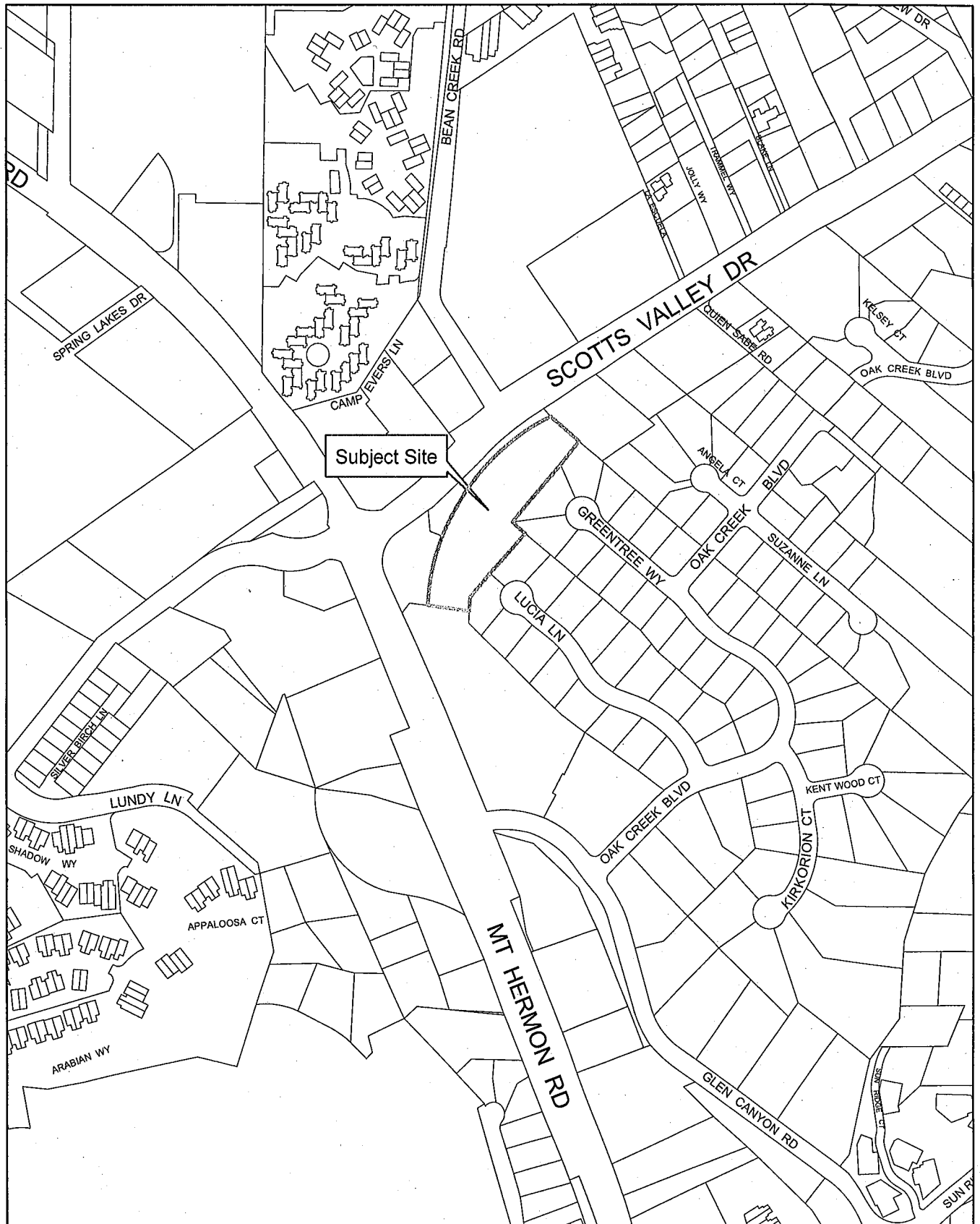
	location shall be shown on the erosion control plan and approved by the agencies that review this plan.	
Impact HYD-2: The site coverage of at least 42,227 square feet (0.97 acre) with structures and surfaced areas for access and parking and related improvements will substantially reduce the area available for groundwater recharge on the property. This is a significant cumulative impact on the Santa Margarita aquifer and the City's water supply.	Mitigation Measure HYD-2: To compensate for the loss of groundwater recharge area, the project applicant shall install the drainage design feature of pervious pavement underlain with a series of concrete check dams that promote infiltration of collected surface drainage as proposed by the project plans prepared by C2G consultants dated, January 21, 2015.	Monitoring & Reporting: The project engineers shall inspect grading operations for the new street and parking area and submit inspection results letters to the City Building Dept. A copy of engineer's inspection letters shall be retained in the project file. Remediation: Any problems observed by the project geotechnical and/or civil engineers shall be remediated under their supervision prior to final inspections and approvals of grading and engineer-inspected improvements.
Impact HYD-3: The project will alter natural drainage flows on the site. While project improvements include engineered drainage facilities to control project drainage, these facilities can only function adequately with proper routine maintenance and they will not be maintained by the City.	Mitigation Measure HYD-3: To prevent drainage problems related to the lack of proper maintenance of privately owned and operated drainage facilities on the site, a homeowners maintenance agreement and homeowners funding agreement shall be submitted to the City for review and approval prior to approval and recordation of the final subdivision map that includes the following: a) Adequate funding by each homeowner on an equal basis for the regular maintenance of the common-owned drainage facilities and any	Monitoring & Reporting: The applicant shall submit the HOA maintenance agreement to City staff for review and approval by Planning staff and the City Attorney prior to approval of the Final Subdivision Map. The approved maintenance agreement shall be recorded by the applicant. A conformed (Recorder's stamped) copy of the Agreement shall be permanently retained in the project file. Remediation: If staff review determines revisions are needed in

	other drainage improvements not owned by the City. b) Regular monitoring inspection by qualified professionals (civil engineer, erosion control specialist) to assess the functional capability of the drainage improvements and to provide recommendations for repairs and maintenance. This monitoring should occur at least annually in the spring or summer and include professionals qualified in the area of drainage engineering. c) Maintenance of the drainage facilities by a qualified professional in accordance with the recommendations of the monitoring inspections.	the Agreement, the needed revisions will be communicated to the applicant. The language of the Agreement shall be revised as specified by the City staff prior to approval of the Final Subdivision Map.
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Noise

