

**CITY OF SCOTTS VALLEY  
PLANNING COMMISSION  
AGENDA**

**DATE/TIME:**

Thursday, September 10, 2009  
6:00 p.m.

**MEETING LOCATION:**

One Civic Center Drive  
Scotts Valley

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

**ROLL CALL**

**POSTING:** This agenda was  
Posted on 09/2/09.

**ORAL COMMUNICATIONS:** *This portion of the agenda is reserved for discussion by the public of items which are NOT on the agenda. No action may be taken by the Commission. It is in the best interest of the person speaking to the Commission to be concise and to the point. All speakers are requested to sign their names at the podium so that their names may be accurately recorded in the minutes of the meeting.*

**ALTERATIONS TO CONSENT AGENDA:** *The Commission may remove or add items on the Consent Agenda.*

**CONSENT AGENDA:** *These items will be acted upon in one motion unless they are removed from the consent agenda for discussion by the Commission.*

- 1) Planning Commission Minutes: August 13, 2009

**ALTERATIONS TO REGULAR OR PUBLIC HEARING AGENDA:** *The Commission may remove, add, or re-arrange items on the Public Hearing or Regular agenda.*

**REGULAR AGENDA:** None.

**PUBLIC HEARING AGENDA:**

- 2) **Address:** 18 Victor Square / APN 022-042-34  
**Applicant:** Jason Revino  
**Planning Permit Applications:** U06-013.2, DR09-007  
**Project Description:** Consideration of an amendment to a Use Permit U06-013.1 and Design Review to allow an expansion of 1,200 square feet for a new bar and additional seating in an existing restaurant (Jia Tellas Cambodian Cuisine) which is located in the Scotts Valley Junction shopping center.  
**Staff Planner:** SP Taylor Bateman, (831)440-5633

***This item is to be continued to the September 24, 2009, Planning Commission Meeting***

- 3) **Address:** 6014 Scotts Valley Drive / APN 023-151-05  
**Applicant / Property Owner:** Stantec Consulting / BC&N, Inc.  
**Planning Permit Applications:** U09-005, DR09-005, DR09-006  
**Project Description:** Consideration of a Use Permit and Design Reviews to demolish the former Scotts Valley Diner building and build a 24-hour drive-thru "Jack-in-the-Box" restaurant, with new signage, landscaping, and related property improvements in the C-S zone.  
**Staff Planner:** Michelle Fodge (831) 440-5632 or [mfodge@scottsvalley.org](mailto:mfodge@scottsvalley.org).

**DISCUSSION ITEMS:** None

**FUTURE AGENDA ITEMS:** None.

**WRITTEN COMMUNICATIONS - FOR INFORMATION ONLY:** City Council Minutes (if available)

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

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**City of Scotts Valley**  
**PLANNING COMMISSION**  
**MEETING MINUTES**

**MEETING DATE/TIME:** Thursday, August 13, 2009 at 6:00 p.m.

**DATE APPEAL PERIOD ENDS:** Thursday, August 27, 2009 at 5:00 p.m.

**LOCATION:**  
City Hall  
One Civic Center Drive, Scotts Valley

**POSTING:** The agenda for  
this meeting was posted at City  
Hall on 8/4/09 by Planning staff.

**CALL TO ORDER:** Chair Muth called the meeting to order at 6:03 p.m.

**ROLL CALL:** Present: Commissioners Muth, Heald, Bassett, Bowen.  
and Patterson.  
Staff: ICDD Westman, SP Bateman, AS Schwartz.

**ORAL COMMUNICATIONS:** None.

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

**CONSENT AGENDA:**

1. Planning Commission Minutes: June 25, 2009.

***M/S Heald/Bassett***

***To approve the Minutes as presented.***

***4/0 Carried. Patterson abstain (due to absence).***

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

**REGULAR AGENDA ITEMS:** None.

**PUBLIC HEARING AGENDA ITEMS:**

2. **Address:** 1300/1350 Green Hills Road / APN 024-261-07  
**Applicant/Property Owner:** Paul Broughton  
**Planning Permit Applications:** LD09-001 & U09-004  
**Project Description:** Consideration of a Planning Commission recommendation to the City Council for a Land Division and Use Permit for the condominium

conversion of two new industrial buildings currently under construction.

**Staff Planner:** SP Taylor Bateman, (831)440-5633

SP Bateman gave the project presentation.

