



AGENDA

Special Meeting of the Scotts Valley Planning Commission

Date: August 17, 2017

Time: 6:00 PM

CITY OF SCOTTS VALLEY 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5630	MEETING LOCATION City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066	POSTING: The agenda was posted on August 4, 2017, at City Hall, SV Senior Center, SV Library and on the Internet at www.scottsvally.org .
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Appointed Officials	City Staff Members
Derek Timm, Chair Carlos Arcangeli, Vice Chair Robin Donovan, Commissioner Rosanna Herrera, Commissioner Deborah Muth, Commissioner	Taylor Bateman, Acting Community Development Director Michelle Edwards, Senior Planner Brenda Stevens, Assistant Planner

Notice regarding Planning Commission Meetings:

The Planning Commission meets regularly on the 2nd Thursday of each month (unless otherwise noticed) 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 Planning Commission agenda is available for review the Friday before the Thursday meeting on the Internet at the City's website: www.scottsvally.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.scottsvally.org.

CALL TO ORDER 6:00 PM

(The Planning Commission Chair calls the meeting to order.)

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

(The Planning Commission Chair leads the pledge of allegiance.)

ROLL CALL

(Planning Department staff conduct roll call of the Planning Commission.)

the Commission on any items within the purview of the Commission, which are NOT part of the Agenda. No action on the item may be taken, but the Commission may request the matter be placed on a future agenda.

ALTERATIONS TO CONSENT AGENDA

(The Commission 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 items may do so raising their hand to be recognized by the Chair. These items will be acted upon in one motion unless they are removed from the consent agenda for discussion by the Commission.)

- A. Approve the Action Meeting Minutes from the June 15, 2017, meeting.

ALTERATIONS TO PUBLIC HEARING AGENDA

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

PUBLIC HEARING AGENDA

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

1. **Title:** Malone's Grille
Address: 4402 Scotts Valley Drive
Applicant: Ryan & Taylor Fontana of Fontana Hospitality Group, LLC
Property Owner: Fontana Family Investments, LLC
Planning Permit Application Nos.: U17-004a & U17-004b
Project Description: Consideration of a Use Permit application for an existing legal nonconforming restaurant and to allow live entertainment with acoustic and amplified indoor/outdoor music and outdoor projected movies with audio in the Service-Commercial (C-S) zone. Proposed restaurant hours are 11:30AM-12:00AM Mondays-Saturdays, and 10:00AM-10:00PM on Sundays. Proposed live entertainment hours are Wednesdays, Thursdays, and Fridays from 5:00PM-9:00PM and Saturdays from 1:00PM-9:00PM.
Staff: Michelle Edwards, Sr. Planner, 831-440-5632, medwards@scottsvalley.org

2. **Title:** Shell Gasoline Station
Address: One Hacienda Drive
Applicant / Property Owner: Peninsula Petroleum, LLC
Planning Permit Application Nos.: U16-005, DR16-014 & 015
Project Description: Consideration of a Use Permit application to demolish an existing convenience store and build a new store and new drive-thru car wash and a Design Review application for a new convenience store, car wash and signage of the existing gas station.
Staff: Brenda Stevens, Asst. Planner, 831-440-5635, bstevens@scottsvalley.org

REGULAR AGENDA

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

ALTERATIONS TO REGULAR AGENDA

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

3. **Title:** Public Art Horse Sculpture
Address: 5015 Scotts Valley Drive
Applicant / Property Owner: Nannette Benedict
Planning Permit Application No.: DR17-009
Project Description: Consideration of a Design Review application for a display of public art. The art piece would be displayed outside, near a commercial office building. The proposed artwork is a life-sized, metal sculpture of a horse and foal.
Staff: Brenda Stevens, Asst. Planner, 831-440-5635, bstevens@scottsvalley.org

DISCUSSION ITEMS AND FUTURE AGENDA ITEMS

(The Planning Commission or Community Development Director may request to schedule items on future agendas.)

WRITTEN COMMUNICATIONS – FOR INFORMATION ONLY

(City Council Minutes or other items are provided if available.)

DIRECTOR UPDATES

(The Acting Community Development Director may provide any department or city updates that are available.)

ADJOURNMENT

(Adjournment shall be no later than 11:00 PM unless extended by a four-fifths vote of all Planning Commission members or a unanimous vote of the members present per City Municipal Code Section 2.21.010.)

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 at the meeting, please call the Community Development Department 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 call the Community Development Department. 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 THAT THE COMMISSION 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 THAT THE COMMISSION 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 THAT THE COMMISSION 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 Planning Commission

Date: June 15, 2017

Time: 6:00 PM

CITY OF SCOTTS VALLEY 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5630	MEETING LOCATION City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066	POSTING: The agenda was posted at City Hall, SV Senior Center, SV Library and on the Internet at www.scottsvalley.org .
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Appointed Officials	City Staff Members
Derek Timm, Chair Carlos Arcangeli, Vice Chair Robin Donovan, Commissioner Rosanna Herrera, Commissioner Deborah Muth, Commissioner	Taylor Bateman, Acting Community Development Dir Michelle Edwards, Senior Planner Brenda Stevens, Assistant Planner

CALL TO ORDER: Meeting called to order at 6:05 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE: The Planning Commission Chair led the pledge of allegiance.

ROLL CALL: Present: Timm, Arcangeli, Herrera and Muth. Absent: Donovan

PUBLIC COMMENT: None.

ALTERATIONS TO CONSENT AGEND: None.

CONSENT AGENDA: The Commission approved the minutes in one motion.

1. Action Meeting Minutes from the May 11, 2017 meeting and the special Meeting on May 24, 2017.

Action:

Planning commission M/S: Arcangeli/Herrera

**Carried: 3/0/1/1 (AYES: Arcangeli, Herrera, Timm; NOES: None; ABSTAIN: Muth
ABSENT: Donovan)**

ALTERATIONS TO REGULAR AGENDA: None

PUBLIC HEARING:

2. Title: Yoso Wellness Spa

Address: 5311 Scotts Valley Drive / APN 022-031-14

Applicant: John McKelvey, Anderson McKelvey Architects

Property Owners: Adam & Jennalee Dahlen

Project Description: Design Review application to expand a modular building (720 square feet) into a day spa (total of 2,009 square feet) and to build stormwater drainage and access & parking improvements, and install new signage and arbors. All existing retail "Ivy's Porch" buildings will remain as-is. The "Love Apple Farm" greenhouse and canopies will be removed.

Project Planner: Michelle Edwards, Senior Planner, (831) 440-5632 or medwards@scottsvally.org

Action:

Planning Commission M/S: Arcangeli/Herrera, subject to revised conditions

Carried: 4/0/1 (AYES: Arcangeli, Herrera, Muth, Timm; NOES: None; ABSENT: Donovan)

REGULAR AGENDA:

3. Design Review for a New Single Family Residence

Address: 600 Lassen Park Court

Applicant/Property Owner: Doug Silveira / Todd Tatum

Planning Permit Applications: DR17-005

Project Description: Design Review application to construct a new 4,644 square foot single family dwelling with grading in slopes over 30%.

Project Planner: Brenda Stevens, Assistant Planner, (831) 440-5635 or bstevens@scottsvally.org

Action:

Planning Commission M/S: Arcangeli/Herrera, subject to removing condition #8

Carried: 4/0/1 (AYES: Arcangeli, Herrera, Muth, Timm; NOES: None; ABSENT: Donovan)

4. **Title:** Design Review to the Scotts Valley Junction Shopping Center
Address: 5600-5610 Scotts Valley Drive and 14, 16, 18 & 20 Victor Square
Applicant/Property Owner: Scotts Valley Junction, LLC
Planning Permit Applications: DR17-007
Project Description: Design Review application to upgrade the exterior of the Scotts Valley Junction Shopping Center by: changing the roof materials, modifying the facade of the market building and changing the landscaping.
Project Planner: Brenda Stevens, Assistant Planner, (831) 440-5635 or bstevens@scottsvalley.org

Action:

Planning Commission M/S: Arcangeli/Herrera Subject to removing Condition No.8 regarding upgrade of roof materials.

Carried: 4/0/1 (AYES: Arcangeli, Herrera, Muth, Timm; NOES: None; ABSENT: Donovan)

DISCUSSION ITEMS AND FUTURE AGENDA ITEMS: None.

WRITTEN COMMUNICATIONS – FOR INFORMATION ONLY: None.

DIRECTOR UPDATES: None.

ADJOURNMENT: 6:55pm.

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

Date: Thursday, August 17, 2107

Applicant: Ryan & Taylor Fontana of Fontana Hospitality Group, LLC

Property Owner: Fontana Family Investments, LLC

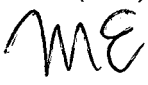
Applications: Use Permit U17-004

Location / APN: 4402 Scotts Valley Drive / 022-491-01

General Plan / Zoning: Service Commercial / C-S

Environmental Status: Qualifies for a Categorical Exemption from the California Environmental Quality Act (CEQA) under Class 1, Existing Facilities.

Request: Consideration of a Use Permit application for an existing legal nonconforming restaurant and to allow indoor and outdoor live entertainment of acoustic and amplified music and outdoor projected movies with audio. Proposed restaurant hours are 11:30AM-12:00AM Monday-Saturday, and 10:00AM-10:00PM on Sunday. Proposed live entertainment hours are Wednesdays, Thursdays, and Fridays from 5:00PM-9:00PM, and Saturdays from 1:00PM-9:00PM.

Staff Planner: Michelle Edwards, Senior Planner, (831) 440-5632 or medwards@scottsvally.org 

STAFF RECOMMENDATION

It is recommended that the Planning Commission conduct a public hearing, hear public testimony, consider the application, and approve Use Permit U17-004 by adopting the attached Resolution, subject to the Conditions of Approval in Exhibit A.

PROJECT SITE AND PROJECT DESCRIPTION

Established in 1980, the subject restaurant is located at the corner of Scotts Valley Drive and Oak Creek Boulevard in the Service-Commercial (C-S) zone.

The property is developed with a restaurant building (3,110 square feet), storage building (1,259 square feet), and a fenced outdoor patio (1,551 square feet), with surface parking. To the right and rear of the property, there are trees, landscaping, and wood or metal screen fencing.

In November 2016, Fontana Family Investments, a local family business, bought the property and restaurant and have been making various interior and exterior property improvements. Restaurant hours are 11:30AM-12:00AM Monday-Saturday, and 10:00AM-10:00PM on Sunday. For more details, the applicant's project description is attached to this report.

In part of the restaurant lobby (108 square feet) and on the outdoor patio stage (192 square feet), the applicant proposes to have both indoor and outdoor live entertainment of acoustic and amplified music, and outdoor projected movies with audio as follows:

Wednesdays	5:00-9:00PM
Thursdays	5:00-9:00PM
Fridays	5:00-9:00PM
Saturdays	1:00-9:00PM

DISCUSSION

Staff has reviewed the application for compliance with the City's regulations and requirements and has prepared the following analysis for Planning Commission consideration:

1. **Use Permit for Restaurant:** Restaurant uses are conditional uses in the Service Commercial (C-S) zone and require use permit approval by the Planning Commission. In 1972, the property was zoned Community Commercial (C-2), which allowed restaurant uses by right. In 1980, Malone's Grille was established in the C-2 zone.

Between 1989 and 1992, the City adopted a new zoning ordinance and map and rezoned the property and much of Scotts Valley Drive to the C-S zone, which notably made restaurants conditional uses. Therefore, Malone's Grille is a legal nonconforming use because it was allowed by right in the previous C-2 zone in 1980. This Use Permit application will formalize the existing restaurant and outdoor seating and is required for any change of use or intensification of the property, such as the proposed live entertainment.

2. **Use Permit for Live Entertainment:** Live entertainment uses are conditional uses in the C-S zone and require use permit approval by the Planning Commission. The use permit process evaluates the proposed use for compatibility with surrounding uses so that potential negative impacts, such as noise and parking, may be avoided or reduced. Unless specified, use permits run with the land versus a property owner or business operator.

The land uses surrounding the restaurant property are shown below:

Direction	Zone	Use & Address
North	Service Commercial C-S	Rod Markell mixed-use building 4404 Scotts Valley Drive
South	Service Commercial C-S	Commercial business park 4340 Scotts Valley Drive
East	High Density Residential R-H	Residential subdivision 101-116 Kelly Court
West	Scotts Valley Drive then Service Commercial C-S	The Rockery 4425 Scotts Valley Drive

- a. **Indoor Live Entertainment:** As proposed, indoor live entertainment of acoustic and amplified music could occur in the lobby of the main building on Wednesdays, Thursdays, and Fridays from 5:00PM-9:00PM, and Saturdays from 1:00PM-9:00PM. Although noise might leak from patrons entering and exiting the front door during live indoor entertainment, any potential noise disturbances are anticipated to be short-lived given the distances and locations of the nearest residences. To promote compatibility with residential zones in the neighborhood, the following condition has been prepared.

Recommended Condition: Restaurant operators shall keep all doors closed during indoor amplified live entertainment, except for patrons entering/exiting the building. Doors shall not be propped open.

- b. **Outdoor Live Entertainment:** As proposed, outdoor live entertainment with acoustic and amplified music and outdoor projected movies with audio could occur on the outdoor patio stage on Wednesdays, Thursdays, and Fridays from 5:00PM-9:00PM, and Saturdays from 1:00PM-9:00PM. At staff's suggestion, the applicant reduced the originally proposed hours.

In the past, outdoor live entertainment of amplified music was a concern to some residents on Kelly Way. In 2014, the City Council denied an appeal of an entertainment permit issued to the former restaurant owner. To be compatible with the neighborhood, the current owners propose live entertainment to end by 9:00PM. This end time is earlier than the hours previously approved for the former owner in annual entertainment permits, in which outdoor music ended by 8:30PM up to 12:30AM.

The newly built wood fence (5-7 feet tall) provides a physical buffer between the restaurant's commercial zone and the adjacent residential zone on Kelly Way. However, staff thinks that the proposed four nights of potential outdoor music/movies might be too much for the neighboring residential zone.

3

In discussions with the applicants, Thursdays and Saturdays are the most important nights for outdoor live entertainment. Therefore, the following condition has been prepared.

Recommended Condition: To promote compatibility with surrounding zones in the neighborhood, the proposed hours of indoor and outdoor live entertainment hours shall be reduced as shown in ~~strikeout~~ and **italics**:

Wednesdays	5:00-9:00PM	Indoor or outdoor
Thursdays	5:00-9:00PM	Indoor or outdoor
Fridays	5:00-9:00PM	Indoor or outdoor only
Saturdays	4:00 3:00 -9:00PM	Indoor or outdoor

This would allow the restaurant three nights of potential outdoor live entertainment of acoustic and amplified music, and outdoor projected movies with audio. If the proposed hours of live entertainment are a concern to the Planning Commission, a condition could be added to limit the term of this part of the use permit to a certain number of years.

- c. **Parking:** Although existing parking lot striping varies slightly from that shown on the site plan, there are 25 standard striped parking spaces located in front of the building. (Regarding the parking space located in front of the restaurant steps which face Scotts Valley Drive, the site plan shows it as a striped pedestrian area. The applicants mentioned that they plan to update the parking; therefore, applicable requirements will be addressed then.)