Impact N-1: Grading and construction activities will increase ambient noise levels during the construction phase of the project. This additional construction related noise will be heard primarily by residents living in the Oak Creek Estates neighborhood adjoining the northeastern edge of the project property.	Mitigation Measure N-1: To reduce construction noise emanating beyond the site to acceptable levels, the project applicant shall require all contractors to limit their work to 8:00 A.M. to 5:00 P.M. weekdays. If gasoline generators are used, they shall be contained in an enclosure that prevents their noise from being heard at properties south of the project site. This requirement will be included in all construction contracts for grading and building construction on the site.	Monitoring & Reporting: The City inspectors assigned to the project shall observe if the requirements of N-1 are being met. Remediation: Any problems observed during routine inspections or complaints received from the public shall be communicated immediately to the on-site contractor and the project applicant. The inspector shall re-inspect the site within 24 hours to determine if the problem has been successfully corrected. Continued non-compliance could result in a Stop Work Order until the issue is resolved to the satisfaction of City staff.
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Location Map



Scotts Valley Drive
APN's 022-162-69 & 74

Planning Commission September 10, 2015

**Responses Comments Received During the Public Review Period
for the Draft Initial Study and Draft Mitigated Negative Declaration**

The City received the following written comment letters on the Initial Study/Mitigated Negative Declaration:

1. Monterey Bay Unified Air Pollution Control District
2. William Parkin, attorney for Bill and Sherilyn Jager
3. Matt, David and Kathryn Bartlett

These letters are attached as Exhibits I, J and K to the Final Initial Study (Attachment 2 of the Planning Commission staff report). Each issue stated in the letters is provided below followed with a response to the comment.

Letter from Amy Clymo, Supervising Planner, MBUAPCD, dated July 28, 2015

Comment 1: The air quality analysis discussion starting on page 10 only addresses construction impacts and does not address potential impacts from project operation. The operational emissions should be compared to the Air District's CEQA thresholds to evaluate significance.

Response 1: The text of the air quality discussion in the Initial Study has been revised to include an evaluation to determine if significance thresholds would be met for the long-term use of the proposed 20 dwellings. At the suggestion of the commentor's letter, the MBUAPCD's CEQA Guidelines were used to determine if the project would exceed the Air District's threshold level. Review of Table 5-4 in the District's CEQA Guidelines showed that the size of the project is substantially below the 1,195-unit threshold level to generate a significant impact on air quality. This approach was reviewed with the author of this comment letter on August 20, 2015 who confirmed this was the correct approach.

Comment 2: The Air District recommends installing electric vehicle charging stations in common parking areas or at a minimum, stub out for 220/240 volt connections for later installation of electric vehicle charging stations.

Response 2: This recommendation is noted. The City Planning Commission and Council will determine if this recommendation should be included in the project.

Letter from William Parkin, Attorney for Bill and Sherilyn Jager, dated August 13, 2015

Comment 1: The Initial Study simply requires the grading contractor to implement best management practices for dust control. Absent is a thorough discussion of what best management practices entail. It is unclear what practices the Initial Study envisions to mitigate dust generation to a level that would be less than significant.

Response 1: Mitigation Measure AQ-1 has been expanded to specify the types of best management practices (BMPs) that shall be included in the contractor's actions to minimize dust generation during the construction phase of the project. As such, these BMPs are the minimum performance standards the applicant/contractor must carryout to reduce airborne dust to a level of insignificance. Specifying performance standards in a mitigation measure is an acceptable method to mitigate identified impacts in CEQA documents.

Comment 2: A mitigation measure proposes to compensate for the loss of about two acres of habitat for the federally endangered Mt. Hermon June beetle by completing the Habitat Conservation Plan (HCP)/Incidental Take Permit process with the USFWS as specified by Section 10 of the endangered Species Act. However, absent is any discussion regarding what the HCP actually entails. It is impossible to discern whether the HCP will in fact mitigate the loss of habitat.

Response 2: Page 15 of the Initial Study has been revised to add text that summarizes the mitigation approach proposed in the Draft HCP prepared for this project. The Draft HCP document is also appended to the updated Initial Study. In summary, the HCP states the applicant will purchase conservation credits from the Zayante Sandhill Conservation Bank to enhance 2 acres of Mt. Hermon June beetle habitat. According to the USFWS, this is the normally acceptable form of mitigation for the habitat loss impact generated by the project.

Comment 3: The project conflicts with local policies which aim to protect biological resources, especially protected trees as defined in the Scotts Valley Municipal Code. A total of 71 trees/tree groups will be removed by the project. Of this total, 56 trees meet the criteria as trees protected by the code. The Tree Protection Code requires preservation of significant healthy trees when development of property is proposed. The main measure to compensate for the loss of trees is to plant new trees on-site or at another site. This is an inadequate mitigation for the loss of protected and mature trees.