**Discussion:**

Chair Muth asked if this would be a Homeowners Association (HOA), or what it will be named. SP Bateman responded that perhaps it will be named a Business Owners Association. Chair Muth asked how this would be legally set-up. ICDD Westman commented that it is probably termed a Property Owners Association. SP Bateman said this would be similar to a condominium association, in that the individual owners own the air space, and share ownership of common areas and the land.

Commissioner Bassett asked what type of use would not be allowed, such as food service. SP Bateman responded that the project will be subject to the Light Industrial zoning regulations. One could not have retail food service, no strictly office use, no restaurant, perhaps a catering type of business.

Chair Muth noted that the plans show spaces in front of each unit that will be dedicated to each unit, yet unit number nine does not appear to have a dedicated space. SP Bateman responded that the plans do show a dedicated space for unit nine - it is mislabeled on the plans. The plans show a patio area and trellis. Chair Muth asked where the plans show parking for unit nine. SP Bateman said it is the cross-hatched area, directly in front of the roll-up door.

Commissioner Bassett said that he feels the site is somewhat isolated, and he is interested in night time lighting. Will it exist, what will it be like? Will the owners' regulations address security after hours, such as an alarm system? SP Batman noted that in the project review of 2007, the Planning Commission approved a lighting plan. The Police Department looked at site security as well. A fencing plan was considered, but ultimately it was concluded that a proper lighting system should suffice. Commissioner Bassett asked if there were discussions with the Police Department for security issues other than lighting, such as an alarm system. SP Bateman responded that there were no other discussions about that.

Chair Muth opened the Public Hearing at 6:13 p.m.

Randy Parker spoke on the matter. He is part owner and real estate broker for the sale of the units. The owner's association will be very similar to a residential condominium complex. It will consist of the unit owners, and their charge will be to maintain the project, primarily through monthly dues. Chair Muth asked if there will be a Board of Directors. Mr. Parker responded that there are a total of nine units, so a fairly small Association. The Association will be formal and it will be recorded, but he expects fairly intimate interactions. Chair Muth asked if it will be subject to standard owners association real estate laws. Mr. Parker stated that he believes it is a little bit different, because it is commercial and not residential.

Commissioner Bowen commented that the more units one owns, the more say one would have in the Association.

Commissioner Heald asked if the units will be owner-occupied only, or rented to tenants? Mr. Parker responded that they currently intend to have the units occupied by the owners, but may rent them out in the future. The Association regulations will give them that option.

Chair Muth closed the Public Hearing at 6:16 p.m.

There was no further discussion of the matter.

**M/S Bassett/Heald**

**To approve Resolution #1591 and the proposed Conditions of Approval.**

**5/0 motion carried.**

**DISCUSSION ITEMS:**

3. Cancellation of August 27<sup>th</sup> Planning Commission meeting.
4. CEQA process.

ICDD Westman noted that years ago Scotts Valley City adopted its own CEQA rules, separate from the State. They are going to do away with these rules, to better conform with the State's rules, which are constantly changing. This change will occur after the Gateway South Retail project is completed. The Planning Commission will hold a public hearing to receive comments during the draft EIR 45-day comment period. The rule is that the Commission can receive comments, but cannot provide responses or comments. The first comment meeting will probably occur in October.

ICDD Westman commented on the foreclosure process of the Gateway South property. It takes about nine months to go through this process. It will not impact the processing of the EIR, or consideration of the project for approval. The applicant, Title Two, has paid application fees to continue application processing. The application is for the use of the site, and not for a particular development project, such as a Target store. If property ownership changes, staff would stop long enough to determine if the new owner wanted to proceed with application processing.

Commissioner Bassett asked if Target is still interested in developing the site. ICDD Westman replied that she doesn't know the current status of Target's commitment.

Chair Muth asked about other projects or applications that are in the works. ICDD Westman mentioned the Polo Ranch Subdivision going to the City Council next week, the Glenwood Open Space Management Plan approval process and status, and noted that the Holiday Inn Express project owner has yet to apply for construction permits.

Chair Muth asked about the status of a Jack-In-The-Box restaurant project. ICDD Westman replied that a Planning Application has been made. The project is proposed on the old Denny's restaurant location.

ICDD Westman mentioned that Bethany University is working on replacing a burned down building. They are currently providing temporary facilities for kitchen and dining services. They hope to build a new replacement building in the near future.