To the left and rear of the restaurant building, there are approximately six tandem parking spaces for owner and employee use. Additional employee parking is located across the street on Terrace View Drive. Therefore, there are approximately 31 parking spaces provided on the property, 25 of which are standard and open to the public.

The City's Municipal Code (SVMC) requires one parking space for every 60 square feet of interior public accommodation area, one space for every 250 square feet of interior non-public area, and one space for every 1,000 square feet of storage. Outdoor seating does not require parking. Therefore based on the floor plans, the required amount of parking is 35 spaces. Notably, future expansion of square footage of any public accommodation area will require sufficient parking as determined by the Planning Commission with prior review and approval of a Use Permit Amendment.

Although the SVMC does not address tandem commercial parking, the Planning Commission has the authority to modify parking requirements with a use permit. Staff believes that a case could be made to allow the parking as-is. During staff's parking surveys, there were 4-5 available parking spaces during lunchtime hours, while evenings surveys varied from a full parking lot at 7:00PM to half full at 8:30PM. 4

In general, the parking demand tends to be higher at dinnertime than lunchtime. Additionally, patrons are often drawn to dine outdoors during warm weather, while they tend to dine indoors during cool weather. Therefore, a restaurant is not always at full capacity indoors and outdoors at the same time.

To provide additional customer parking, the applicants have verbal agreements with the adjacent Canada Court office center and nearby Bank of America site. Restaurant customers may park at these locations when these businesses close at approximately 5:00PM-6:00PM. There is a balance between under and over parking a business. In this case, there is a shifting and sharing of parking on the property and streets.

If providing adequate customer parking became a problem, the City could require the restaurant owner to prepare a parking management plan, which describes how customer parking will be managed to reduce potential impacts to surrounding uses, for prior review and approval by the Community Development Director.

PUBLIC NOTICE AND COMMENT

On August 4, 2017, public hearing notices were posted at City Hall, the Scotts Valley Branch Library, and the Scotts Valley Senior Center, consistent with State law, and were mailed to surrounding property owners located within 300 feet of the subject property, consistent with the City's Municipal Code.

To date, one attached letter was received from the applicant's attorney. The letter states that Kelly Way residents were informed of the restaurant's amplified indoor and outdoor music when they bought their homes, by a recorded document that appeared on their title reports. Nonetheless, the recorded document does not preclude the requirement for a use permit for a change or intensification in use, such as the proposed live entertainment.

REQUIRED FINDINGS

Based upon staff's analysis and the recommended Conditions of Approval in Exhibit A, staff believes that the required findings can be made in the attached Resolution.

ATTACHMENTS

PAGE

Resolution No. ____ (Action Item for Use Permit U17-004)	6
Exhibit A - Conditions of Approval	9
1. Applicant's Project Description	10
2. Applicant's Attorney Letter	12
3. Site Plan, and Floor Plans of Restaurant and Storage Buildings	* Attached
* Please note that the project plans are only provided to the Planning Commission. However, the project plans, application, correspondence, and file are 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.	

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SCOTTS VALLEY APPROVING USE PERMIT FILE NO. U17-004 FOR AN EXISTING LEGAL NONCONFORMING RESTAURANT AND TO ALLOW INDOOR AND OUTDOOR LIVE ENTERTAINMENT OF ACOUSTIC AND AMPLIFIED MUSIC AND OUTDOOR PROJECTED MOVIES WITH AUDIO, IN THE C-S ZONING DISTRICT, AT 4402 SCOTTS VALLEY DRIVE / APN 022-491-01.

WHEREAS, Ryan and Taylor of Fontana Hospitality Group, LLC, on behalf of Fontana Family Investments, LLC, property owner, has submitted a Use Permit application (File No. U17-004) for an existing legal nonconforming restaurant and to allow indoor and outdoor live entertainment of acoustic and amplified music and outdoor projected movies with audio, located in the service Commercial (C-S) Zoning District at 4402 Scotts Valley Drive / APN 022-491-01; and

WHEREAS, the project is determined to be categorically exempt from the California Environmental Quality Act (CEQA), Class 1, Existing Facilities, Section 15301; and

WHEREAS, the project was reviewed by the Planning Commission at a duly noticed public hearing in accordance with State Law and the City's Municipal Code at a Special Meeting held on Thursday, August 17, 2017; and,

NOW THEREFORE, the Planning Commission of the City of Scotts Valley hereby resolves as follows:

SECTION 1: The environmental determination represents the independent judgement of the City.

SECTION 2: The categorical exemption is hereby approved.

SECTION 3: The Planning Commission of the City of Scotts Valley does hereby specifically make the following findings, as discussed in the Planning Commission staff report dated August 17, 2017:

- 1. The location of the use is in accordance with the objectives of the zoning ordinance and the purposes of the zoning district in which the site is located.*** The proposed restaurant use meets the requirements of this finding in that the subject C-S zone is the appropriate zone for restaurants. The City has approved use permits for restaurants on other properties in the same C-S zone. The restaurant is a legal nonconforming use because it was allowed by right in the previous C-2 zone when the restaurant was established in 1980. Therefore, the use permit will formalize the existing restaurant and outdoor seating and is required for any change of use or intensification of the property, such as the proposed live entertainment.

The proposed live entertainment use meets the requirements of this finding in that the live entertainment will provide an amenity to the community, consistent with the broad purpose and objectives of the C-S zone. Live entertainment has been approved for other restaurants in the City in the same C-S zone.

2. ***The establishment, maintenance, or operation of use will not, under any circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of the proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.*** The proposed restaurant use meets the requirements of this finding in that the parking demand tends to be higher at dinnertime than lunchtime. Additionally, patrons are often drawn to dine outdoors during warm weather, while they tend to dine indoors during cool weather. Therefore, a restaurant is not always at full capacity indoors and outdoors at the same time. To provide additional customer parking, the restaurant owners have verbal agreements with the adjacent Canada Court office center and nearby Bank of America site, for restaurant customers to park at these locations when these businesses close at approximately 5:00PM-6:00PM. There is a balance between under and over parking a business. In this case, there is an adequate shifting and sharing of parking on the property and streets. If providing adequate customer parking became a problem, the City could require the restaurant owner to prepare a parking management plan, which describes how customer parking will be managed to reduce potential impacts to surrounding uses, for prior review and approval by the City.

The proposed live entertainment use meets the requirements of this finding in that the newly built wood fence (5-7 feet tall) provides a physical buffer between the restaurant's commercial zone and the adjacent residential zone on Kelly Way. To promote compatibility with surrounding zones in the neighborhood, project conditions will require the restaurant operators to keep all doors closed and not propped open during indoor amplified live entertainment, except for patrons entering/exiting the building. The outdoor live entertainment hours have been reduced and will end by 9:00PM, which is earlier than the hours previously approved for the former restaurant owner, which ended by 8:30PM up to 12:30AM. Conditions of approval will ensure that the live entertainment will be managed to be compatible with the surrounding uses.

SECTION 4: After careful consideration of the reconsideration, related materials, plans, maps, facts, exhibits, staff report, testimony, and any other evidence submitted in this matter, and incorporated herein by this reference, the Planning Commission of the City of Scotts Valley does hereby approve Use Permit File No. U17-004 for an existing legal nonconforming restaurant and to allow indoor and outdoor live entertainment of acoustic and amplified music and outdoor projected movies with audio, located in the service Commercial (C-S) Zoning District at 4402 Scotts Valley Drive / APN 022-491-01, subject to conditions set forth in the attached Exhibit A, which are incorporated herein by this reference.

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THE ABOVE AND FOREGOING RESOLUTION NO. ____ for Use Permit File No. U17-004, was duly adopted and passed by the Planning Commission of the City of Scotts Valley at a Special Meeting held on the 17th day of August, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Derek Timm
Planning Commission Chair

Taylor Bateman
Acting Community Development Director

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Exhibit A
Conditions of Approval

Standard and Legal

1. The 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 Planning Commission approval, the property owner shall sign the Conditions of Approval (Exhibit A) agreeing to the Conditions of Approval prior to issuance of any building permits, transfer of title, or within 30 days of approval of this application, which ever occurs first.
3. The property owner/applicant shall obtain any and all required building permits and pay all fees before starting interior tenant improvements.

Planning Department

4. To promote compatibility with surrounding uses, the restaurant operators shall ensure compliance with the following requirements for live entertainment:
 - a. Live entertainment shall consist of indoor and outdoor acoustic and amplified music, and outdoor projected movies with audio;
 - b. All restaurant doors shall be closed during indoor amplified live entertainment, except for patrons entering/exiting the building. Doors shall not be propped open; and,
 - c. Live entertainment hours shall be limited to:
Wednesdays 5:00-9:00PM - Indoor or outdoor
Thursdays 5:00-9:00PM - Indoor or outdoor
Fridays 5:00-9:00PM - Indoor only
Saturdays 3:00-9:00PM - Indoor or outdoor
5. By September 18, 2017, Mon-Thurs 8:00-11:30AM, the applicant shall submit to the Building Dept. a building permit application and plans for the as-built benches.

Signature of Fontana Hospitality Group, LLC, Applicant

Date

Signature of Fontana Family Investments, LLC, Property Owner

Date

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Fontana Hospitality Group LLC
DBA Malone's Grille
4402 Scotts Valley Dr
Scotts Valley, CA 95066
831-438-2244

RECEIVED
JUL 11 2017
CITY OF SCOTTS VALLEY

To Whom it may concern:

This document has been prepared to share the project description with the City of Scotts Valley. It will outline the proposed usage of Entertainment at 4402 Scotts Valley Dr, Scotts Valley, CA 95066.

We have made great strides to make our community and neighborhood a better place since taking over Malone's Grille on 11/28/2016. We have become a much more family oriented restaurant and our neighbors (many whom are regulars) have greatly appreciated the property improvements that have been completed by both Fontana Family Investments LLC and Fontana Hospitality Group LLC, which includes a beautifully crafted perimeter fence that should serve as an improved sound barrier on those days in which we have live entertainment outdoors.

We would like to have the flexibility to offer live entertainment to our community on weekdays, weekends, and holidays respectively. **We do not plan to offer live entertainment past the hours of 9PM on any given day, and we do not expect to keep our restaurant open past 12AM** on any given night out of respect for our neighbors, due to the fact that we want to keep our reputation as a family friendly place to eat and drink.

Our proposed schedule for live entertainment (Indoor & Outdoor) is as follows:

Wednesday 5-9PM

Thursday 5-9PM

Friday 5-9PM

Saturday 1PM-9PM

Inside Building: Live amplified and acoustic music.

Outside Building: Live amplified and acoustic music, as well as projected movies with audio.

Total number of employees: 25

Number of employees on largest shift: 15

Parking Spaces: 30 on the property at 4402 Scotts Valley Dr. and Public Parking available across the street (including adjacent street Erba Lane).

Noise generating Equipment: No equipment will be provided to live entertainers by Fontana Hospitality Group LLC. In regards to a potential movie night on the patio, we will have a projector, screen, and speakers.

TABLE OF USES

Entertainment Outdoors: 192 sqft (Stage/Platform)

Entertainment Indoors: 108 sqft

Public Area inside dining room: 873.18 sqft

Public Area inside Bar & Lounge: 348 sqft

Non-Public Area inside: 1,938.82 sqft

Storage: 315 sqft

Entry: 100 sqft

Bar (non-public): 180 sqft

Kitchen: 620 sqft

Restrooms & Hallway: 400 sqft

Break Room: 70 sqft

Server Prep Area: 40 sqft

Beer Cooler: 85 sqft

Waiting Area: 108 sqft

Public Area inside back building: 0 sqft

Storage in back building: 1,090 sqft (excludes office space)

Office Space: 169 sqft

Non-Public Area inside back building: 1,259 sqft

Patio: 1,551.68 sqft

Parking Spaces: 30

HOURS OF OPERATION (Restaurant & Bar)

Monday 11:30AM - 12AM

Tuesday 11:30AM - 12AM

Wednesday 11:30AM - 12AM

Thursday 11:30AM - 12AM

Friday 11:30AM - 12AM

Saturday 11:30AM - 12AM

Sunday 10AM - 10PM

USE PERMIT COSTS

Application Intake Fee \$143 / application / major REV CODE 3716

Environmental Assessment (Checklist) \$143 REV CODE 3711

Public Hearing Notice \$196 REV CODE 3713

Use Permit

- Commercial / industrial major \$1,439 REV CODE 3612
- Public works review fee \$320 REV CODE 3660

TOTAL COST: \$2,241 [PAID]

CATHERINE A. PHILIPOVITCH

Attorney at Law
152 Walnut Avenue
Santa Cruz, CA 95060

RECEIVED

AUG 10 2017

CITY OF SCOTTS VALLEY

Telephone (831) 423-9300
Facsimile (831) 471-9872

August 10, 2017

cap@caplawgroup.com

VIA EMAIL
medwards@scottsvally.org

Planning Commission
City of Scotts Valley

**Re: Application for Live Entertainment/Amplified Music
4402 Scotts Valley Dr./Malone's Bar & Grill
Use Permit U17-004b**

Dear Commissioners:

I represent Fontana Family Investments LLC and Fontana Hospitality Group LLC, the owner and operator, respectively, of the real property located at 4402 Scotts Valley Dr., on which Malone's Bar and Grill is situated. I would like to address concerns raised by neighbors of the Kelly Court subdivision regarding potential noise impacts associated with live entertainment and/or amplified music at Malone's.

As a preliminary matter, Malone's has been offering live entertainment and amplified music for many years, dating back well beyond the approval of the Kelly Court subdivision. This use has been open and easily observable. Any person purchasing property in the Kelly Court subdivision would have been put on notice of the nearby live entertainment and amplified music.

When the City approved of the Kelly Court subdivision (being LD00-001 and MLD02-002), the City was aware of the existing live entertainment at Malone's Grill and took measures to ensure that future residents of the Kelly Court subdivision would be informed of such use. Specifically, the Conditions of Approval for the Kelly Court subdivision provide that "[d]isclosure of indoor and outdoor live music performance at Malone's Restaurant (APN 22-491-01) shall be made to the future owners of the residences within LD00-001 and MLD02-002" (See Condition 36 in Res. 1705, and Condition 29 in Res. 1705.1). Attached hereto as Exhibit A are copies of the Resolutions authorizing the Kelly Court subdivision, and relevant excerpts from the Conditions of Approval.

In order to provide public notice to all future owners of lots in the Kelly Court subdivision of the existence of the Conditions of Approval, the City additionally required that the property owner record a Memorandum of Agreement Regarding Conditions of Approval with the County Recorder prior to transferring title to any lot in the subdivision (See Conditions 3 and 4). Attached hereto as Exhibit B is the Memorandum of Agreement Regarding Conditions of Approval which was recorded in the Official Records prior to the sale of any lot in the

August 10, 2017

Page 2 of 2

subdivision. The Memorandum appears on title to all lots in the subdivision and runs with the land. The Memorandum gives notice to all parties that the Kelly Court property owner:

... has agreed to certain Conditions of Approval (Exhibit A to Resolution No. 1705 and 1705.1) required for the construction of a commercial/residential mixed use development, a complete copy of which are kept on file in the Planning Department of the City of Scotts Valley under file numbers LD00-001, MLD02-002 and PD00-002, and by this referenced incorporated as if set out in full herein.