Response 3: The commentor is correct that Section 17.44.080 of the Scotts Valley Municipal Code requires protection of trees that meet the criteria of "Protected Trees". However Subsection 17.44.080(4) allows *removal* of Protected Trees with approval of permit and Subsection 17.44.080(5) provides

for *replacement* of removed Protected Trees when a permit is approved. The project includes a request to remove Protected Trees in accordance with Section 17.44.080 of the Municipal Code. Pages 16 and 17 of the Initial Study have been revised to better explain this and to describe the areas on the site where new coast live oak propagation will occur. Two sentences have been added to Mitigation Measure BIO-5 to clarify the required success rate for new oak plantings (80% survival) and the duration of monitoring that will occur until this success criteria is met (5 years or longer if the success criteria is not met in 5 years.). Permit conditions require the applicant deposit a performance bond with the City to ensure the tree planting is completed as specified by the City Arborist report for this project.

Comment 4: The Initial Study identifies that the project requires grading over most of the 2.6-acre site. This will generate a high likelihood for accelerated erosion. The proposed mitigation measure is to have a qualified professional prepare an erosion control plan for review and approval prior to the approval of the Final Subdivision Map. This violate CEQA. The significance of environmental impacts may not be deferred to a later date.

Response 4: The "Geology and Soils" Section of the Initial Study has identified project grading may generate a significant erosion related impact and has recommended implementation of Mitigation Measure GEO-2 to mitigate the identified impact. GEO-2 requires preparation of an erosion control plan that must be reviewed and approved by the City before any land disturbance can occur or even before the Final Subdivision Map can be approved for recordation. The original text of GEO-2 has been expanded to specify additional performance standards the plan must adhere to in order to be acceptable to the City. These additional performance standards clarify those additional items that need to be included in the plan to effectively mitigate any potential erosion impacts on the site. The use of performance standards in mitigation measures is a long standing and accepted practice for the preparation of plans that are typically finalized prior to the construction phase of a project. The performance standards specified in both the original GEO-2 and the revised GEO-2 meet the requirements of CEQA.

Comment 5: The mitigation proposed to compensate for the loss of groundwater recharge area would only be successful with proper maintenance and funding of drainage facilities designed to promote infiltration of surface drainage. It is uncertain if the City would have any authority to enforce the provisions of the homeowners' agreement requiring drainage maintenance and monitoring.

Response 5: Mitigation Measure HYD-3 requires a homeowners' association (HOA) agreement that requires the HOA to adequately maintain all common-owned drainage facilities, annually monitor these facilities to ensure their effectiveness and sufficient funding to carry out these activities. The

agreement must be submitted to the City for review and approval prior to recording the Final Subdivision Map. Non-compliance with HYD-3 in the future would be non-compliance with the approval for this project which also includes a Planned Development Permit. The language of HOA maintenance agreements typically address non-compliance issues to avoid problems like those stated in the comment.

Comment 6: Given that an estimated 139 trips will be added daily to Scotts Valley Drive, how the traffic report concluded that only 23 additional peak hour trips would be added eludes us.

Response 6: The traffic report was prepared by W-Trans, Inc. a respected traffic engineering firm with offices in Santa Rosa and Oakland, California and peer reviewed by Hatch Mott McDonald another respected traffic engineering firm. The peer review did not criticize or otherwise comment on the trip generation identified by W-Trans. The traffic analysis was actually based on a 24-unit townhouse project which was an earlier version of the applicant's project. Therefore, the traffic generation rates in the report are slightly higher than expected for the proposed 20 units; but have been used in the Initial Study at the applicant's request. As such, the traffic rates in the report represent a "worst case" (or slighter higher than "worst case") analysis.

Trip rates are calculated using the Institute of Transportation Engineers *Trip Generation Manual*, 9th Edition (2012). Based on 24 units, the trip rates for the "residential condominium/townhouse" land use category are as follows:

- a) Average daily trips = 5.81 trips/unit;
- b) Morning peak period = 0.44 trips/unit; and
- c) Afternoon peak period = 0.52 trips/unit.

The number of expected trips is calculated by multiplying each of these rates by 24 units. As stated above, these rates could have been multiplied by 20 units to obtain more accurate figures; which also would be slightly lower trip numbers than stated in the Initial Study. However, CEQA does not preclude using rates that provide a slightly higher than "worst case" analysis in this manner, if supported by reasonable methodology or logical reasoning. In this case, the applicant requested the analysis based on 24 units continue to be used. If the 20 units were instead used in the analysis the number of peak period trips would be 19 rather than 23 trips.

Comment 7: The Initial Study concludes that "it is anticipated the project will generate an average of 139 vehicle trips/day which is the normal trip generation for a residential project of this size. As such, the impacts will not be significant". This statement mischaracterizes the standard against which an environmental impact should be

measured. Given this erroneous framework, it is difficult to discern whether the project's traffic analysis does have a significant effect on existing traffic patterns.

Response 7: The quote used in this comment is taken from the "Air Quality" section of the Initial Study and not the "Traffic and Transportation" section. Therefore, use of this quote to evaluate the adequacy of the "Traffic and Transportation" section is inappropriate. The quote is used in the "Air Quality" section of the Initial Study to note that air emissions from project generated traffic will not be greater than anticipated for this type of residential use.

Comment 8: There is a "fair argument" that the project has several potential significant environmental impacts. The mitigation measures identified for these potential impacts are not adequate for the aforementioned reasons. The City of Scotts Valley should not approve the Mitigated Negative Declaration and instead prepare a full EIR as required by CEQA.

Response 8: Pursuant to CEQA Guidelines Section 15064 a lead agency, in this case the City of Scotts Valley, determines if the environmental effects of a project are substantial enough to require preparation of an Environmental Impact Report (EIR) rather than a Negative Declaration or Mitigated Negative Declaration. A decision to prepare an EIR must be based on "substantial evidence" in the record that the project may have a significant effect on the environment. According to CEQA Guidelines Subsection 15064(f) (5) and Section 15384 "substantial evidence shall include facts, reasonable assumptions predicated upon facts and expert opinion supported by facts". The existence of public controversy over the effects of a project do not require the preparation of an EIR if there is no substantial evidence to support that opinion.