There was also a brief mention of the Town Center project, the Suburban Propane relocation project and the Wescosa property on Mt. Hermon Road, that may involve a health club development project, although no formal development application has been submitted.

The next Planning Commission meeting will be September 10th.

**FUTURE AGENDA ITEMS:** None.

**WRITTEN COMMUNICATIONS - FOR INFORMATION ONLY:** City Council Minutes if available

**The hearing adjourned at 6:31 pm.**

Approved:

\_\_\_\_\_  
Deborah A. Muth, Planning Commission Chair

Attest:

\_\_\_\_\_  
Susan Westman, Interim Community Development Director

# City of Scotts Valley PLANNING COMMISSION STAFF REPORT

**Date:** September 10, 2009

**Applicant:** David Lundy, Stantec Consulting Inc., for Jack-in-the-Box

**Property Owner:** BC & N, Inc.

**Applications:** Use Permit #U09-005  
Design Review #DR09-005  
Sign Design Review #DR09-006 (Planned Sign Program)

**Location / APN:** 6014 Scotts Valley Drive / 023-151-05

**General Plan / Zoning:** Service-Commercial / Service-Commercial C-S

**Environmental Status:** Qualifies for a Categorical Exemption from the California Environmental Quality Act per Section 15303, New commercial construction under 10,000 sq. ft. in urban areas.

**Requested:  
Planning Permits:** Consideration of a Use Permit and Design Reviews to demolish the vacated restaurant building and build a 24-hour drive-thru restaurant with new signage, landscaping, and related property improvements.

**Staff Planner:** Michelle Fodge, AICP, Senior Planner, (831) 440-5632 or [mfodge@scottsvalley.org](mailto:mfodge@scottsvalley.org)



## STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve Use Permit #U09-005, Design Review #DR09-005, and Sign Design Review #DR09-006, by adopting the findings in the attached Resolution subject to Conditions of Approval in Exhibit A.

## KEY ISSUES

Staff have prepared the following key issues for Planning Commission consideration.

1. Whether the proposed 24-hour drive-thru is appropriate next to the hotel; and,
2. Whether additional green-building measures should be required to offset the energy consumption of the proposed fireplace for consistency with the purpose of the City's Green Building Ordinance.

## PROJECT DESCRIPTION

On the 35,035 square-foot property, the project will demolish the vacated restaurant building (3,506 square feet) and build a 24-hour drive-thru restaurant (2,491 square feet) with new landscaping, signage, and related property improvements. Details are summarized in the table below.

| <b>Design Items</b>             | <b>Allowed</b>   | <b>Proposed</b>  | <b>Issues</b>   |
|---------------------------------|--|--|---|
| <b>Access and circulation</b>   | Comply with various regulations, subject to Planning Commission (PC) review. | Keep existing circulation patterns and driveways on the subject property and Chevron property.                     | Conditions require proof of easements to cross Chevron property.  |
| <b>Architecture</b>             | Be consistent with regulations and guidelines, subject to PC review.         | Design uses modern lines with tan and brick painted stucco and rock wainscoating.                                  | None. Project will be compatible with surrounding buildings.  |
| <b>Building coverage</b>        | 45% maximum (15,766 sq. ft.)   | 8% (2,731 sq. ft.)   | None.   |
| <b>Building height</b>          | 35'-0" maximum   | 24'-6"   | None.   |
| <b>Drainage / Hydrology</b>     | Comply with various regulations, subject to Planning Commission (PC) review. | Install bioswale to pretreat water before entering existing dirt and concrete swales.                              | Conditions require an energy dissipater to reduce sedimentation in dirt swale.                                      |
| <b>Fireplace</b>                | Green building regulations call for energy saving features.                  | Build 8' wide x 24' high indoor-outdoor metal fireplace with chimney, which uses 38,000 British thermal units/hour | Key Issue: Whether additional green-building measures should be required to offset energy consumption of fireplace. |
| <b>Fire protection</b>          | Comply with current regulations.   | Comply with requirements.  | Conditions require sprinkler system and new hydrant at street.  |
| <b>Grading</b>                  | Comply with current regulations, subject to review by PC.                    | Minimal grading is proposed because site is fairly flat.   | Conditions require silt fence at rear fence to reduce potential sedimentation into drainage swales.                 |
| <b>Groundwater Infiltration</b> | City policies call for water-conserving features.                            | Increase landscape areas and add a new bioswale for potential infiltration.  | Conditions require curb cuts in landscape planters to allow surface runoff to flow into planters.                   |