All owners of lots in the Kelly Court subdivision would have had constructive notice of the Conditions of Approval prior to purchase of a lot based on the recorded Memorandum.¹ This is, in fact, the sole purpose of the Memorandum. The Memorandum recites the location of the Conditions of Approval and specifically states that the conditions are incorporated into the Memorandum by reference as if they were actually set forth in the Memorandum. The owners of lots in the Kelly Court subdivision cannot now complain of potential noise impacts when they were well aware of these potential impacts prior to purchase of their lots.

We appreciate the Commission's consideration of this application.

Very truly yours,



Catherine A. Philipovitch

cc: client

Enc.

¹ Per Civil Code Section 1213, each purchaser of real property is deemed to have constructive notice of the contents of all recorded documents in the chain of title.

EXHIBIT A

Resolutions and Conditions of Approval (excerpts)

(Attached)

RESOLUTION NO. 1705

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY APPROVING A SUBDIVISION (LD00-001) AND PLANNED DEVELOPMENT (PD00-002), TO CREATE ONE COMMERCIAL LOT, FIVE HIGH DENSITY RESIDENTIAL LOTS, ONE COMMON OPEN SPACE AREA, AND THREE MEDIUM DENSITY RESIDENTIAL LOTS FROM TWO PARCELS (APN'S 022-491-21 and 022-491-22)

WHEREAS, the Planning Department of the City of Scotts Valley has received the applications filed by Howard Norton, et al, for a Subdivision (LD00-001) and Planned Development (PD00-002) for the creation of one commercial lot, a High Density Residential/Planned Development consisting of five residential lots and one common open space area, and two Medium Density Residential lots from three parcels (APN's 022-491-21 and 022-491-22), located at 4410 Scotts Valley Drive.

WHEREAS, Howard Norton et al, (collectively 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, the Mitigated Negative Declaration was prepared for the previously approved General Plan Amendment and Zone Change for the subject property pursuant to Section 15162 of California Environmental Quality Act (CEQA) considered the effects of the proposed residential land division. Whereas, a previously prepared Environmental Impact Report (EIR) for the Glenwood development, and an Addendum thereto, was used in conjunction with the Mitigated Negative Declaration prepared for the subject property; and

WHEREAS, the EIR was certified by the City of Scotts Valley in November 1998 and an Addendum was certified on August 15, 2001 (the "Addendum"), the Mitigated Negative Declaration was certified in January 2002, the proposed development under the certified Mitigated Negative Declaration was considered and pursuant to Section 15162 of California Environmental Quality Act (CEQA) and no new environmental document is required, such documents are available for review at the City of Scotts Valley Planning Department, and a public notice of the availability of these previously certified documents was provided pursuant to the requirements of CEQA; and

WHEREAS, the project contributes to cumulative traffic impacts on Highway 17; and

WHEREAS, the cumulative traffic impacts on Highway 17 were fully assessed in the EIR and the Addendum for the Glenwood Residential Project and the EIR and the Addendum were previously certified by the City; 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 public hearing was held by the Planning Commission on July 11, 2002 and the City Council on August 7, 2002; and,

NOW, THEREFORE, the City of Scotts Valley hereby resolves 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 August 7, 2002:

- A. *Mitigated Negative Declaration was certified for the project, and no subsequent Negative Declaration need be prepared for the project as, on the basis of substantial evidence in light of the whole record, all findings required by CEQA guidelines Section 15162(a) can be made as follows:*
1. *No substantial changes, which involve significant environmental effects or a substantial increase in the severity of previously identified significant effects, are proposed in the project which would require major revisions of the previous Mitigated Negative Declaration. The Mitigated Negative Declaration prepared for the General Plan Amendment and Zone Change of the subject property considered the effects of a fourteen unit residential land division. The proposed residential land divisions create only eleven residential parcels with like building envelopes, therefore the project is less intense than the project considered by the previous Mitigated Negative Declaration.*
 2. *No substantial changes, which involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects, have occurred with respect to the circumstances under which the project is undertaken. No new environmental condition has occurred or been discovered which would alter the effect of the proposed project, nor has any new development been proposed or completed which would change the cumulative impact of the proposed project, that was not previously considered.*
 3. *No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Mitigated Negative Declaration was certified, has been discovered. The project does not include any new significant effects not discussed in the previous Mitigated Negative Declaration, nor does the project substantially increase the severity of any significant effects previously examined in the previous Mitigated Negative Declaration, as no new environmental findings or regulations have emerged since the document was certified in January, 2002. Furthermore, no new mitigation measures have been identified which would substantially reduce any identified significant effect.*
- B. *The Mitigated Negative Declaration for the project and the Glenwood Residential SEIR have been completed in compliance with CEQA.*
- C. *All mitigation measures identified in the Mitigated Negative Declaration are included in the resolutions approving the project and are made conditions of approval for the Project. All mitigation measures have been included as conditions of project approval.*
- D. *Documents and other material 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 environmental documents prepared for the project were also made available at*

the public hearing for the project. These documents have been made available to the public for review.

- E. *The Mitigated Negative Declaration represents the independent judgement of the City. The Mitigated Negative Declaration was prepared by the City. All reports and supporting information has been reviewed and approved by the City.*
- F. *The City Council hereby approves the Mitigated Negative Declaration and the Statement of Overriding Considerations for the project. Although the City believes that many of the impacts identified in the Mitigated Negative Declaration have been reduced to a level of insignificance, the project does contribute to a cumulative impact on Highway 17. However, improving the level of service is not feasible for this particular project or for the City as the traffic congestion is a regionally influenced problem. Therefore, the City recognizes that approval of the project will nonetheless contribute to the unavoidable cumulative impact regarding traffic delays on Highway 17.*

The City Council specifically finds that, to the extent that the cumulative traffic impacts on Highway 17 have not been mitigated to a level of insignificance, that specific economic, social, legal, environmental, technological or other benefits of the project outweigh the significant effects of the environment. The City finds that any and each of the following considerations is sufficient to approve the project for any one or more of the avoidable impacts identified and that each of the overriding considerations is adopted with respect to the cumulative traffic impact on Highway 17 and that each consideration is severable from any other consideration should one consideration be shown to be legally insufficient for any reason.

The following considerations support approval of the project:

1. The project will serve the City's goal of adding to the supply of housing units in the City in order to accommodate regional population needs and employment growth in the City.
 2. The project will help address that shortfall of housing required to meet the City's fair share allocation of regional housing needs.
 3. The project will provide new housing opportunities in the community which could meet the needs of families and local area workers who desire to live closer to work.
 4. The project would indirectly contribute taxes to the City through sales tax revenues generated through local businesses by owners of the new dwellings. A larger population will also help support existing retail businesses.
- G. *The proposed location of the residential use is in accordance with the objectives of the zoning ordinance and the purposes of the district in which the site is located. The single family dwellings have been designed to comply with the City's development standards for residential dwellings, subject to Planning Commission approval of a Planned Development Permit for Lots 1 through 5 of Subdivision LD01-001.*

- H. *The proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan. The development has been designed to comply with the City's subdivision regulations.*
- I. *The proposed buildings and other improvements will meet the design standards of the City. The project has been designed to be consistent with the City's Residential Design Handbook.*
- J. *The project site is physically suitable for the subdivision. The subdivision has been designed considering site constraints. Higher density development is sited on average slopes less than ten percent, and lower density development is sited on average slopes greater than ten percent.*
- K. *The design of the subdivision and proposed improvements will not cause serious public health problems. The subdivision has been designed to be consistent with the City subdivision regulations, and based on the initial study prepared for the development, it was determined that all impacts would be reduced to a level of insignificance, with the exception of traffic impacts on Hwy. 17.*
- L. *The design of the subdivision and improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. Based on the initial study prepared for the development, it was determined that there would be no impacts to fish or wildlife or other habitat.*
- M. *The project complies with the Tree Protection Ordinance (SVMC Section 17.44.080) and the condition of the trees with respect to proposed development warrants the removal of protected trees. The project has been designed to retain as many trees as possible, although fifteen trees are proposed to be removed due to proximity to the proposed development. A tree report has been prepared for this project and indicates that given the poor tree conditions, replacement trees would be a more viable option than preservation.*

SECTION 2: Approve the Planned Development and General Development plan for residential parcels 1 through 5 of Subdivision LD00-001 as shown on the plans as submitted to the Planning Commission with the conditions provided in Exhibit A attached hereto.

SECTION 3: Approve the proposed subdivision as shown on the plans submitted to the Planning Commission with the conditions provided in Exhibit A attached hereto.

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 hereby approves Subdivision LD00-001 and Planned Development Permit PD00-02, to create one commercial lot, a High Density Residential/Planned Development consisting of five residential lots and one tot lot, and three Medium Density Residential lots from two parcels (APN's 022-491-21 and 022-491-22), subject to the conditions set forth in the attached Exhibit A, which are incorporated herein by this reference.

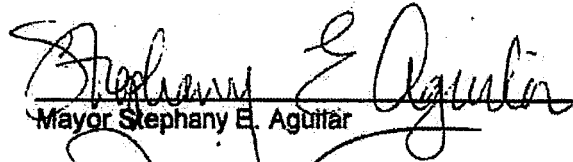
THE ABOVE AND FOREGOING RESOLUTION was duly adopted and passed by the City Council of the City of Scotts Valley at a regularly scheduled meeting held on Wednesday, August 7, 2002 by the following vote:

AYES: Ainsworth, Barrett, Marigonda, Aguilar

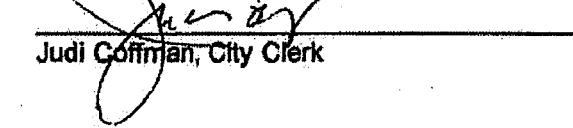
NOES:

ABSTAIN:

ABSENT: Johnson



Mayor Stephany E. Aguilar



Judi Coffman, City Clerk

EXHIBIT A

CONDITIONS OF APPROVAL (LD00-001/PD00-002)

LEGAL

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 attack, 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, property owner shall sign the Conditions of Approval (Exhibit A) agreeing to the Conditions of Approval prior to issuance of any building permits, transfer of title, or within 60 days of approval of this application, whichever occurs first, or the project approval shall expire and become null and void.
3. If after City Council approval and prior to Final Map approval there is a transfer of the property, property owner shall have a signed copy of a Memorandum of Agreement Regarding the Conditions of Approval for this application (provided by the City), recorded at the County Recorder's Office prior to transfer of title.
4. After Final Map approval, property owner shall have a signed copy of a Memorandum of Agreement Regarding the Conditions of Approval for this application (provided by the City), recorded for each new lot, at the County Recorder's Office prior to the issuance of any building permits, transfer of title, or within 60 days of approval of the Final Map, whichever occurs first, or the project approval shall expire and become null and void.

PLANNING DEPARTMENT

Documentation:

5. The Final Map shall be submitted to the Planning Department in an Auto CAD drawing up to version 13 or a DXF file, formatted on a high density 3.5", 1.4 MB floppy disk. *There shall be no gaps between lines. All parcel lines should*

Uniform Building Code (UBC), 1994 edition, Section 12.02.3 as follows: "In lieu of required exterior openings for natural ventilating system may be provided. Such system shall be capable of providing two air changed per hour in guestrooms, dormitories, habitable rooms, and in public corridors with a minimum of 15 cubic feet per minute(7L/S) of outside air per occupant during such time as the building is occupied."

34. **[Mitigation Measure 11-3]** To assure the greatest potential for exterior-to-interior noise attenuation, the following mitigation measure shall be included with the project:
- a. Unshielded entry doors having a direct or side view of Scotts Valley Drive shall be 1-5/8 inch or 1-3/4 inch thick, insulated metal or solid-core wood constructed doors with effective weather seals around the perimeter. Mail slots shall not be used in these doors or in the wall of a living space, as significant noise leakage can occur through them.
 - b. If any penetrations in the building shell are required for vents, piping, conduit, etc., sound leakage around these penetrations shall be controlled by sealing all cracks and clearance space with a non-hardening caulking compound.
 - c. Fireplaces, if included with the project, shall be provided with tight fitting dampers.
35. **[Mitigation Measure 11-4]** The following mitigation measures shall be implemented to reduce construction-related noise at the project:
- a. Construction equipment shall use available noise suppression devices and properly maintained mufflers. Quiet or "new technology" equipment, particularly equipment that quiets exhaust noises by using improved mufflers, shall be used when feasible. All internal combustion engines use at the project site shall be equipped with the type of muffler recommended by the vehicle manufacturer.
 - b. All construction equipment shall be maintained in good mechanical condition to minimize noise created by faulty or poorly maintained engines, drive trains, and other components.
 - c. Construction activities shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m., Saturday. No construction work shall be allowed on Saturday.

36. Disclosure of indoor and outdoor live music performance at Malone's Restaurant (APN 22-491-01) shall be made to the future owners of the residences within LD00-001 and MLD02-002.

Archaeology:

37. **[Mitigation Measure 5-1]** An archaeological testing program shall be submitted to and approved by the City prior to any site disturbance. The testing program shall include a minimum of six (6) auger borings and one 1 x 1 meter, hand

RESOLUTION NO. 1705.1

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY
APPROVING A MINOR LAND DIVISION (MLD02-002), TO CREATE THREE
MEDIUM DENSITY RESIDENTIAL LOTS FROM ONE PARCEL (APN 022-491-
03)**

WHEREAS, the Planning Department of the City of Scotts Valley has received the applications filed by Howard Norton, et al, for a Minor Land Division (MLD02-002) for the creation of three Medium Density Residential lots from one parcel (APN 022-491-03), located just east of 4444 Scotts Valley Drive.