The issues presented in the commentor's letter do not provide opinion of technical experts in relevant areas of expertise; nor do the comments provide facts that successfully refute the conclusions of the Initial Study. All of the issues raised by the commentor have been considered, and evaluated and then responded to in Responses 1—7 above. These responses show that the comments were either incorrect statements or were statements that encouraged more clarity in the Initial Study text. In some cases, the Initial Study text and three of its mitigation measures were revised to provide more clarity. However, new information added to a Negative Declaration which merely clarifies, amplifies or makes insignificant modifications to a Negative Declaration does not require recirculation of the CEQA document nor requires the preparation of an EIR (CEQA Guidelines Section 15073.5).

Letter from Matt, David and Kathryn Bartell, dated August 17, 2015

Comment 1: The property is inhabited by the Palled bat, birds of prey, the Dusky-footed wood rat and the endangered Mt. Hermon June beetle. Permanently removing the habitat for these species would be a great detriment to their existence. It's not OK to cut down 56 of our city's protected trees. If approved, the trees proposed to be cut should be transplanted instead in other parts of the City.

Response 1: A biological report was prepared regarding the bird and mammal species cited in the comment. An entomological assessment and Draft Habitat Conservation Plan were prepared for the insect species. A tree evaluation report was prepared by the City Arborist. These four technical reports were all prepared by qualified professionals and have been incorporated in the Initial Study. The biological report provided mitigations for impacts to special status species that *may* inhabit the site. Based on this information the Initial Study has concluded potential impacts to these species can be mitigated to levels of less than significance with the adoption of Mitigation Measures BIO-1, BIO-2 and BIO-3. The loss of Mt. Hermon June beetle habitat can be mitigated by Measure BIO-4 as described in Response 2 to the letter from William Parkin above. Implementation of Mitigation measure BIO-5 will mitigate for the loss of City Protected Trees as described in Response 3 to the Parkin letter. Transplanting mature trees is not effective mitigation as attempts to transplant mature trees typically results in death of the trees due to their size and age. Replacing removed trees with newly planted trees, as specified in BIO-5, is accepted as a much more successful method to mitigate for tree loss.

Comment 2: I do not agree that the amount of traffic generated by the project will not substantially effect intersection operations.

Response 2: Please refer to Response 6 to the letter from William Parkin above.

Comment 3: I believe that many intersections operation will be negatively affected by the construction activities associated with construction. How are you going to manage traffic during a major development across the street from a busy middle school which will be involved in its own construction activities?

Response 3: Recommended permit condition #50 requires the applicant to obtain an Encroachment Permit from the City Public Works Department for any work in or construction vehicle use of public right-of-ways. The application for this permit must include a traffic control plan that shows how traffic will be safely controlled and motorists will be alerted during times when construction vehicles are entering and exiting the project site. This type of condition is typically required for other projects throughout the City, including the new hotel project, currently under construction, on Scotts Valley Drive north of the project site.

Stephen and Deidre Winters
116 Lucia Lane
Scotts Valley, CA 95066

Attachment No. 5

August 27, 2015

Taylor Bateman
Scotts Valley Planning Department
1 Civic Center Drive
Scotts Valley, CA 95066

Dear Mr. Bateman,

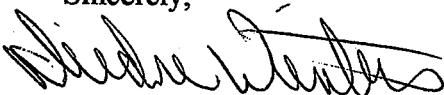
We are writing to you regarding the proposed development "The Terrace at Scotts Valley". We live adjacent to the property – directly behind and up the hill from the proposed townhouses.

We have met with the Apple Homes developer, Chris Perri, several times to review the plans and we support the 20 unit development that he has shown us. We feel he has done a good job on the design and has been thoughtful regarding the concerns of neighbors. He moved the buildings to accommodate one of our neighbor's objections and he intends to add trees and other landscaping for screening between the proposed development and existing neighbors.

We know there will be additional noise and a small amount of additional traffic with the new development, but we feel it will be safer for the existing neighbors to have new neighbors living on this property. We have observed people camping in the trees and have heard parties at night there. We have observed people walking through the field below our house with cigarettes. About 8 years ago there was a fire on this property that came within 10 feet of our fence. Currently there is a lot of very dry brush and some very dry trees on this land. With the drought, fires are a constant worry. Once the property is developed, Chris intends for the landscaping to be watered and maintained, reducing the fire risk.

Chris lives in Scotts Valley and cares about the community. We feel that he will continue to honor the concerns of neighbors throughout the building process.

Sincerely,



Deidre Winters



Stephen Winters

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CITY OF SCOTTS VALLEY

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September 10, 2015

DELIVERED BY HAND AND VIA EMAIL

Taylor Bateman, Principal Planner
City of Scotts Valley, Planning Department
One Civic Center Drive
Scotts Valley, CA 95066
tbateman@scottsvally.org

Re: Notice of Intent to Adopt a Mitigated Negative Declaration for The Terrace at
Scotts Valley Planned Development

Dear Mr. Bateman:

This law firm represents Bill and Sherilyn Jager regarding the above referenced project. The Jagers appreciate the planning staff responding to our submitted comments regarding the proposed approval of the Mitigated Negative Declaration for The Terrace at Scotts Valley ("Proposed Project"). The Planning Commission should not adopt a Mitigated Negative Declaration for the Proposed Project because there is substantial evidence in the record supporting a fair argument that the project may cause significant adverse effects to the environment, warranting full environmental review.

A Mitigated Negative Declaration is inadequate when there is "substantial evidence in the record supporting a fair argument of a significant adverse effect" on the environment by a project. *California Native Plant Society v. County of El Dorado* ("Native Plant Society") (2009) 170 Cal.App.4th 1026, 1049 (quoting *Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 157 Cal.App.4th 885, 904.). The fair argument standard is a "low threshold test." *The Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.