| Design Items   | Allowed   | Proposed   | Issues   |
|--|---|--|--|
| <b>Handicapped Accessibility</b>   | Comply with current regulations.  | Increase landing and install walkway to bldg.  | Conditions require upgrading bus stop.   |
| <b>Hours of Operation</b><br><b>Restaurant Drive-thru</b>  | Subject to review by PC.  | 6:00am - 11:00pm<br>24 hours / day   | Conditions require drive-thru to close by 11:00 p.m. each night.   |
| <b>Landscaping</b><br><b>Total amount</b><br><b>Frontage strip</b>   | 10% minimum<br>10-foot wide   | 31%<br>15-29-foot wide   | Conditions replace oak and liquidambar trees with redwood trees for viability.   |
| <b>Lighting (exterior)</b>   | Down-cast lights are encouraged.  | Keep same number of 4 25-foot tall ground-mounted light poles, plus add wall-mounted lights.   | None.  |
| <b>Noise</b>   | Maximum increase of ambient noise level is 5 dBA at property line   | Unknown  | Conditions require confirmation that project will comply before building permit issuance.                                |
| <b>Roof design / materials</b>   | Be compatible with surrounding uses, subject to Planning Commission review.   | Build a flat roof with 5-foot high parapet wall plus 2-foot high screen to screen roof equipment.  | None.  |
| <b>Parking</b>   | 25 spaces minimum   | 35 spaces  | None.  |
| <b>Setbacks</b><br><b>Front</b><br><b>Side</b><br><b>Rear</b>  | 20 feet<br>0 feet<br>0 feet   | 79 feet<br>32+ feet (by hotel side)<br>63 feet   | None.  |
| <b>Signage</b><br><b>Freestanding</b><br><b>Pylon</b><br><b>Wall-mounted</b><br><b>Window</b><br><b>Materials/Colors</b> | <u>Height / Size</u><br>12'-0" / 50 sq. ft.<br>40'-0" / 144 sq. ft.<br>under eave / 75 sq. ft.<br>Not addressed<br>Subject to PC review | <u>Height / Size</u><br>8'-0" / 49 sq. ft.<br>not shown / 100 sq. ft.<br>under eave / 150 sq. ft.<br>n/a / 60 sq. ft.<br>See project plans | Conditions limit pylon height to 40', eliminate one wall-mounted sign, and require 5-foot setback for freestanding sign. |
| <b>Trash Enclosure</b>   | 12' wide x 9' deep  | 16' wide x 14' deep  | None.  |
| <b>Tree removal</b>  | Removal and replacement is subject to review by PC.   | Remove one 18" pine and 3 ornamental trees, and replace with 21 trees and other plants.  | Conditions require tree protection measures and City Arborist review and inspections.                                    |
| <b>Utilities</b>   | Install underground.  | Install utilities underground.   | None.  |

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**DISCUSSION AND ANALYSIS**

Staff have routed the project plans to the Building Official, Public Works Director, Police Department, and local Fire and Water Districts for comment. Staff have prepared the following discussion and analysis for Planning Commission consideration:

1. **Use Permit:** Restaurants in the C-S zone require Use Permit approval by the Planning Commission. The permit process evaluates whether the proposed use is appropriate and how any negative impacts to surrounding uses may be avoided or minimized.

| Direction | Zoning District | Existing Uses                  | Address  | Land Use Compatibility  |
|-----------|-----------------|--------------------------------|--|---|
| North     | C-S             | Best Western Hotel             | 6020 Scotts Valley Dr.                           | Uncertain. Noise from proposed 24-hour drive-thru may negatively affect existing hotel. |
| South     | C-S             | Chevron Station<br>Café Carlos | 6012 Scotts Valley Dr.<br>6016 Scotts Valley Dr. | Compatible. Restaurant has operated on site since 1971.                                 |
| East      | n/a             | Highway 17                     | n/a  | Compatible.   |
| West      | R-M-6           | Mobile-home park               | 6011 Scotts Valley Dr.                           | Should be compatible.   |

- A. **Key Issue #1: Whether the proposed 24-hour drive-thru is appropriate next to the hotel.** The restaurant building will be located 32'-7" from the north property line, which is an improvement from the existing building located 10' from the property line. Part of the hotel's south wing will be located 50 feet from the speaker board (menu sign) and 40 feet to the restaurant building. Noise from idling cars and the speaker board will create noise that may disturb hotel guests. Although the project proposes to plant a dense row of juniper shrubs and other landscaping between the drive-thru and hotel, it is uncertain if a 24-hour drive-thru is appropriate.