WHEREAS, Howard Norton et al, (collectively 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, the Mitigated Negative Declaration was prepared for the previously approved General Plan Amendment and Zone Change for the subject property pursuant to Section 15162 of California Environmental Quality Act (CEQA) considered the effects of the proposed residential land division. Whereas, a previously prepared Environmental Impact Report (EIR) for the Glenwood development, and an Addendum thereto, was used in conjunction with the Mitigated Negative Declaration prepared for the subject property; and

WHEREAS, the EIR was certified by the City of Scotts Valley in November 1998 and an Addendum was certified on August 15, 2001 (the "Addendum"), the Mitigated Negative Declaration was certified in January 2002, the proposed development under the certified Mitigated Negative Declaration was considered and pursuant to Section 15162 of California Environmental Quality Act (CEQA) and no new environmental document is required, such documents are available for review at the City of Scotts Valley Planning Department, and a public notice of the availability of these previously certified documents was provided pursuant to the requirements of CEQA; and

WHEREAS, the project contributes to cumulative traffic impacts on Highway 17; and

WHEREAS, the cumulative traffic impacts on Highway 17 were fully assessed in the EIR and the Addendum for the Glenwood Residential Project and the EIR and the Addendum were previously certified by the City; 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 public hearing was held by the Planning Commission on July 11, 2002 and by the City Council on August 7, 2002 and September 4, 2002; and,

NOW, THEREFORE, the City Council of the City of Scotts Valley hereby resolves as follows:

SECTION 1: The City Council does hereby make the following findings as further clarified in the staff reports dated August 7, 2002 and September 4, 2002:

- A. *Mitigated Negative Declaration was certified for the project, and no subsequent Negative Declaration need be prepared for the project as, on the basis of substantial evidence in light of the whole record, all findings required by CEQA guidelines Section 15162(a) can be made as follows:*
1. *No substantial changes, which involve significant environmental effects or a substantial increase in the severity of previously identified significant effects, are proposed in the project which would require major revisions of the previous Mitigated Negative Declaration. The Mitigated Negative Declaration prepared for the General Plan Amendment and Zone Change of the subject property considered the effects of a fourteen unit residential land division. The proposed residential land divisions create only eleven residential parcels with like building envelopes, therefore the project is less intense than the project considered by the previous Mitigated Negative Declaration.*
 2. *No substantial changes, which involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects, have occurred with respect to the circumstances under which the project is undertaken. No new environmental condition has occurred or been discovered which would alter the effect of the proposed project, nor has any new development been proposed or completed which would change the cumulative impact of the proposed project, that was not previously considered.*
 3. *No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Mitigated Negative Declaration was certified, has been discovered. The project does not include any new significant effects not discussed in the previous Mitigated Negative Declaration, nor does the project substantially increase the severity of any significant effects previously examined in the previous Mitigated Negative Declaration, as no new environmental findings or regulations have emerged since the document was certified in January, 2002. Furthermore, no new mitigation measures have been identified which would substantially reduce any identified significant effect.*

- B. *The Mitigated Negative Declaration for the project and the Glenwood Residential SEIR have been completed in compliance with CEQA*
- C. *All mitigation measures identified in the Mitigated Negative Declaration are included in the resolutions approving the project and are made conditions of approval for the Project. All mitigation measures have been included as conditions of project approval.*
- D. *Documents and other material 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 environmental documents prepared for the project were also made available at the public hearing for the project. These documents have been made available to the public for review.*
- E. *The Mitigated Negative Declaration represents the independent judgement of the City. The Mitigated Negative Declaration was prepared by the City. All reports and supporting information has been reviewed and approved by the City.*
- F. *The City Council hereby approves the Mitigated Negative Declaration and the Statement of Overriding Considerations for the project. Although the City believes that many of the impacts identified in the Mitigated Negative Declaration have been reduced to a level of insignificance, the project does contribute to a cumulative impact on Highway 17. However, improving the level of service is not feasible for this particular project or for the City as the traffic congestion is a regionally influenced problem. Therefore, the City recognizes that approval of the project will nonetheless contribute to the unavoidable cumulative impact regarding traffic delays on Highway 17.*

The City Council specifically finds that, to the extent that the cumulative traffic impacts on Highway 17 have not been mitigated to a level of insignificance, that specific economic, social, legal, environmental, technological or other benefits of the project outweigh the significant effects of the environment. The City finds that any and each of the following considerations is sufficient to approve the project for any one or more of the avoidable impacts identified and that each of the overriding considerations is adopted with respect to the cumulative traffic impact on Highway 17 and that each consideration is severable from any other consideration should one consideration be shown to be legally insufficient for any reason.

The following considerations support approval of the project:

1. The project will serve the City's goal of adding to the supply of housing units in the City in order to accommodate regional population needs and employment growth in the City.

2. The project will help address that shortfall of housing required to meet the City's fair share allocation of regional housing needs.
 3. The project will provide new housing opportunities in the community which could meet the needs of families and local area workers who desire to live closer to work.
 4. The project would indirectly contribute taxes to the City through sales tax revenues generated through local businesses by owners of the new dwellings. A larger population will also help support existing retail businesses.
- G. *The proposed location of the residential use is in accordance with the objectives of the zoning ordinance and the purposes of the district in which the site is located.* The single family dwellings have been designed to comply with the City's development standards for residential dwellings, subject to Planning Commission approval of exceptions to lot depth and parking standards.
- H. *The proposed minor land division, together with the provisions for its design and improvement, is consistent with the General Plan.* The development has been designed to comply with the City's minor land division regulations.
- I. *The proposed buildings and other improvements will meet the design standards of the City.* The project has been designed to be consistent with the City's Residential Design Handbook.
- J. *The project site is physically suitable for the minor land division.* The minor land division has been designed considering site constraints. What the lots lack in depth they make up for with added width.
- K. *The design of the minor land division and proposed improvements will not cause serious public health problems.* The minor land division has been designed to be consistent with the City minor land division regulations, and based on the initial study prepared for the development, it was determined that all impacts would be reduced to a level of insignificance, with the exception of traffic impacts on Hwy. 17.
- L. *The design of the minor land division and improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.* Based on the initial study prepared for the development, it was determined that there would be no impacts to fish or wildlife or other habitat.
- M. *The project complies with the Tree Protection Ordinance (SVMC Section 17.44.080) and the condition of the trees with respect to proposed development warrants the removal of protected trees.* The project has been designed to retain as many trees as possible, although fifteen trees are proposed to be removed

due to proximity to the proposed development. A tree report has been prepared for this project and indicates that given the poor tree conditions, replacement trees would be a more viable option than preservation.

SECTION 2: Approve the proposed minor land division as shown on the plans submitted to the Planning Commission with the conditions provided in Exhibit A attached hereto.

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 hereby approves Subdivision MLD02-002, to create three Medium Density Residential lots from one parcel (APN 022-491-03), subject to the conditions set forth in the attached Exhibit A, which are incorporated herein by this reference.

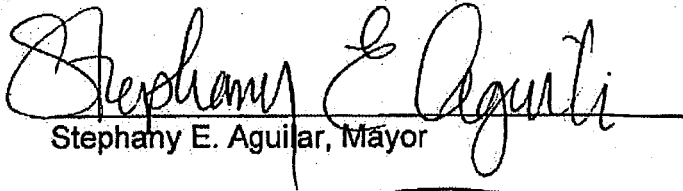
THE ABOVE AND FOREGOING RESOLUTION was duly adopted and passed by the City Council of the City of Scotts Valley at a regularly scheduled meeting held on Wednesday, September 4, 2002 by the following vote:

AYES: Ainsworth, Barrett, Johnson, Marigonda, Aguilar

NOES:

ABSTAIN:

ABSENT:


Stephany E. Aguilar, Mayor

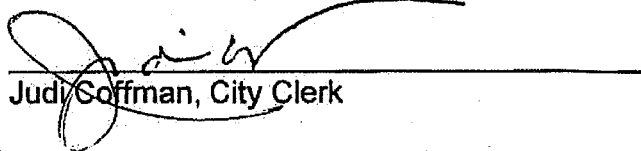

Judi Goffman, City Clerk

EXHIBIT A

CONDITIONS OF APPROVAL (MLD02-002)

LEGAL

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 attack, 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, property owner shall sign the Conditions of Approval (Exhibit A) agreeing to the Conditions of Approval prior to issuance of any building permits, transfer of title, or within 60 days of approval of this application, whichever occurs first, or the project approval shall expire and become null and void.
3. If after City Council approval and prior to Parcel Map approval there is a transfer of the property, property owner shall have a signed copy of a Memorandum of Agreement Regarding the Conditions of Approval for this application (provided by the City), recorded at the County Recorder's Office prior to transfer of title.
4. After Parcel Map approval, property owner shall have a signed copy of a Memorandum of Agreement Regarding the Conditions of Approval for this application (provided by the City), recorded for each new lot, at the County Recorder's Office prior to the issuance of any building permits, transfer of title, or within 60 days of approval of the Parcel Map, whichever occurs first, or the project approval shall expire and become null and void.

PLANNING DEPARTMENT

Documentation:

5. The Parcel Map shall be submitted to the Planning Department in an Auto CAD drawing up to version 13 or a DXF file, formatted on a high density 3.5", 1.4 MB floppy disk. *There shall be no gaps between lines. All parcel lines should*

Such system shall be capable of providing two air changed per hour in guestrooms, dormitories, habitable rooms, and in public corridors with a minimum of 15 cubic feet per minute(7L/S) of outside air per occupant during such time as the building is occupied."

27. **[Mitigation Measure 11-3]** To assure the greatest potential for exterior-to-interior noise attenuation, the following mitigation measure shall be included with the project:
- a. Unshielded entry doors having a direct or side view of Scotts Valley Drive shall be 1-5/8 inch or 1-3/4 inch thick, insulated metal or solid-core wood constructed doors with effective weather seals around the perimeter. Mail slots shall not be used in these doors or in the wall of a living space, as significant noise leakage can occur through them.
 - b. If any penetrations in the building shell are required for vents, piping, conduit, etc., sound leakage around these penetrations shall be controlled by sealing all cracks and clearance space with a non-hardening caulking compound.
 - c. Fireplaces, if included with the project, shall be provided with tight fitting dampers.
28. **[Mitigation Measure 11-4]** The following mitigation measures shall be implemented to reduce construction-related noise at the project:
- a. Construction equipment shall use available noise suppression devices and properly maintained mufflers. Quiet or "new technology" equipment, particularly equipment that quiets exhaust noises by using improved mufflers, shall be used when feasible. All internal combustion engines use at the project site shall be equipped with the type of muffler recommended by the vehicle manufacturer.
 - b. All construction equipment shall be maintained in good mechanical condition to minimize noise created by faulty or poorly maintained engines, drive trains, and other components.
 - c. Construction activities shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m., Saturday. No construction work shall be allowed on Saturday.

29. Disclosure of indoor and outdoor live music performance at Malone's Restaurant (APN 22-491-01) shall be made to the future owners of the residences within LD00-001 and MLD02-002.

Archaeology:

30. **[Mitigation Measure 5-1]** An archaeological testing program shall be submitted to and approved by the City prior to any site disturbance. The testing program shall include a minimum of six (6) auger borings and one 1 x 1 meter, hand excavated unit.

EXHIBIT B

**Memorandum of Agreement Regarding Conditions of Approval for a
Land Division (LD00-001), a Minor Land Division (MLD02-002), and a
Planned Development (PD00-002)**

(Attached)

RECORDING REQUESTED
BY AND RETURN TO:

CITY OF SCOTTS VALLEY
ONE CIVIC CENTER DRIVE
SCOTTS VALLEY, CA 95066
Attn: Planning Department



2003-0004605

Recorded
Official Records
County Of
SANTA CRUZ
RICHARD W. BEDAL
Recorder

REC FEE 16.00
CC CONF .00

03:17PM 15-Jan-2003

BLS
Page 1 of 4

(Leave space above this line for Recorder's use only)

**Memorandum of Agreement Regarding Conditions of
Approval for a Land Division (LD00-001), a Minor Land
Division (MLD02-002), and a Planned Development (PD00-
002) for property located at 4410 Scotts Valley Drive / APNs
22-491-03, 21 & 22, in the City of Scotts Valley**

The undersigned, Kelly Court LLC, property owner of Assessor's Parcel
Numbers 22-491-03, 21 & 22, legally described in Attachment A, incorporated herein
by agreement with the City of Scotts Valley, California, has agreed to certain Conditions
of Approval (Exhibit A to Resolution No. 1705 and 1705.1) required for the construction
of a commercial/residential mixed use development, a complete copy of which are kept
on file in the Planning Department of the City of Scotts Valley under file numbers LD00-
001, MLD02-002 and PD00-002, and by this reference incorporated as if set out in full
herein.

Kelly Court
BY: [Signature]
Signature of Owner

1-15-03
Date

[Signature]
City of Scotts Valley
Community Development Director

12-12-02
Date

(Notarization of both signatures required)

PLEASE NOTE: (Legal description of property must be attached)-

30

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF SANTA CRUZ

On December 12, 2002 before me, **Sandy Adams, Notary Public**, personally appeared

Laura C Kohn

☒ personally known to me - ~~OR~~ - ☐ ~~proved to me on the basis of satisfactory evidence~~ to be the person(s) whose name(s) is ~~is/are~~ subscribed to the within instrument and acknowledged to me that he ~~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.

Sandy L Adams
SANDY ADAMS

Title or type of document MOA / Kelly Court / L000-001 / ML002-002 / PD00-002

Number of pages one Date of document

Signer(s) other than named above

CAPACITY CLAIMED BY SIGNER:

- ☐ Individual
- ☐ Corporate officer(s)

Title (s)

- ☐ Partner(s) ☐ Limited
- ☐ ☐ General
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Guardian/Conservator
- ☐ Other:



STATE OF CALIFORNIA
COUNTY OF Santa Cruz } ss.

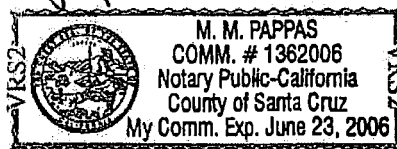
On 1.15.03, before me, M M Pappas,
personally appeared Howard Norton
_____, personally known to me

(or proved to me on 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

M M Pappas



(This area for official notarial seal)

Title of Document Memorandum of Agreement
Date of Document _____ No. of Pages 3 (incl. legal)
Other signatures not acknowledged Laura C. Kohr

32

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SANTA CRUZ, CITY OF SCOTTS VALLEY AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

PARCEL "4" OF THE PARCEL MAP, IN THE CITY OF SCOTTS VALLEY, COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, PER THE MAP FILED SEPTEMBER 4, 1974 IN BOOK 16, PAGE 24 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM THAT PORTION CONVEYED BY THE DEED FROM DOUBLE-O-DEVELOPMENTS, INC., A CALIFORNIA CORPORATION TO THOMAS PENNELLO, ET AL., RECORDED DECEMBER 22, 1988 IN VOLUME 4435, PAGE 887, OF OFFICIAL RECORDS OF SANTA CRUZ COUNTY, CALIFORNIA.

PARCEL TWO:

A RIGHT OF WAY 40 FEET IN WIDTH AS SHOWN UPON THE PARCEL MAP HEREIN ABOVE DESCRIBED.

PARCEL THREE:

BEING A PORTION OF THE SAN AUGUSTINE RANCHO AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A STATION ON THE SOUTHERLY SIDE OF THE STATE HIGHWAY LEADING FROM SANTA CRUZ TO GLENWOOD, AT THE NORTHWESTERLY CORNER OF LANDS OF S. M. & A. A. SMITH, NOW OR FORMERLY; THENCE ALONG THE SOUTHERLY SIDE OF SAID HIGHWAY NORTH 65° 47' EAST 200.0 FEET TO A STATION; THENCE LEAVING SAID HIGHWAY SOUTH 66° 20' EAST PARALLEL WITH THE NORTHERLY BOUNDARY OF SAID FIRST MENTIONED LANDS OF SAID S. M. AND A. A. SMITH 461.13 FEET TO A STATION; THENCE SOUTH 23° 40' WEST 169.4 FEET TO A STATION ON SAID NORTHERLY BOUNDARY OF SAID LANDS OF SMITH; THENCE ALONG SAID LAST MENTIONED BOUNDARY NORTH 66° 20' WEST 567.46 FEET TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED JULY 5, 1932, IN BOOK 227, PAGE 399, OFFICIAL RECORDS OF SANTA CRUZ COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO JACK H. MACKEY, BY DEED RECORDED JANUARY 18, 1946, IN BOOK 522, PAGE 486, OFFICIAL RECORDS OF SANTA CRUZ COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION CONVEYED TO ELMER L. GRAVES, ET UX, BY DEED RECORDED DECEMBER 8, 1960, IN BOOK 1360, PAGE 51, OFFICIAL RECORDS OF SANTA CRUZ COUNTY.