As demonstrated below, the additional information provided by staff in response to our comments does not mitigate the potential adverse impacts to the environment to a less than significant level, as is required by CEQA. As such, the City must prepare a full Environmental Impact Report.

Endangered Species and Proposed Mitigation Measures

Under section 10 of the federal Endangered Species Act ("ESA"), individuals are required to submit an HCP/Incidental Take Permit when their proposed actions would result in harm of a

federally listed endangered species or cause significant habitat modification.

The Initial Study for the Proposed Project acknowledges that, (1) Mt. Hermon June beetles are in fact present on the Proposed Project site and implementing the Proposed Project would result in a taking of the Mt. Hermon June beetle and, (2) implementing the Proposed Project would also permanently remove Mt. Hermon June beetle habitat. (Initial Study, pg. 15).

The Initial Study relies on the HCP to mitigate potential significant impacts under CEQA for the Mt. Hermon June beetle and its habitat. The central piece of the HCP is the purchasing of conservation credits off-site to compensate for incidental take and loss of habitat. However, CEQA compliance is not satisfied by the mere preparation of an HCP, the HCP must show how the proposed measures will avoid net loss of endangered species habitat and net reduction of number of affected species. 14 Cal. Code Regs. § 15065(c)(1). The HCP fails to explain how purchasing conservation credits for the Ben Lomond Sandhills preserve would avoid net loss of endangered species habitat and net reduction of Mt. Hermon June beetles that would occur should the Proposed Project move forward.

The HCP discusses that “conservation credits will be purchased prior to permit issuance from the Ben Lomond Sandhills Preserve of the Zayante Sandhills Conservation Bank.” (HCP, pg. 1) Credits issued through the conservation bank goes towards managing and monitoring 23 acres of habitat, the Ben Lomond Sandhills Preserve.¹ There is no information provided in the HCP or otherwise, to indicate that the conservation credits would be put towards avoiding a net loss of endangered species habitat or net reduction of affected Mt. Hermon June beetles. It should also be noted that the City and County of Santa Cruz are working towards a regional HCP that would utilize the same preserve to mitigate against habitat loss for a host of other development projects. However, the Proposed Project at issue cannot participate in the regional HCP due to the size of its habitat disturbance, and as such is required to create its own individual HCP.

Given that many development projects are banking on the same preserve to mitigate for the loss of endangered species and their habitat, and given that this project cannot participate in the regional HCP, the City of Scotts Valley has a responsibility under CEQA to affirmatively demonstrate that purchasing conservation credits for the Ben Lomond Sandhills Preserve will appropriately mitigate against the loss of habitat as well as endangered species resulting from this specific project. It has not done so. The HCP asserts that “[b]ecause habitat quality at the Ben Lomond Sandhills Preserve is superior to that at the project site, and habitat at the

¹ <http://www.zayantesandhills.com/Overview.pdf>, last visited September 10, 2015.

conservation bank is protected in perpetuity via a conservation easement, this mitigation solution will provide greater long term conservation value to the MHJB and its habitat than would on-site mitigation.” (HCP, pg. 1). However, the Initial Study fails to connect how purchasing conservation credits through the HCP would satisfy CEQA’s requirement of full mitigation of environmental impacts to endangered species.

CEQA Guidelines section 15065 requires a mandatory finding of significance and preparation of an EIR “where there is substantial evidence, in light of the whole record, that. . . [t]he project has the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; **substantially reduce the number or restrict the range of an endangered, rare, or threatened species**; or eliminate important examples of the major periods of California history or prehistory.” 14 Cal. Code Regs. § 15065, emphasis added.

Here, because the Initial Study concludes that the “[p]roject development will permanently remove this [habitat that supports a federally endangered insect species—the Mt. Hermon June beetle] and may kill or harm individual Mt. Hermon June beetles,” (Initial Study, pg. 15) there is substantial evidence that the project will both substantially reduce the number and restrict the range of the endangered Mt. Hermon June beetle. Further, because no evidence in the record supports a finding that the HCP, as proposed, would “avoid any net loss of habitat and net reduction in number of the affected species,” 14 Cal. Code Regs. § 15065(c)(1), CEQA requires the City to make a mandatory finding of significance and to initiate full environmental review.

In *California Native Plant Society v. County of El Dorado*, the Court of Appeal held that a County Ordinance which allowed for developers to pay the appropriate fee in lieu of ecological preserve mitigation for the direct or indirect impacts caused by development on rare plants and rare plant habitats “does not, without more, exempt subsequent projects from environmental review.” *Native Plant Society*, 170 Cal.App.4th at 1051.

In another Court of Appeal case, the Audubon Society successfully made a fair argument that a mitigation bank did not successfully mitigate potential significant environmental impacts under CEQA where “mitigation banking on a habitat basis will allow for a result different from an acre-for-acre or species-by-species exchange.” *San Bernardino Valley Audubon Society v. Metropolitan Water District*, (1999) 71 Cal.App.4th 382, 397. Here, because the Proposed Project will purchase conservation credits from an already established 23 acre preserve that is also being set aside for a separate regional HCP, it is unclear if the conservation credits will actually go toward mitigating the take of Mt. Hermon June beetles and its habitat under the circumstances of this individual Proposed Project for the purposes of CEQA compliance.

Tree Protection

In response to our contention that the project conflicts with local tree protection regulations, the City cites Municipal Code 17.44.080(4) which provides the procedure to permit tree removal as part of an approved development application. However, subsection 17.44.080(4) should be read in harmony with the purpose and intent of the Tree Protection regulations in its entirety:

It is the intent of this section to: (1) regulate the removal of protected trees within the city in order to preserve scenic beauty, and a diverse ecosystem, prevent erosion of topsoil, protect against flood hazard and risks of land slides, counteract pollutants in the area, maintain the climatic balance, decrease wind velocities; (2) **retain as many trees as possible consistent with the reasonable enjoyment of private property**; (3) **preserve significant healthy trees when development of property is proposed**; and, (4) **protect trees designated for preservation during the construction of new development projects**.