Staff asked the applicant about flipping the layout to locate the drive-thru near Chevron. The applicant explained that stacking for the drive-thru functions best away from the street, as proposed. Also, a flipped design could interfere with an existing access easement provided to Carlos Café.

**Staff Recommendation:** To promote land use compatibility between the drive-thru and adjacent hotel, conditions require the drive-thru to close at 10 p.m. each night, while the restaurant may stay later (*see pages 7-8; findings*). A different option would be to allow a 24-hour drive-thru and reduce the drive-thru hours if noise presents a problem for the hotel. Another option is to require the restaurant and drive-thru to close at the same time.

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- B. Key Issue #2: Whether additional green-building measures should be required to offset the energy consumption of the proposed fireplace for consistency with the purpose of the City's Green Building Ordinance.** The new Jack-in-the-Box restaurant designs include fireplaces. The project includes a metal indoor-outdoor fireplace and chimney. The width is 8 feet while the height is 24 feet, while energy consumption will be 38,000 British thermal units per hour (BTUH).

A British thermal unit (BTU) is the precise measure of the heat content of fuels. It is the quantity of heat required to raise the temperature of one pound of liquid water by 1° Fahrenheit at the temperature that water has its greatest density at 39°. For comparison, one BTU is approximately equal to the energy released in the burning of a wood match, while one million BTU equals about 8 gallons of motor gasoline. A BTUH is defined as the number of BTU's lost (heat loss or air conditioning), or provided (heat for a building) in one hour.

**Staff Recommendation:** One of the purposes of the City's Green Building Ordinance is to use resources efficiently and to reduce energy consumption. Staff asked the applicant there are any energy alternatives for the fireplace. The applicants replied that the:

- Gas load for the restaurant will be 1,357,000 BTUH;
- Fireplace will account for 2.8% of the total gas load if used during all hours of operation (6:00 a.m. - 11:00 p.m.);
- Fireplace will be used in colder months to create a warm atmosphere in the dining room; and,
- Likely gas load will be 1.5% of total restaurant consumption.

Therefore, the 1.5% gas load implies that the fireplace will operate for half of the time that the restaurant is open.

For building permit issuance, standard conditions require new commercial construction to reach at least 7 green building points. However, to offset the energy consumption of the fireplace, staff recommends that the additional green features be required such as the silver level of design.

- 2. Design Review for Building:** New commercial construction requires Design Review approval by the Planning Commission. Seven of the eight design review standards apply to the project. The design of the building, landscaping, lighting, and related property improvements will greatly enhance the appearance of the underused site. As conditioned, the project is consistent with the design review standards (see pages 8-9; *Design Review findings*).
- 3. Design Review for Signage:** New signage requires Design Review approval by the Planning Commission. A Planned Sign Program (PSP) allows more signage and larger signs where conditions warrant – to encourage high quality signs that will enhance the character or value of the community. Overall, the signage design are of good quality and design per standards (see pages 9-10; *findings*). 5

**FINDINGS**

Based on staff's analysis and recommended conditions of approval in Exhibit A, staff believes that the required findings can be made as listed in the attached Resolution (see pages 7-10; Resolution with findings).

**ATTACHMENTS**

**PAGE NO.**

Resolution to Approve: (Action Item) ..... 7  
    Use Permit #U09-005  
    Design Review #DR09-005  
    Sign Design Review #DR09-006 (Planned Sign Program)

Exhibit A – Conditions of Approval ..... 11

Project plans ..... \* Attached

\* *Please note that the project plans are only provided in the Planning Commission packets. However, the project plans 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.*

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

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SCOTTS VALLEY APPROVING USE PERMIT #U09-005, DESIGN REVIEW #DR09-005, AND SIGN DESIGN REVIEW #DR09-006 TO DEMOLISH THE VACATED RESTAURANT BUILDING AND BUILD A DRIVE-THRU RESTAURANT WITH NEW SIGNAGE, LANDSCAPING, AND RELATED PROPERTY IMPROVEMENTS AT 6014 SCOTTS VALLEY DRIVE / APN 023-151-05.**

WHEREAS, the Planning Department of the City of Scotts Valley has received the applications filed by David Lundy of Stantec Consulting, Inc., for Jack-in-the-Box, on behalf of the property owner BC & N, Inc., to demolish the former Scotts Valley Diner building and build a drive-thru Jack-in-the-Box restaurant with new landscaping, signage, and related property improvements at 6014 Scotts Valley Drive / APN 023-151-05.