STAFF REPORT

Applicant/Owner: Peninsula Petroleum LLC

Application: Use Permit No. U16-005 & Sign Design Review No. DR16-014 and Design Review No. DR16-15

Location: 1 Hacienda Drive / APN 022-011-11

General Plan/Zoning: Commercial Service C-S)

Environmental Status: Exempt from CEQA (Sections 15301 & 15311)

Request: Consideration of a Use Permit, Sign Design Review and Design Review application to amend the existing permits to allow for the removal of the existing convenience store, construction a new convenience store and install a drive-thru car wash and display new signage at 1 Hacienda Drive Shell Gas Station.

Staff Planner: Brenda Stevens, Assistant Planner

STAFF RECOMMENDATION

It is recommended that the Planning Commission approve the Use Permit, Sign Design Review and Design Review applications by adoption of the attached resolution, subject to the conditions in Exhibit A.

PROJECT DESCRIPTION

The applicant is proposing to renovate the existing Shell gas station located at 1 Hacienda Drive (Attachment 1 - Location Map). The proposed renovation includes a demolition of the existing 1,816 square foot convenience store, construction of a new 1,803 square foot convenience store and the addition of a new 768 square foot drive-thru car wash. The existing fueling dispensers and canopy would remain as they are (Attachment 2 - Project Plans).

PROJECT DISCUSSION

The subject property is located in the Commercial Service (C-S) zoning district. Pursuant to Section 17.20 of the Scotts Valley Municipal Code (SVC) automotive service stations are required to obtain a Use Permit and Design Review approval from the Planning Commission for all exterior improvements. Below is a discussion of the project's compliance with the City's General Plan and Zoning Regulations.

Use Permit

The project site is a corner parcel at the intersection of Scotts Valley Drive and Hacienda Drive. The one adjoining property to the west is known as the Granite Creek Business Center. Kaiser Permanents is the primary tenant in the center. The project site is separated from residential neighborhoods by streets to the north (Hacienda Drive) and to the west by San Augustine Way.

The existing use permit allows for the operation of a 1,816 square foot convenience store and fuel stations. The existing fuel stations/canopy are to remain with no changes and would continue to operate 24 hours a day, seven days per week (24/7).

As proposed, the convenience store would be demolished and a new, slightly smaller, 1,803 square foot convenience store would be built and located in virtually the same footprint as the existing store. Existing store hours would remain 24/7.

In addition to the new store, a new 768 square foot, drive-thru car wash is proposed. The car wash would be similar to the one operating at the Shell Station located at 90 Mount Hermon Road.

Use elements reviewed for the proposed car wash include the following:

- **Location:** The proposed car wash would be located to the rear of the convenience store along the west edge of the property line, abutting the parking lot of the business center. Entrance to the car wash would be adjacent to Hacienda Drive and the exit would be facing Scotts Valley Drive. There would be space for approximately four autos to cue up for the wash. The longest duration for an exterior "Ultimate" car wash is five minutes.
- **Noise:** A Noise Assessment Study was prepared and stated that "the existing noise environment is due primarily to vehicular traffic sources on Scotts Valley Drive, Hacienda Drive and Highway 17." The study applied the noise limits to the residential property lines to the north and to the facade of the commercial office building to the west. The result of the study concluded that "the project generated noise increases in the ambient conditions will be within the allowed noise

increased established in the Noise Element. Noise mitigation measures will not be required." (Attachment 3).

- Hours of operation: According to the applicant, the busiest hours for the car wash are typically between 7am to midnight with the slowest hours of operation occurring between midnight and 6am. Although the applicant proposes that the car wash operate 24/7, staff believes that more reasonable operating hours would be from 6am to 11pm daily in an effort to provide noise relief to the residents closest to the site (Condition No. 6). While the Noise Assessment Study accounted for the level of vehicular traffic sources along Scotts Valley Drive, Hacienda Drive and Highway 17, staff believes that a reduction of traffic noise during the late night and early morning hours would accentuate the noise levels of the car wash operation during these non-peak travel hours.

Design Review

Design elements reviewed for the proposed new convenience store and car wash include the following:

- Building: As previously stated, the proposed convenience store would be located nearly identical to where the current store is. The plans meet the (C-S) zoning district regulations for height, setbacks, lot coverage, etc. A new accessible off-site access ramp (ADA) would be installed along Hacienda Drive. New parallel parking stalls would be stripped. The car wash entrance would be accessed near Hacienda Drive and is elevated four feet lower than the right-of-way at the sidewalk along Hacienda Drive. The lower elevation entrance combined with a redwood trellis at the opening of the car wash would soften the industrial appearance of equipment from the street view along Hacienda Drive (Sheet C-1).
- Colors/Materials: The building would feature the standard Shell Corporation branding color palette of yellow, red, white and grey. Basically, the same color palette of the existing facility. On-site signage colors are red, blue and yellow. The southeast, south and east elevations would display a section of stone veneer (Sheet A-2). Red terra-cotta colored, stamped concrete would indicate the accessible path of travel from the fuel stations to the store and from the bike rack to the store (Sheet C-1). A colors and material board will be presented during the Planning Commission meeting.
- Landscaping: The existing landscaping located at the intersection of Scotts Valley Drive and Hacienda would remain. Tree removals would include one ornamental Pear and one Live Oak measuring three inches (Sheet L1.0). All existing trees along the neighboring property will be protected per the City's tree regulations (SVC 17.44.080) and under the observation of a licensed arborist to ensure

that the trees remain healthy throughout and after construction activity (Condition No. 7). New landscaping would be added throughout the site and new shrubs would be planted along Hacienda Drive, in an effort to provide screening of the car wash cue and the Healy Clean Air Separator/Vapor Processor (used to process gasoline vapors generated during vehicle fueling). Additional new landscaping would also occur near the trash enclosure (Sheet L1.O).

- Bike Rack: A bike rack accommodating five bikes would be installed near the Hacienda Drive street frontage, at the base of the ADA ramp to allow for bike security and proper containment (Sheet C-1).
- Trash Enclosure: A new covered trash enclosure area would be located near the exit of the car wash. The enclosure is designed to have a redwood frame with a standing seam metal roof. The fencing would be stained redwood planks over a metal gate frame. New landscaping would help screen the enclosure (Sheet A-2).
- Lighting: The lighting plan (Sheet C-3) proposes decorative wall mounted light fixtures around the building. One of the six existing pole mount lights would be relocated along the entrance to the car wash. The existing fuel tank canopy lighting would remain. Lighting is designed to be downward shining with the intention to limit the release of off-site lighting into nearby residential areas.
- Mechanical Equipment: All roof-top mechanical equipment is conditioned to be screened by the roof parapet (Condition No. 10).

Sign Design Review

The existing internally illuminated monument/price sign located near the property intersection is to remain. New non-illuminated wall mounted vinyl faced signage conforming to the Scotts Valley Municipal Code's (SVC) sign regulations would be installed above the doorway entrances and above the car wash entrance. Colors and sign size are shown on (Sheet A-2).

PUBLIC COMMENT

A public hearing notice was posted and mailed to surrounding property owners within 300 feet pursuant to state law. No comments have been received at the time of preparing this report.

ATTACHMENTS

PAGE

Resolution No. _____ to Approve U16-005, DR16-014 & DR16-015 (Action Item)

1. Location Map 11
2. Project Plans (Received 07-23-17) (Attached)
3. Noise Study prepared by Edward L. Pack Associates (dated 03-07-17) (Attached)
4. Color Materials Board (presented at meeting)

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SCOTTS VALLEY AMENDING AN EXISTING USE PERMIT AND SIGN DESIGN REVIEW AND DESIGN REVIEW NO'S U16-005, DR16-014 AND DR16-015 FOR THE REMOVAL OF THE EXISTING CONVENIENCE STORE, CONSTRUCTION OF A NEW CONVENIENCE STORE AND INSTALLATION OF A NEW DRIVE-THRU CAR WASH AND NEW SIGNAGE FOR THE EXISTING AUTOMOBILE SERVICE STATION LOCATED AT ONE HACIENDA DRIVE // APN 022-011-11.

WHEREAS, the Planning Department of the City of Scotts Valley has received Use Permit application No. U16-005, Sign Design Review application No. DR16-014 and Design Review application No DR16-015 for the removal of the existing convenience store, construction of a new convenience store, construction of a new drive-thru car wash and new signage for the existing automobile service station at One Hacienda Drive // APN 022-011-11; and,

WHEREAS, the project is determined to be categorically exempt from CEQA, Class 3 (Sections 15301 & 15311); and,

WHEREAS, the project was reviewed by the Planning Commission at a duly noticed public hearing on August 17, 2017.

NOW THEREFORE, the Planning Commission of the City of Scotts Valley hereby resolves as follows:

SECTION 1: The environmental determination represents the independent judgement of the City.

SECTION 2: The categorical exemption is hereby approved.

SECTION 3: The Planning Commission of the City of Scotts Valley does hereby specifically make the following findings, as further clarified in the Planning Commission staff reports dated August 17, 2017:

Use Permit

1. *The proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purposes of the district in which the site is located. The use is located in the Commercial Service zoning district which is suitable for the subject use.*

2. *The establishment, maintenance or operation of the use or building will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of the proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city. The use is appropriately located so that residents can obtain automotive, convenience store and drive-thru car wash services.*

Design Review

3. *The siting of the structure on the site as compared with the siting of other structures in the immediate neighborhood is appropriate. The siting of the structures on the site have been designed for the most appropriate and advantageous locations for both the convenience store and car wash as they relate to the neighborhood.*
4. *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. The materials, colors, proportion, mass, and detail of the improvements are in good proportion and are compatible with the appearance of the surrounding neighborhood and with the existing appearance of the facility.*
5. *The landscaping is in keeping with the character and design of the proposed development. The landscaping provides screening to equipment, trash enclosures and the car wash entrance and overall enhances the intersection.*
6. *Illumination shall be at the lowest level consistent with adequate identification and readability and the light source shall not be directly visible. The illumination shall be kept at the lowest level possible for safety and identification purposes.*

SECTION 4: 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 of the City of Scotts Valley does hereby approve Use Permit application No. U16-005, Sign Design Review DR16-014 and Design Review DR16-015 for the removal of the existing convenience store, construction of a new convenience store, construction of a new drive-thru car wash and new site signage for the existing automobile service station at One Hacienda Drive // APN 022-011-11; subject to the conditions set forth in the attached Exhibit A, which are incorporated herein by this reference.

THE ABOVE AND FOREGOING RESOLUTION was duly adopted and passed by the Planning Commission of the City of Scotts Valley at a regularly scheduled meeting held on the 17th day of August, 2017, by the following vote:

U16-005 & DR16-014 & DR16-015
08/17/17 P.C. Mtg.
Peninsula Petroleum

Resolution No. _____
1 Hacienda Drive
APN 022-011-11

AYES:
NOES:
ABSTAIN:
ABSENT:

Derek Timm, Planning Commission Chair

Taylor Bateman, Acting Community Development Director

EXHIBIT A

CONDITIONS OF APPROVAL (Nos. 1-x)

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 Planning Commission approval, the property owner shall sign the Conditions of approval (Exhibit A) agreeing to the Conditions of Approval prior to the issuance of any building or grading permits.
3. All required building permits shall be obtained and the application shall pay all appropriate fees prior to commencement of any construction on the property.

PLANNING DEPARTMENT

4. The color, materials, size, location, and design of the improvements shall match the approved plans. Future modifications to the approved plans may require approval by the Planning Commission at the discretion of the Community Development Director.
5. All applicable Conditions of Approval associated with previous Planning Commission Resolutions for the use, property and building shall remain in effect.
6. Car wash operating hours shall be from 6am to 11pm daily.
7. Existing trees along the neighboring property shall be protected per the City's tree regulations (SVC 17.44.080) and under the observation of a licensed arborist to ensure that the trees remain healthy during and after construction.

8. All materials, equipment and retail products shall be located inside the building, with the exception of the propane tank.
9. All signage shall comply with sign ordinance regulations (SVC 17.56).
10. All roof-top mechanical equipment shall be screened by the roof parapet .

WASTE WATER

11. If food is prepared on site that requires the washing of dishes and equipment that generate grease in the sanitary sewer then a grease trap will be required (minimum size for grease trap is 70 lbs).
12. Only pre-packaged food is to be sold at the convenience store.

FIRE

13. This project must comply with the California Fire Code as amended by the Scotts Valley Fire Protection District.

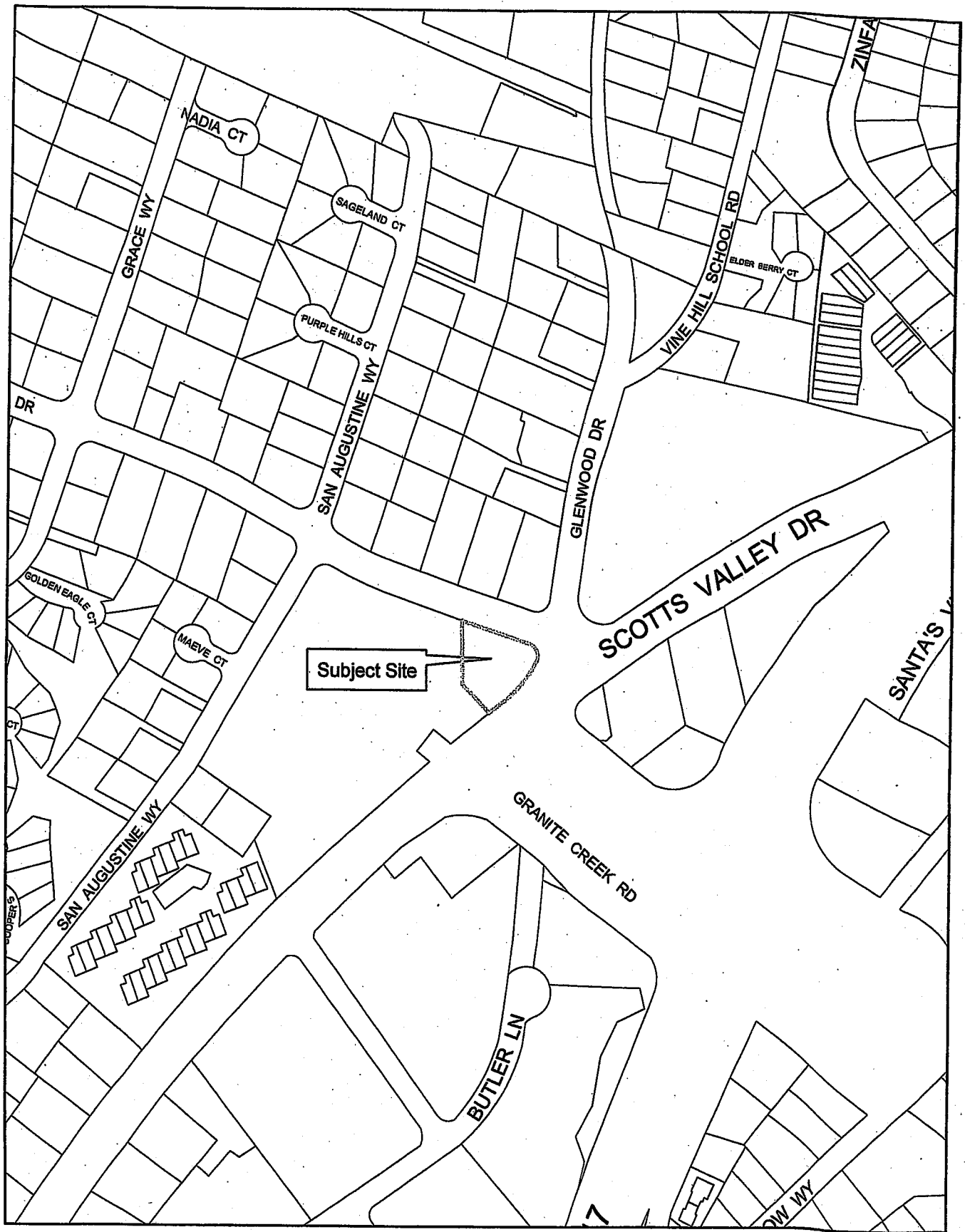
PUBLIC WORKS

14. A stormwater technical plan and all required forms are required at the time of Building permit submittal.

Name and Signature of Property Owner

Date

Location Map



1 Hacienda Drive

EDWARD L. PACK ASSOCIATES. INC.