Municipal Code § 17.44.080(A), emphasis added.

In short, while the Municipal Code prescribes specific procedures for removal of protected trees when and if the removal is approved pursuant to a development application, Scotts Valley's Tree Protection ordinance first and foremost intends to protect trees, and explicitly intends to retain as many trees as possible consistent with reasonable enjoyment of private property. As such, the tree ordinance does not allow development to trump preservation of trees, but affirmatively requires preservation of significant healthy trees when development is proposed.

The Initial Study fails to meet the standard set forth by the Tree Protection ordinance because it fails to identify preservation measures for the 56 protected trees identified to be impacted by the Proposed Project. It instead allows for removal of all 56 protected trees. There is a fair argument that an adverse impact to the environment exists and the mitigation measures proposed, planting of new trees to replace mature protected trees, does not mitigate the effects to a less than significant level.

Conclusion

The Initial Study identifies several environmental features that may be significantly affected by the Proposed Project. The staff report and discussion purport to address these issues through mitigation measures. However, the proposed mitigation measures are insufficient to mitigate all significant effects on the environment.

City of Scotts Valley Planning Commission
The Terrace at Scotts Valley Planned Development
September 10, 2015
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We have presented numerous issues to support a fair argument that full environmental review is necessary for this Proposed Project and we urge the Planning Commission to deny the approval for a Mitigated Negative Declaration and direct staff to produce a full EIR for the Proposed Project.

Very truly yours,
WITTWER PARKIN LLP


William P. Parkin 

cc: clients

October 21, 2015, City Council Meeting

Response to the Letter from William Parkin dated September 10, 2015

The City received a second letter from attorney, William Parkin, on September 10, 2015 regarding the project. Mr. Parkin represents Scotts Valley residents Bill and Sherilyn Jager who live in the Oak Creek Estates adjacent to the project site. The letter is similar to the first letter from Mr. Parkin dated August 13, 2015 which commented on the Initial Study and Mitigated Negative Declaration prepared for the project. The September 10 letter makes the following assertions:

- 1) There is substantial evidence supporting a fair argument that an EIR should be prepared for the project.
- 2) CEQA compliance is not satisfied by the preparation of a Habitat Conservation Plan (HCP). An HCP must show how mitigation measures will avoid net loss of endangered species habitat and that of the affected species.
- 3) Court cases, such as *California Native Plant Society v. El Dorado County* decision, held that payment of a mitigation fee in lieu of ecological preserve mitigation for development impacts does not exempt a project from Environmental Review.
- 4) It is unclear if conservation credits purchased by the applicant will actually go towards mitigating the take of Mt. Hermon June Beetles and their habitat.
- 5) The project conflicts with the City Tree Protection Ordinance. The City has stated the Ordinance provides procedures for tree removal; however the Ordinance should be read in harmony with the purpose and intent of the Ordinance.
- 6) The Initial Study fails to identify preservation measures for the 56 trees meeting the criteria as “Protected Trees” that will be impacted (removed) by the project.

Responses to the numerated assertions above are provided below by a number that corresponds to each assertion in the letter.

Response 1

As stated in comments to the August 13 letter from Mr. Parkin, CEQA Guidelines states “substantial evidence shall include facts, reasonable assumptions predicated upon facts and expert opinion supported by facts.” The letter does not provide opinion from experts in entomology, plant biology or arbor science; nor does it provide related facts about the Mt. Hermon June Beetle or native tree preservation and replacement. Therefore, the opinions of Mr. Parkin do not constitute “substantial evidence” to provide a fair argument that preparation of an EIR is necessary.

Response 2

As stated in the Initial Study, the Draft HCP prepared by Dr. Richard Arnold, has been incorporated into the Initial Study. Among other things the HCP describes: a) How to minimize the loss of individual Mt. Hermon June Beetles (MHJB) on the site; b) How the purchase of conservation credits will compensate for the loss of habitat on the project site; and c) Monitoring and reporting methods that will be used to assure implementation of these mitigation strategies.

The Zayante Sandhills Conservation Bank was approved by the U.S. Fish and Wildlife Service (USFWS) and the County of Santa Cruz to provide mitigation for impacts to the MHJB and other special-status plants and animals of Zayante sandhills habitat. Under the federal Endangered Species Act, the USFWS, is responsible for the protection of the MHJB. The agency has determined purchase of conservation credits at the Conservation Bank is an appropriate and adequate form of mitigation for the loss of habitat at the project site. USFWS staff have reported their preliminary review of the Draft HCP concludes it will provide adequate mitigation. While the USFWS may require some revisions before the Final HCP is completed, agency staff does not envision revisions to change the concept or overall methodology from that described in the Draft HCP.

Response 3

Unlike the project in the court case cited by Mr. Parkin, the Terrace townhouse project has *not* been exempted from Environmental Review. The Environmental Review process for the Terrace project included preparation of an Initial Study, preparation of several technical reports that have been incorporated into the Initial Study, preparation of a Mitigated Negative Declaration, preparation of a Mitigation Monitoring and Reporting Program, public review of the CEQA documents and City consideration of comments reviewed during and after the review and comment period.

Response 4

The HCP specifies several objectives to meet its two goals towards mitigating the loss of MHJB habitat and the potential loss of individual MHJBs. The stated goals and objectives are:

- Goal 1: Avoid and minimize, to the extent practical, take of the MHJB within the project site.
 - Objective 1.1: Locate proposed improvements in degraded portion of the property.
 - Objective 1.2: Minimize removal of plant taxa indigenous to the Zayante Sandhills that grow at the project site.
 - Objective 1.3: Cover exposed sandy soils nightly if construction activities occur during the MHJB's flight season (mid-May through mid-August).
 - Objective 1.4: Revegetate portions of the project site that are temporarily disturbed due to the project with plant taxa indigenous to the Zayante Sandhills and avoid landscaping with turf grass, weed matting, aggregate, and mulch.
 - Objective 1.5: Minimize outdoor night lighting during the flight season of the MHJB or use light bulbs that are certified to not attract nocturnally-active insects.
- Goal 2: Protect habitat for the MHJB at an off-site location with high conservation value for the beetle.
 - Objective 2.1: Provide funds, through the purchase of conservation credits at the Ben Lomond Sandhills Preserve of the Zayante Sandhills Conservation Bank, to protect, manage, and monitor habitat of the MHJB in perpetuity.

The purpose of both goals is to ensure there is no net loss of MHJBs over the long-term. These goals are in concert with a primary purpose of the Endangered Species Act. Monitoring the

biological effectiveness of habitat improvement at the Conservation Bank site will be conducted to ensure that the objectives of the HCP are met. If problems are observed during monitoring, remedial actions will be taken to ensure HCP objectives are met.

Response 5

The four purposes of the City's Tree Protection Ordinance (Municipal Code Section 17.44.080) are to: 1) *Regulate* the removal of Protected Trees, 2) *Retain* as many trees as possible consistent with the reasonable enjoyment of private property. 3) *Preserve* significant, healthy trees when development of property is proposed; and, 4) *Protect* trees designated for preservation during the construction of new development projects. The City Arborist prepared a Tree Evaluation/Impact Assessment/Protection Plan for the Terrace project that was incorporated into the Initial Study. The Plan includes measures that correspond to all four purposes of the Ordinance. The first purpose, to regulate the removal of trees, includes replacement of trees to compensate for those that will be removed by the project. Tree replacement will be done at a 2:1 ratio with monitoring to ensure an 80% survival rate. This type of replacement will ensure no net loss of the total number of Protected Trees will occur at the site over the long term. In fact, an 80% survival for double the amount of trees that will be removed, will result in a net increase in the total number of native trees on the site.

Response 6

The Initial Study states that the City Arborist prepared Tree Evaluation/Impact Assessment/Protection Plan is incorporated into the Initial Study. The Plan has an extensive discussion of measures to protect those trees that will be retained on the site. Further, the Plan also includes another discussion describing how tree replacement will occur to compensate for the loss of trees on the site.

From: Mike Hemmert <mhemmert@soasta.com>

Subject: Concerns on development of "The Terraces"

Date: September 27, 2015 at 6:40:02 PM PDT

To: seajems@pacbell.net, dene@bustichi.com, rlj12@comcast.net, dlindslind@earthlink.net, dlindslind@gmail.com, jimreedSV@gmail.com

Dear esteemed City Council Members,

We live at the corner of Quien Sabe and Oak Creek Boulevard. We are writing to express concerns about the impact that the proposed development, "The Terraces" will have on our neighborhood.

Oak Creek Boulevard is a street with many homes with young children, bikers, pedestrians, and pets. It is not a straight street but rather has curves and stop signs. Those stop signs are already a problem – in particular, the stop sign at the top of Quien Sabe. Two neighbors' cats have been killed there, and we have witnessed several close calls between cars and children on bikes and scooters.

We have reviewed the traffic study and have found several serious flaws:

1. It does not include Quien Sabe and Oak Creek Boulevard.
2. Table 5 shows 42 trips east on Mount Herman Road. Yet it shows those drivers taking a U-turn at Quien Sabe. This is not accurate, as almost all of those drivers will drive up Quien Sabe and turn right on Oak Creek Blvd to get to Hwy 17. This route allows them to hit one light rather than three.
3. The effect on the intersection of Quien Sabe and Scotts Valley Drive during middle school pick-up and drop-off times was not addressed. This intersection is heavily used at these times by parents in cars, as well as students on bicycle and on foot.
4. The visibility for cars turning left from Quien Sabe onto Scotts Valley Drive is limited, and with a line of additional cars on Scotts Valley Drive trying to make U-turns, this intersection is likely to become more dangerous and/or more of a bottleneck. In any case, this intersection should have been included in the traffic study.

The Bartlett letter of August 17th raised some of these issues: "Quien Sabe and Oak Creek are streets which bypass the proposed portion of Scotts Valley Drive to be developed. How are you going to mitigate the potentially negative effects of the increase in traffic through these residential neighborhoods?" The planning commission did not include any comments on this topic in their response.

This development will have a significant impact on our neighborhood, and yet we received no notification of it. Our only notification is a tree-hidden sign along Scotts Valley Drive. This lack of notification did not allow us to have sufficient time to be involved with this proposal while it was still with the Planning Department.

We are asking the City Council to require a traffic study which includes the entire streets of Quien Sabe and Oak Creek Boulevard, including a realistic assessment of the Quien Sabe/Scotts Valley Drive intersection, and address the impact that this project will have on these neighborhoods.

Sincerely,
Mike & Amy Hemmert
188 Oak Creek Boulevard
Scotts Valley



Memorandum

Date: September 30, 2015

Project: SVA006

To: Mr. Todd Creamer
C2G

From: Steve Weinberger
sweinberger@w-trans.com

Subject: Scotts Valley Townhomes Traffic Study Supplement

As requested, W-Trans has completed this supplement to our previous report, *Traffic Impact Study for the Scotts Valley Townhomes*, dated March 6, 2015. This concerns issues raised at the Planning Commission meeting, specifically potential for travel through the Oak Creek Boulevard neighborhood by project traffic. We understand that adjacent neighbors are concerned that traffic generated by the project will turn right onto Quien Sabe Road and use their neighborhood as a cut-through to Mt. Hermon Road rather than make a U-turn on Scotts Valley Drive towards Mt. Hermon Road.