1975 HAMILTON AVENUE
SUITE 26
SAN JOSE, CA 95125

Acoustical Consultants

TEL: 408-371-1195
FAX: 408-371-1196
www.packassociates.com

March 7, 2017
Project No. 49-006

Mr. John Castelo
Peninsula Petroleum, LLC
1710 Industrial Road
San Carlos, CA 94070

Subject: Noise Assessment Study for the Planned Car Wash, Hacienda Shell Service Station, 1 Hacienda Drive, Scotts Valley

Dear Mr. Castelo:

This report presents the results of a noise assessment study for the planned car wash at the Hacienda Shell service station at 1 Hacienda Drive in Scotts Valley, as shown on the Site Plan, Ref. (a). The project-generated noise exposures at the nearby noise sensitive receptor locations were evaluated against the standards of the City of Scotts Valley General Plan Noise Element, Ref. (b). The analysis of the on-site sound level measurements indicates that the existing noise environment is due primarily to vehicular traffic sources on Scotts Valley Drive, Hacienda Drive and Highway 17. The project-generated noise increases in the ambient conditions will be within the allowed noise increased established in the Noise Element. Noise mitigation measures will not be required.

Section I of this report contains a summary of our findings. Subsequent sections contain site and project descriptions, analyses and evaluations. Appendices A, B and C contain the list of references, descriptions of the noise standards and terminology and the noise measurement data and calculation tables.

I. Summary of Findings

The noise assessment results presented in the findings are shown in reference to the City of Scotts Valley Noise Element, which utilizes the Day-Night Level (DNL) 24-hour noise exposure descriptor to define community noise impacts. Table 3 in the Noise Element provides acceptable increases in the ambient noise environment for various types of projects affecting various types of land uses.

For commercial projects, such as a car wash, impacting residential and commercial land uses, the project is allowed to add up to 5 decibels to the existing ambient noise environment. The most restrictive noise limit is to compare the project-generated noise exposure to the lowest ambient noise exposure, which usually occurs on Sunday. Decibels are added using the following formula:

$$\text{Sum} = 10\log_{10}(10^{(\text{SL}_1/10)} + 10^{(\text{SL}_2/10)}) \quad \text{where, SL = Sound Level}$$

This study applies the noise limits to the residential property lines to the north and to the façade of the commercial office building to the west. There is a large parking lot interposed between the commercial property line and the office building. Applying the noise limits to the parking lot would set a precedent that could prohibit many other commercial uses where a noise generating facility is close to a property line but far from where people use the property.

The noise exposures shown below are without the application of mitigation measures and represent the noise environment for existing and proposed site conditions.

A. Existing Ambient Noise Exposures and Noise Limits

- The existing exterior noise exposure at the nearest residential property across Hacienda Drive to the north of the site is 65 dB DNL. Therefore, the noise limit on the project at this location is 68 dB DNL. Note that 65 dB + 68 dB = 70 dB.

- The existing exterior noise exposure at the nearest commercial building to the southwest of the site is 60 dB DNL. Therefore, the noise limit on the project at this location is 63 dB DNL. Note that $60 \text{ dB} + 3 \text{ dB} = 63 \text{ dB}$.

B. Project-Generated Noise Exposures

- The project-generated noise exposure at the most impacted residential receptor across Hacienda Drive to the north of the site, 115 ft. from the car wash tunnel entrance, will be 45 dB DNL. The ambient + project noise exposure will be 65 dB DNL. Thus, the project is expected to add 0 decibels to the existing ambient noise exposure of 65 dB DNL. The project-generated noise exposure will be within the ambient + 5 dB limit of the City of Scotts Valley Noise Element standards.
- The project-generated noise exposure at the most impacted commercial building to the southwest of the site, 85 ft. from the car wash tunnel exit, will be 55 dB DNL. The ambient + project noise exposure will be 62 dB DNL. Thus, the project is expected to add 2 decibels to the existing ambient noise exposure of 60 dB DNL. The project-generated noise exposure will be within the ambient + 5 dB limit of the City of Scotts Valley Noise Element standards.

There are no other noise sensitive land uses in the vicinity of the site that would be noise impacted.

The project-generated noise exposures will be within the ambient + 5 dB limit of the City of Scotts Valley Noise Element standards. Noise mitigation measures for the project will not be required.

II. Site and Project Descriptions

The planned project site is an existing Shell service station located at the intersection of Hacienda Drive and Scotts Valley Drive in Scotts Valley. The site is at-grade with Scott Valley Drive and Hacienda Drive and slopes up to the west. Surrounding land uses include commercial office buildings adjacent to the west and commercial retail buildings across Scotts Valley Drive to the south and east. Single-family residential is across Hacienda Drive to the north.

The planned project includes the renovation of the existing Shell service station which will remove the service bays and replace them with a convenience store. A drive-thru car wash will be added to the west side of the service station building. The service building and car wash will be open 24 hours per day. The car wash is estimated to support up to 70 washes per day, with 10% of the washes occurring during the nighttime hours, Ref. (c).

The car wash tunnel will be a 48 ft. long concrete structure with the entrance on the north end and the exit on the south end. The car wash equipment will be a Ryko Soft Gloss system with stationary dryers. The customers will drive into the tunnel when prompted and stop for the sprayers and wash procedure, which is a roll over system. The customer then drives under the dryer blowers at their discretion. The customers will typically exit onto Scotts Valley Drive. The wash and dry cycles range from 4 minutes to 5-1/2 minutes in duration, depending on which wash service is chosen. The dry cycle is 1 minute, 20 seconds for any type of wash.

The Site Plan is shown on Figure 1 on the following page.

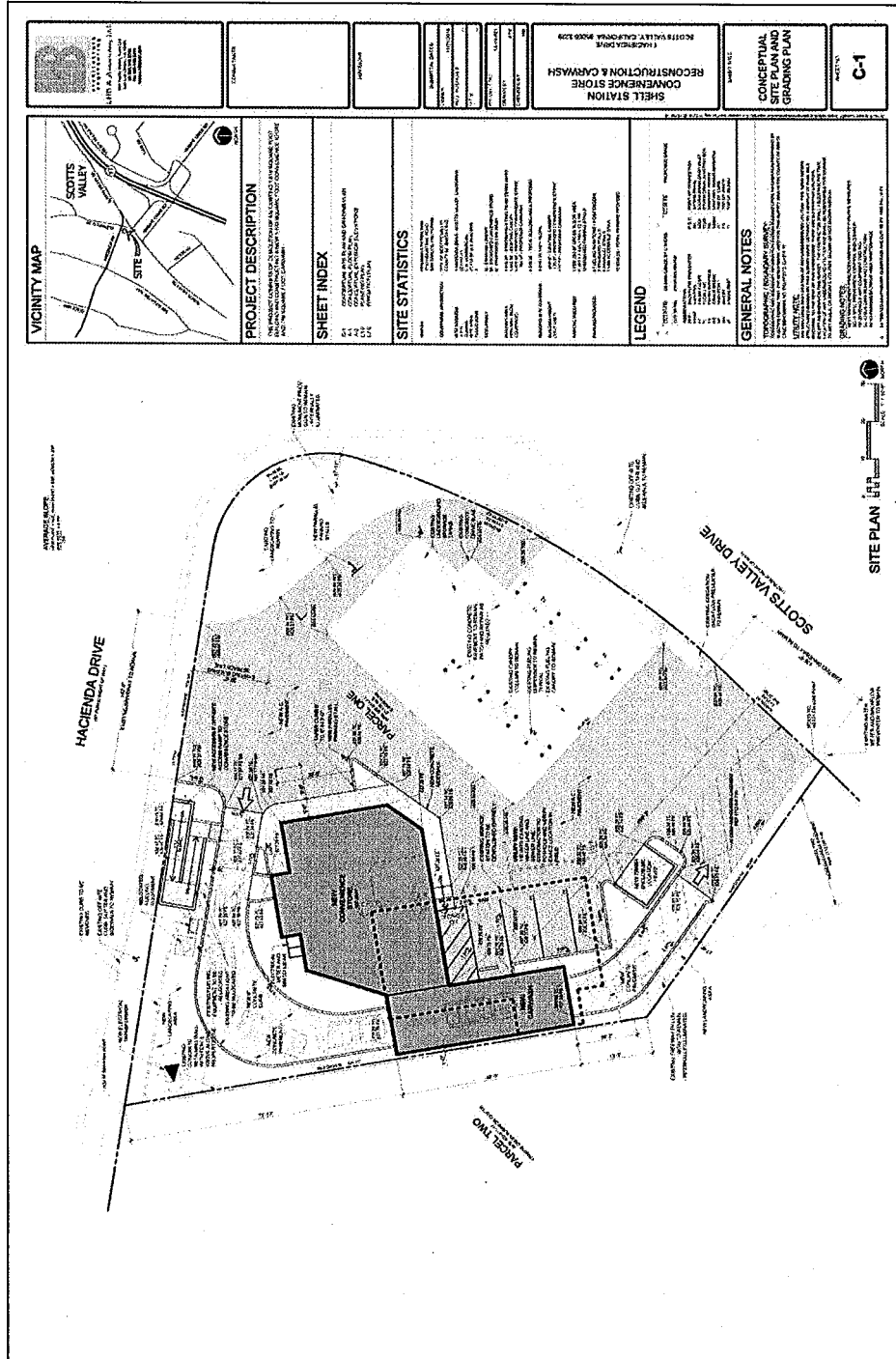


FIGURE 1 – Site Plan

III. Analysis of the Noise Levels

A. Existing Noise Levels

To determine the existing noise environment at the nearby noise sensitive receptors, continuous recordings of the sound levels were made at two locations. Location 1 was near the front property line of the residence directly across Hacienda Drive from the project site. Location 2 was along the west property line of the site contiguous with the commercial use to the west. These locations were chosen for security of the sound measuring instrument that represent the ambient noise environment for their respective land uses. The measurement locations are shown Figure 2 on page 7. The measurements were made on February 12-13, 2017 using Larson-Davis LDL 812 Precision Integrating Sound Level Meters. The measurement time period was Sunday morning 7:00 AM to Monday morning 7:00 AM. The meter yields, by direct readout, a series of descriptors of the sound levels versus time, as described in Appendix B. The measured descriptors include the L_1 , L_{10} , L_{50} , and L_{90} , i.e., those levels that are exceeded 1%, 10%, 50%, and 90% of the time. Also measured were the maximum and minimum levels, and the continuous equivalent-energy levels (L_{eq}), which are used to calculate the DNL. The measurements were made for a total period of 24 hours and included recordings of the noise levels during representative hours of the daytime and nighttime periods of the DNL index. The results of the measurements are shown on the data tables in Appendix C.

As shown in the data tables, the L_{eq} 's at the measurement Location 1 ranged from 58.0 to 64.1 dBA during the daytime and from 48.4 to 64.6 dBA at night. At measurement Location 2, the L_{eq} 's ranged from 56.5 to 61.2 dBA during the daytime and from 47.5 to 62.9 dBA at night.



FIGURE 2 – Noise Measurement Locations

B. Project-Generated Noise Levels

The project-generated noise levels were determined from on-site noise level measurements of the existing Shell service station car wash at 1649 41st Avenue in Capitola. This car wash has the identical car wash and dryer system as the proposed project facility. Noise level and acoustic frequency measurements were made on Sunday morning February 12, 2017 using a Larson-Davis 831 Precision Integrating Sound Level Meter.

The noise level measurement methodology included sound level and frequency measurements at distances of 15 ft. from the car wash entrance and exit. Measurements at greater distances from the car wash exit could not be performed due to the background noise levels generated by other activities near the site, such as parking lot sweeping and 41st Avenue and Capitola Avenue traffic.

The average of the total sound levels measured at 15 ft. from the car wash tunnel entrance was 67 dBA for both 4-minute and 5-1/2 minute washes.

The average of the total sound levels measured at 15 ft. from the car wash tunnel exit was 80 dBA for both 4-minute and 5-1/2 minute washes.

The sound attenuation rate from the tunnel entrance to the residences across Hacienda Drive is $20\log(r_1/r_2)$, where r = the measurement distances.

The sound attenuation rate from the tunnel exit to the commercial office building to the west is $28\log(r_1/r_2)$, where r = the measurement distances. The greater attenuation rate is due to the steep angled line-of-sight from the office building to the dryers.

IV. Evaluation of the Noise Exposures

A. Ambient Noise Exposures

To determine the existing lowest (most sensitive) ambient noise environments at the nearby noise sensitive receptor locations, the DNL's for the survey locations were calculated as decibel averages of the measured L_{eq} 's as they apply to the daily subperiods of the DNL index. A nighttime weighting factor was applied to account for the increased human sensitivity to noise during nighttime hours. The DNL was calculated using the standard formula shown in Appendix B and the results are shown in Appendix C.

The results of the calculations reveal that the existing noise exposure at measurement Location 1 at the residence across Hacienda Drive is 65 dB DNL.

The exterior noise exposure at measurement Location 2 is 63 dB DNL. At the setback of the office building, the noise exposure reduces to 60 dB DNL.

B. Project-Generated Noise Exposures

To determine the project-generated noise exposures, the DNL's were calculated by assuming that there are three 4-minute and two 5-1/2-minute car washes per hour during the daytime hours of 7:00 AM to 10:00 PM and seven 4-minute car washes during the nighttime hours of 10:00 PM to 7:00 AM. This equates to 67 daytime car washes and 7 nighttime car washes for a total of 70 car washes over a 24-hour period.

At the most noise impacted residence across Hacienda Drive, the car wash noise level reduces from 67 dBA @ 15 ft. to 49 dBA @ 115 ft. With the five washes per hour scenario, the hourly average noise level is 45 dBA. Two 4-minute washes per hour generates 40 dBA. Thirteen daytime hours of 45 dBA and one daytime hour of 40 dBA plus one nighttime hour of 45 dBA and one nighttime hour of 40 dBA results in a project-generated noise exposure of 45 dB DNL.

Adding the project-generated noise exposure of 45 dB DNL to the ambient noise exposure of 65 dB DNL yields a combined noise exposure of 65 dB DNL. Thus, the project will not add to the existing ambient noise environment at the residences across Hacienda Drive from the site. Noise mitigation measures will not be required.

At the most noise impacted commercial building to the west of the site the car wash noise level reduces from 80 dBA @ 15 ft. to 59 dBA @ 85 ft. With the five washes per hour scenario, the hourly average noise level is 55 dBA. Two 4-minute washes per hour generates 50 dBA. Thirteen daytime hours of 55 dBA and one daytime hour of 50 dBA plus one nighttime hour of 55 dBA and one nighttime hour of 50 dBA results in a project-generated noise exposure of 55 dB DNL.

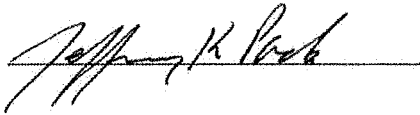
Adding the project-generated noise exposure of 55 dB DNL to the ambient noise exposure of 60 dB DNL yields a combined noise exposure of 62 dB DNL. Thus, the project will add 2 decibels to the existing ambient noise environment at the commercial building to the west. Noise mitigation measures will not be required.

The above report presents a noise assessment study for the planned Hacienda Shell car wash at 1 Hacienda Drive in Scotts Valley. The study findings for present conditions are based on field measurements and other data and are correct to the best of our knowledge. Future noise exposures were based on information provided by the project sponsor. However, significant deviations in the future operational scenario, changes in car wash equipment technology, noise regulations, or other future changes beyond our control may produce long-range noise results different from our estimates.

If you have any questions or would like an elaboration on this report, please call me.

Sincerely,

EDWARD L. PACK ASSOC., INC.

A handwritten signature in dark ink, appearing to read "Jeffrey K. Pack", is written over a horizontal line.

Jeffrey K. Pack
President

Attachments: Appendices A, B, and C

APPENDIX A

References:

- (a) Site Plan, by Ruggeri, Jensen, Azar, Inc., undated
- (b) Noise Element of the General Plan, City of Scotts Valley, 1993
- (c) Information on the Car Wash Operations Provided by Mr. John Castelo, Peninsula Petroleum, LLC, by email to Edward L. Pack Associates, Inc., February 8, 2017

APPENDIX B

Noise Standards, Terminology and Instrumentation

1. Noise Standards

A. City of Scotts Valley Noise Element Standards

The Noise Element of the Scotts Valley General Plan specifies the use of the Day-Night Level (DNL) 24-hour noise descriptor to describe the noise environment for residential land use.

The noise standards specify a limit of 60 dB DNL for exterior areas at residential locations. For interior living spaces of residences, a limit of 45 dB DNL is specified.

Table 3 from the Noise Element regarding noise level increases is provided below.

TABLE 3				
Noise Increase Standards				
Proposed New Use/Location of dBA Reading	Maximum Noise Increase in dBA adjacent to Existing:			
	Sensitive	Residential	Commercial	Industrial
Sensitive @ Prop. Line	3	5	5	5
50' from Prop. Line	3	3	--	--
Residential @ Prop. Line	3	5	5	5
50' from Prop. Line	3	3	--	--
Commercial @ Prop. Line	3	5	5	5
50' from Prop. Line	3	3	--	--
Industrial @ Prop. Line	3	5	5	7
50' from Prop. Line	3	3	--	--

2. Terminology

A. Statistical Noise Levels

Due to the fluctuating character of urban traffic noise, statistical procedures are needed to provide an adequate description of the environment. A series of statistical descriptors have been developed which represent the noise levels exceeded a given percentage of the time. These descriptors are obtained by direct readout of the Sound Level Meters. Some of the statistical levels used to describe community noise are defined as follows:

- L_1 - A noise level exceeded for 1% of the time.
- L_{10} - A noise level exceeded for 10% of the time, considered to be an "intrusive" level.
- L_{50} - The noise level exceeded 50% of the time representing the "mean" sound level.
- L_{90} - The noise level exceeded 90 % of the time, designated as a "background" noise level.
- L_{eq} - The continuous equivalent-energy level is that level of a steady-state noise having the same sound energy as a given time-varying noise. The L_{eq} represents the decibel level of the time-averaged value of sound energy or sound pressure squared and is used to calculate the DNL and CNEL.

B. Day-Night Level (DNL)

Noise levels utilized in the standards are described in terms of the Day-Night Level (DNL). The DNL rating is determined by the cumulative noise exposures occurring over a 24-hour day in terms of A-Weighted sound energy. The 24-hour day is divided into two subperiods for the DNL index, i.e., the daytime period from 7:00 a.m. to 10:00 p.m., and the nighttime period from 10:00 p.m. to 7:00 a.m. A 10 dB weighting factor is applied (added) to the noise levels occurring during the nighttime period to account for the greater sensitivity of people to noise during these hours. The DNL is calculated from the measured L_{eq} in accordance with the following mathematical formula:

$$DNL = \left[\left[(10 \log_{10}(10^{\sum L_{eq}(7-10)})) \times 15 \right] + \left[((10 \log_{10}(10^{\sum L_{eq}(10-7)})) + 10) \times 9 \right] \right] / 24$$

C. A-Weighted Sound Level

The decibel measure of the sound level utilizing the "A" weighted network of a sound level meter is referred to as "dBA". The "A" weighting is the accepted standard weighting system used when noise is measured and recorded for the purpose of determining total noise levels and conducting statistical analyses of the environment so that the output correlates well with the response of the human ear.

3. Instrumentation

The on-site field measurement data were acquired by the use of one or more of the sound analyzer listed below. The instrumentation provides a direct readout of the L exceedance statistical levels including the equivalent-energy level (L_{eq}). Input to the meters was provided by microphones extended to a height of 5 ft. above the ground. The "A" weighting network and the "Fast" response setting of the meters were used in conformance with the applicable standards. The Larson-Davis meters were factory modified to conform to the Type 1 performance standards of ANSI S1.4. All instrumentation was acoustically calibrated before and after field tests to assure accuracy.

Bruel & Kjaer 2231 Precision Integrating Sound Level Meter

Larson Davis LDL 812 Precision Integrating Sound Level Meter

Larson Davis 2900 Real Time Analyzer

Larson Davis 831 Precision Integrating Sound Level Meter

APPENDIX C

On-Site Noise Measurement Data and Calculation Tables

DNL CALCULATIONS

CLIENT: PENINSULA PETROLEUM
 FILE: 49-006
 PROJECT: HACIENDA CAR WASH
 DATE: 2/12-13/2017
 SOURCE: AMBIENT

LOCATION 1 Hacienda Dr. Residential			
TIME	Leq	10 ⁿ Leq/10	
7:00 AM	61.3	1348962.9	
8:00 AM	60.1	1023293.0	
9:00 AM	60.1	1023293.0	
10:00 AM	60.5	1122018.5	
11:00 AM	62.5	1778279.4	
12:00 PM	61.5	1412537.5	
1:00 PM	61.2	1318256.7	
2:00 PM	63.0	1995262.3	
3:00 PM	63.5	2238721.1	
4:00 PM	62.5	1778279.4	
5:00 PM	64.1	2570395.8	
6:00 PM	64.0	2511886.4	
7:00 PM	62.4	1737800.8	
8:00 PM	62.6	1819700.9	
9:00 PM	58.0	630957.3	SUM= 24309645
10:00 PM	55.2	331131.1	Ld= 73.9
11:00 PM	52.8	190546.1	
12:00 AM	50.7	117489.8	
1:00 AM	51.9	154881.7	
2:00 AM	48.5	70794.6	
3:00 AM	48.4	69183.1	
4:00 AM	52.7	186208.7	
5:00 AM	58.1	645654.2	
6:00 AM	64.6	2884031.5	SUM= 4649921
		Ln=	66.7
Daytime Level=		73.9	
Nighttime Level=		76.7	
DNL=		65	
24-Hour Leq=		60.8	

LOCATION 2 Commercial Prop Line			
TIME	Leq	10 ⁿ Leq/10	
7:00 AM	57.3	537031.8	
8:00 AM	60.1	1023293.0	
9:00 AM	58.9	776247.1	
10:00 AM	59.4	870963.6	
11:00 AM	60.6	1148153.6	
12:00 PM	59.5	891250.9	
1:00 PM	59.8	954992.6	
2:00 PM	61.2	1318256.7	
3:00 PM	60.7	1174897.6	
4:00 PM	59.7	933254.3	
5:00 PM	61.0	1258925.4	
6:00 PM	61.2	1318256.7	
7:00 PM	59.3	851138.0	
8:00 PM	60.2	1047128.5	
9:00 PM	56.5	446683.6	SUM= 14550474
10:00 PM	54.7	295120.9	Ld= 71.6
11:00 PM	52.1	162181.0	
12:00 AM	50.4	109647.8	
1:00 AM	47.9	61659.5	
2:00 AM	47.5	56234.1	
3:00 AM	49.7	93325.4	
4:00 AM	52.9	194984.5	
5:00 AM	58.2	660693.4	
6:00 AM	62.9	1949844.6	SUM= 3583691
		Ln=	65.5
Daytime Level=		71.6	
Nighttime Level=		75.5	
DNL=		63	
24-Hour Leq=		58.8	

DNL CALCULATIONS

CLIENT: PENINSULA PETROLEUM
 FILE: 49-006
 PROJECT: HACIENDA CAR WASH
 DATE: 2/17/2017
 SOURCE: PROJECT-GENERATED

LOCATION 1 Hacienda Dr. Residence			
Dist. To Source 115 ft.			
TIME	Leg	10 ⁶ Leg/10	
7:00 AM	44.8	30199.5	
8:00 AM	44.8	30199.5	
9:00 AM	44.8	30199.5	
10:00 AM	44.8	30199.5	
11:00 AM	44.8	30199.5	
12:00 PM	44.8	30199.5	
1:00 PM	44.8	30199.5	
2:00 PM	44.8	30199.5	
3:00 PM	44.8	30199.5	
4:00 PM	44.8	30199.5	
5:00 AM	44.8	30199.5	
6:00 AM	44.8	30199.5	
7:00 PM	44.8	30199.5	
8:00 PM	40.3	10715.2	
9:00 PM		1.0 SUM=	403310
10:00 PM		1.0 Ld=	56.1
11:00 PM		1.0	
12:00 AM	40.3	10715.2	
1:00 AM	44.8	30199.5	
2:00 AM		1.0	
3:00 AM		1.0	
4:00 AM		1.0	
5:00 AM		1.0	
6:00 AM		1.0 SUM=	40922
		Ld=	46.1
Daytime Level=		56.1	
Nighttime Level=		56.1	
DNL=		45	
24-Hour Leg=		42.7	

LOCATION 2 Commercial Building			
Dist. To Source 85 ft.			
TIME	Leg	10 ⁶ Leg/10	
7:00 AM	54.8	301995.2	
8:00 AM	54.8	301995.2	
9:00 AM	54.8	301995.2	
10:00 AM	54.8	301995.2	
11:00 AM	54.8	301995.2	
12:00 PM	54.8	301995.2	
1:00 PM	54.8	301995.2	
2:00 PM	54.8	301995.2	
3:00 PM	54.8	301995.2	
4:00 PM	54.8	301995.2	
5:00 AM	54.8	301995.2	
6:00 AM	54.8	301995.2	
7:00 PM	54.8	301995.2	
8:00 PM	50.3	107151.9	
9:00 PM		1.0 SUM=	4033090
10:00 PM		1.0 Ld=	66.1
11:00 PM		1.0	
12:00 AM	50.3	107151.9	
1:00 AM	54.8	301995.2	
2:00 AM		1.0	
3:00 AM		1.0	
4:00 AM		1.0	
5:00 AM		1.0	
6:00 AM		1.0 SUM=	409154
		Ld=	56.1
Daytime Level=		66.1	
Nighttime Level=		66.1	
DNL=		55	
24-Hour Leg=		52.7	

STAFF REPORT

Applicant / Owner: Nannette Benedict

Applications: Design Review DR17-009

Location: 5015 Scotts Valley Drive // APN:022-922-02

General Plan/Zoning: Commercial Service (C-S)

Environmental Status: Categorically Exempt from California Environmental Quality Act (CEQA), under Section 15301, Class 1, Existing Facilities

Request: Consideration of a Design Review to install a freestanding sculpture display of outdoor public art.

Staff Planner: Brenda Stevens / Assistant Planner

STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve Design Review DR17-009, by adopting the attached resolution and conditions in Exhibit A.

PROJECT DESCRIPTION

The subject property is located at 5015 Scotts Valley Drive, in the City's Commercial Service (C-S) Zoning District (see Location Map; Attachment 1). The property is known as the Woodside Development and is a mixed use Planned Development with three commercial buildings fronting Scotts Valley Drive and 49 single family dwellings to the rear of the property. The applicant owns the one commercial building located at the northern end of the property and operates a dental practice within the building. The applicant has provided staff with written approval from the "Woodside At Scotts Valley Commercial Center Association."

PROJECT DISCUSSION

The applicant is requesting to display a public art sculpture in an outdoor public space. Per the Scotts Valley General Plan and per Section 17.20.050 of the Scotts Valley Municipal Code (SVMC), "architectural review" is required by the Planning Commission. The project shall be reviewed for how it relates to the zoning district regulations under design review.

Location

The proposed sculpture would be located outside, near the parking lot closest to the 5015 commercial building. It would be placed behind the fence that abuts the Scotts Valley Drive sidewalk. The sculpture is proposed to be installed in the drainage swale (Attachment 1- Location Map).

Sculpture

The art piece consist of a freestanding, three dimensional sculpture created by local artist Bernie Jestrabek-Hart. The sculpture is designed in two pieces, a life-sized mare and her foal. The overall size is approximately 5'8" tall x 8' long x 2' wide. The materials are metal for the mare and aluminum for the foal. Proposed colors are brown metal for the mare and powdered silver aluminum for the foal (Attachment 2 - Photo).

Installation

Installation drawing details were not include in the application submittal. The installer, metal creator, Curry Collier, proposes to place the sculpture horses on concrete piers and weld the sculpture with rebar. The proposal is to place four, six inch diameter concrete post four feet underground. The feet of the mare would be welded to platform level with the parking lot. The foal's feet would require attachment by the installation of two concrete posts. Given that there are no plans to review, detailing the installation specifications and that the location is within a drainage swale, staff has discussed potential concerns of drainage interference or pipe damage with the Public Works Department. Public Works staff conducted a site visit and determined that the drainage swale is at a depth of 2.5-3 feet and it's the installers intention to dig 3-4 feet deep. Therefore, there is concern of potential damage to the drainage system. Condition No. 8 has been included to address this concern in an effort to avoid any damage to pipe or other equipment.