U-Turn Traffic Generated by the Project

As shown in Table 4 of our report, the Scotts Valley Townhomes project was projected to generate 11 a.m. peak hour trips (two inbound and nine outbound) which would include approximately five U-turn movements on Scotts Valley Drive at Quien Sabe Road for destinations on Mt. Hermon Road. Approximately half of these (two to three a.m. peak hour trips) would be expected to be destined to the east on Mt. Hermon Road and SR 17. During the p.m. peak hour, the project was estimated to generate 12 vehicle trips (eight inbound and four outbound) which would include approximately two U-turn movements on Scotts Valley Drive at Quien Sabe Road. Approximately half of these (one p.m. peak hour trip) would be expected to be destined to the east on Mt. Hermon Road and SR 17. These estimates are conservative since the traffic study was based on a 24-unit development and the current project proposal is for 19 units.

U Turns at Scotts Valley Drive/Quien Sabe Road

U-turn movements on Scotts Valley Drive at Quien Sabe Road were examined in the field. There is adequate road width to complete these movements comfortably. Also, this is an uncontrolled movement with minimal delays waiting for gaps in traffic. The added project traffic was determined not to have a significant impact at this location.

Potential Impacts to Oak Creek Boulevard Neighborhood

The traffic study assumed that outbound traffic destined from the project towards the east on Mt. Hermon Road and SR 17 south would complete the U-turn movement at Quien Sabe Road, then a left-turn onto Mt. Hermon Road at Scotts Valley Drive rather than driving through the neighborhood in question. This assumption was based on the following travel conditions:

- The distance from the intersection of Scotts Valley Drive/Quien Sabe Road to Mt. Hermon Road at La Madrona Drive is approximately 0.6 mile using the route via Scotts Valley Drive to Mt. Hermon Road. The distance between these two intersections via the neighborhood is 0.7 mile.
- Although there would be left-turn delay for left-turns from Scotts Valley Drive to Mt. Hermon Road, there would be comparable delay for left-turn movements from Glen Canyon Road onto Mt. Hermon Road for the neighborhood route.
- The Scotts Valley Drive to Mt. Hermon Road route involves travel through two signalized intersections (Bean Creek Road and Glen Canyon Road). However, these movements would be through movements on the main street which has less delay than average. This is compared with lower travel speeds on the neighborhood route coupled with multiple turns and four stop signs at local street intersections. There is also a slightly steep 10 percent grade uphill on Quien Sabe Road and a slight 6 percent downhill grade to Glen Canyon Road.

The travel conditions and physical constraints on the local route demonstrate that there would be not significant advantage travelling through the neighborhood. Even if there were advantages, only two to three a.m. peak hour vehicle trips and one p.m. peak hour trip would be generated by the project in the neighborhood.

Please call if you have any questions.

SJW/SVA006.M1

Copy: Chris Perri

City of Scotts Valley INTEROFFICE MEMORANDUM

DATE: October 21, 2015
TO: Honorable Mayor and City Council
FROM: Steve Ando, City Manager
SUBJECT: Consideration of Additional Funding for the Emergency Winter Shelter Program

SUMMARY OF ISSUE

The City of Scotts Valley along with the cities of Capitola and Santa Cruz and the County of Santa Cruz provide funding for the operation of the Emergency Winter Shelter Program in the mid to north part of the County. The funding is allocated by population of the various jurisdictions. The Emergency Winter Shelter Program is managed by the nonprofit Homeless Services Center (HSC) and normally operates five months from November 15 to April 15 (152 nights).

The HSC did not receive a Federal grant for fiscal year 2015-16 that it had received for approximately the last ten years. They used these funds to partially support the Emergency Winter Shelter Program. In addition, changes in Federal health care and labor rules have caused HSC's costs to manage the Shelter Program to increase.

The result of the above is that the funding approved for the Emergency Shelter Program in the City of Scotts Valley 2015-16 budget, and in the other jurisdictions' budgets, will only fund approximately 83 nights. Additional funding would be needed from all jurisdictions to extend the number of nights of operation.

Attached is a table showing the amount of additional funding required for various additional time periods for Council's consideration. To fund the time periods below, the additional funding amounts are as follows:

3 Months (93 Nights)	\$1,903
100 Nights	\$3,544
110 Nights	\$5,190
4 Months (122 Nights)	\$6,542

At their October 8 meeting, Capitola approved funding up to 4 months. If a lower amount of time is approved by other jurisdictions, Capitola will lower their funding accordingly. The City of Santa Cruz will be going to their Council on October 27 recommending 4 months of operations. The County will be going to their Board on November 3 also recommending 4 months of operations.

FISCAL IMPACT

The additional funding, if any, will come from the City's General Fund.

STAFF RECOMMENDATION

If additional funding is approved, that Council approve amending the budget for the Emergency Winter Shelter Program by the corresponding amount.

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EMERGENCY WINTER SHELTER ADDITIONAL FUNDING OPTIONS

83 Nights		(3 months) 93 Nights		100 Nights		110 Nights		(4 Months) 122 Nights	
County	Current Funding		Additional Funding Required		Additional Funding Required		Additional Funding Required		Additional Funding Required
Santa Cruz	114,869	127,984	13,115	139,283	24,414	150,623	35,754	159,945	45,076
	79,964	89,094	9,130	96,961	16,997	104,854	24,890	111,342	31,378
	14,703	16,382	1,679	17,829	3,126	19,280	4,577	20,473	5,770
Scotts Valley	16,671	18,574	1,903	20,215	3,544	21,861	5,190	23,213	6,542
Total	226,207	252,034	25,827	274,288	48,081	296,618	70,411	314,973	88,766