Maintenance

In the event that the sculpture is the target of vandalism in the way of graffiti or other random acts of malice, staff has conditioned that the owner restore the sculpture to it's original appearance within a 24 hour period (Condition No 9).

ATTACHMENTS

PAGE No.

Resolution No. _____ to approve DR17-009 (Action Item)

1. Location Map 7
2. Photos of art and installation location (Attached - 3 pages)

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SCOTTS VALLEY APPROVING DESIGN REVIEW DR17-009 TO INSTALL A FREESTANDING OUTDOOR PUBLIC ART SCULPTURE IN THE COMMERCIAL SERVICE (C-S) ZONING DISTRICT AT 5015 SCOTTS VALLEY DRIVE // APN 022-922-02.

WHEREAS, the Planning Department of the City of Scotts Valley has received the application filed by Nannette Benedict for Design Review DR17-009 to install public art in an outside public space with a life-sized metal sculpture of a horse and foal in the Commercial (C-S) Zoning District at 5015 Scotts Valley Drive // APN 022-922-02.

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, the project is Categorically Exempt from the California Environmental Quality Act, under Section 15301, Class 1, Existing Facilities; and,

WHEREAS, the Conditional Use Permit Application was reviewed by the Planning Commission at a duly noticed public hearing on August 17, 2017; and,

NOW THEREFORE, the Planning Commission of the City of Scotts Valley hereby resolves as follows:

SECTION 1: The environmental determination represents the independent judgement of the City.

SECTION 2: The categorical exemption is hereby approved.

SECTION 3: The Planning Commission of the City of Scotts Valley does hereby specifically make the following findings as required by Section 17.20 of the Scotts Valley Municipal Code, and as further clarified in the staff report dated August 17, 2017,

1. *The siting of the structure on the site as compared with the siting of other structures in the immediate neighborhood is appropriate.* The siting of the sculpture will be unobtrusive as seen from the street view and will compliment the design features of the commercial buildings while providing public art near the building entrance.
2. *The materials, colors, proportion, mass and details of the exterior improvements are in good proportion, have simplicity of mass and detail and are compatible with the appearance of the surrounding structures.* The materials, colors, proportion, mass and details of the sculpture will be compatible with the surrounding commercial buildings.

SECTION 4: After careful consideration of the Design Review 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 of the City of Scotts Valley does hereby approve Design Review DR17-009 at 5015 Scotts Valley Drive (APN 022-922-02), subject to the conditions set forth in the attached Exhibit A, which are incorporated herein by this reference.

SECTION 5: Design Review DR17-009 shall lapse and shall become void twelve (12) months from the date of this resolution unless prior to the expiration date, installation of the sculpture has commenced, or an extension of this approval is granted by the Community Development Director.

THE ABOVE AND FOREGOING RESOLUTION was duly adopted and passed by the Planning Commission of the City of Scotts Valley at a regularly scheduled meeting held on the 17th day of August 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

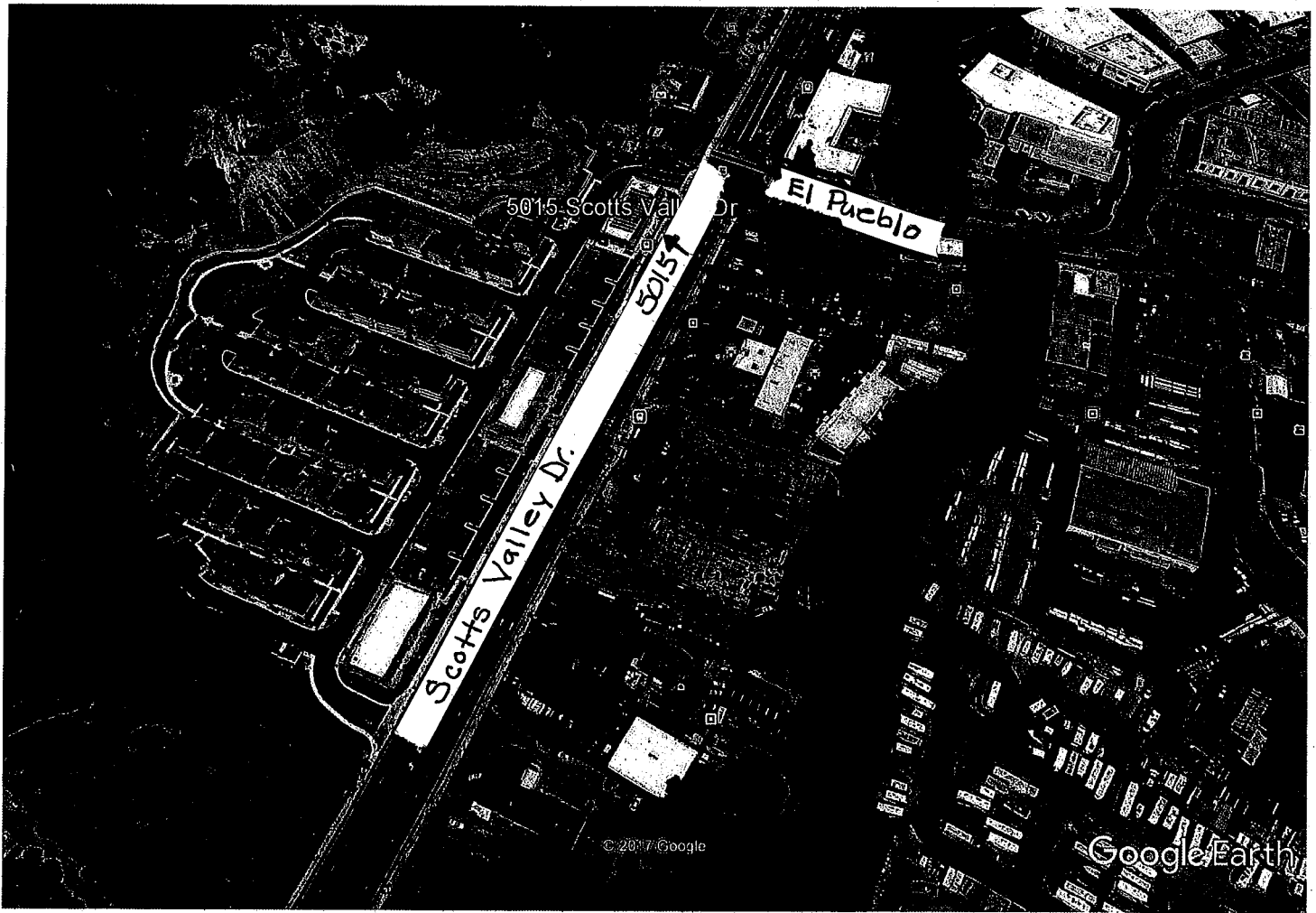
Derek Timm, Chair

Taylor Bateman, Acting Community Dev. Director

EXHIBIT A

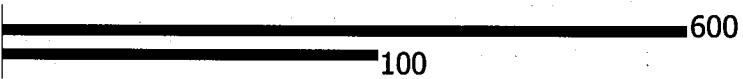
Conditions of Approval (Nos. 1-x)

1. The 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 owner of any such claim, action or proceeding and shall fully cooperate in defense.
2. The sculpture shall not obstruct the ADA path of travel at any time.
3. The existing landscaping shall remain and be maintained.
4. All colors, materials, size, height and location of the sculpture shall be maintained as approved; any changes to the approved drawing/photos/location may require approval by the Planning Commission.
5. All necessary permits shall be obtained and appropriate fees shall be paid prior to installation of the sculpture.
6. Complete drawings showing installation details shall be submitted with the building permit application.
7. The final installation design shall be reviewed and approved by the Director of Public Works.
8. In the event that any pipe or equipment is damaged, punctured or blocked in the installation process or due to the sitting of the sculpture overtime, the owner shall be responsible for repairing and or replacing damaged equipment.
9. In the event that the sculpture is the target of vandalism, graffiti or other random acts of malice, the owner shall restore the sculpture to its original appearance within a 48 hour period.



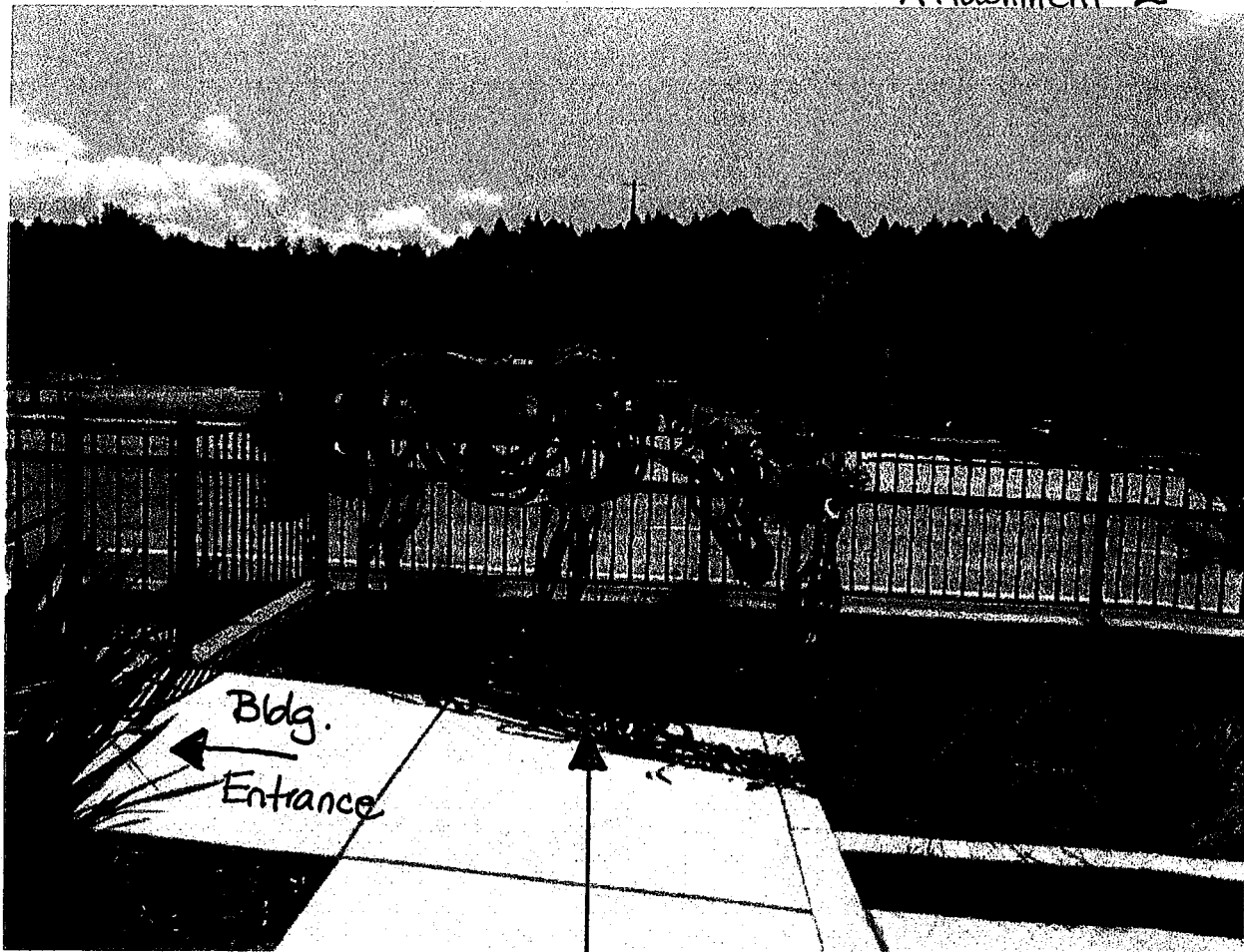
Google Earth

feet
meters



5015 Scotts Valley Drive
Location Map





Approx. location

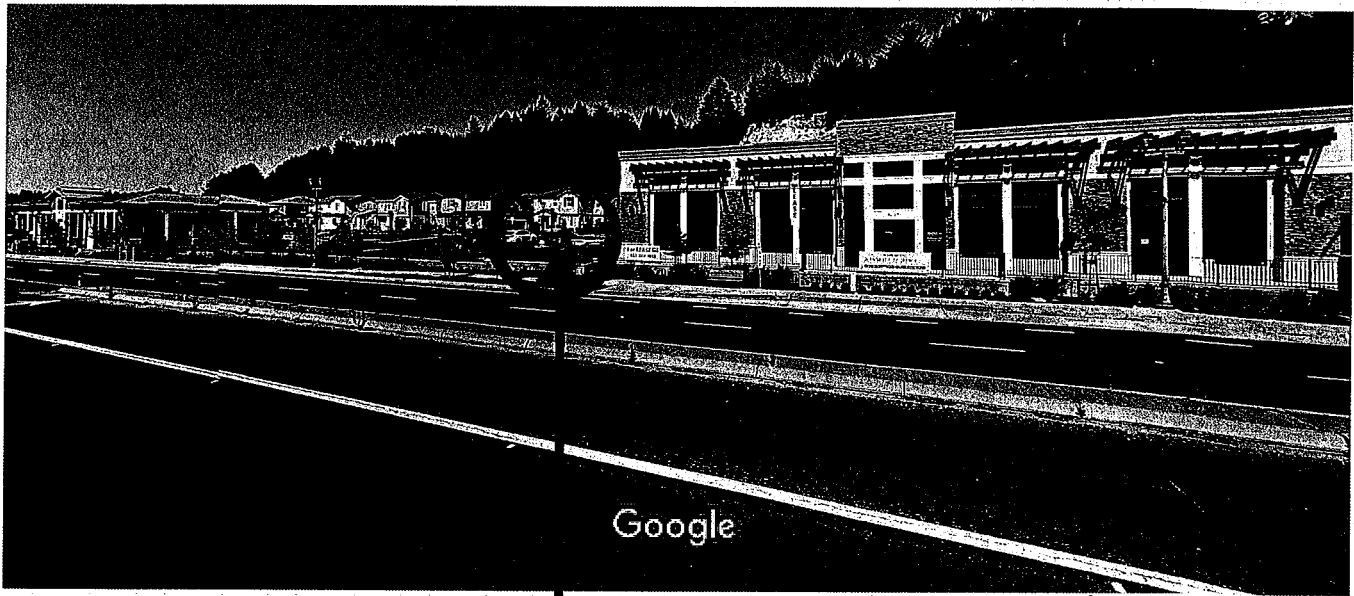
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AUG - 1 2017

CITY OF SCOTTS VALLEY

Google Maps

Scotts Valley Dr

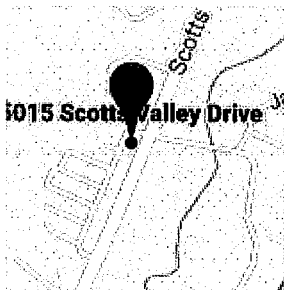


5015 Scotts Valley Dr.

Image capture: May 2015 © 2017 Google United States

Scotts Valley, California

Street View - May 2015



Approx. location