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 exempt from environment review and qualifies for a Categorical Exemption from the CEQA under Section 15303, New construction of commercial buildings under 10,000 square feet in urbanized areas;

WHEREAS, the project was reviewed by the Planning Commission at regularly scheduled and noticed meeting on Thursday, September 10, 2009.

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 approve Use Permit #U09-005 subject to attached conditions in Exhibit A, based on the following findings:

- 1. The location of the drive-thru restaurant is in accordance with the objectives of the zoning ordinance and the purposes of the zoning district in which the site is located.*** The subject property is located in the City's Service-Commercial ( C-S) zoning district which allows a broad base of commercial uses. Since 1971, other restaurants have operated on the site, which were compatible with the adjacent hotel, gas station, and restaurant. As conditioned, the project meets the requirements of this finding in that the restaurant will be similar to previous restaurants which have existed on site.

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2. ***The establishment, maintenance or operation of the drive-thru restaurant 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 restaurant or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.*** The proposed use meets the requirements of this finding in that the drive-thru will close at 11:00 PM each night to minimize potential noise impacts to the adjacent hotel, located 50 feet from the speaker board (menu sign) and 40 feet to the restaurant building at the closest point. Conditions allow the hours of operation to be reduced if noise presents a problem in the future.

SECTION 4: That the Planning Commission does hereby approve Design Review #DR09-005 and Sign Design Review #DR09-006 (Planned Sign Program), subject to the attached conditions Exhibit A, based on the following findings:

3. ***The siting of any structure on the property as compared to the siting of other structures in the immediate neighborhood is appropriate.*** The project meets the requirements of this finding in that the restaurant will be sited in a similar arrangement as other commercial buildings in the immediate vicinity. The project will provide an increase in the left (north) side yard setback from 10' to 32'-7", to provide room for new landscaping to buffer noise from the restaurant and drive-thru operations that may affect the adjacent hotel.
4. ***The materials, colors, proportion, mass and detail of all structures shall be in good proportion, have simplicity of mass and detail and be compatible in appearance with surrounding structures. There shall be an appropriate use of materials. Colors shall be appropriate within the context of use and should blend with surrounding structures.*** The project meets the requirements of this finding in that site planning and architecture are well-designed and appropriate as a redevelopment project on the City's second major commercial arterial. Exterior materials, colors, and finishes will be quality products that will visually enhance the underused site. All rooftop equipment will be screened from street views. The design of the trash enclosure will relate to the building.
5. ***The size, location, design, color, number, lighting and materials of all signs and outdoor advertising structures shall be appropriate to the site and building design. No sign shall be approved in excess of the maximum limits set by this title, but the size or number of signs in any area subject to design control may be reduced below this maximum number or limit.*** The project meets the requirements of this finding in that the Planned Sign Program (consisting of the project plans) will allow the proposed number and square footage amounts of some of the signs.



6. **Landscaping and irrigation plans shall be required on the site. Landscaping shall be in keeping with the character or design of the building. Existing trees shall be preserved wherever possible.** The project meets the requirements of this finding in that the project will use recycled water for landscaping and will provide 21 trees to replace the four that will be removed. Conditions require the developer to replace oak and liquidambar trees with redwood trees for better long-term viability. The project will increase the amount of landscaped areas, some of which will filter surface water runoff before entering the existing drainage channel located to the south, parallel to Highway 17. Conditions require the developer to have a registered arborist prepare tree protection measures for trees to remain. The City Arborist will inspect measures and the trees, consistent with the City's Tree Preservation Regulations.
7. **The size, location and arrangement of on-site parking and paved areas shall be appropriate.** The project meets the requirements of this finding in that the project will provide a surplus of 10 parking spaces. The layout of paved surfaces will allow for efficient on-site circulation and off-site circulation with the two adjacent commercial properties to the south (gas station and restaurant).
8. **For ingress, egress and internal traffic circulation, all the above factors shall be related to the setting or established character of the neighborhood or surrounding area.** The project meets the requirements of this finding in that the existing access driveway on Scotts Valley Drive and on-site and off-site circulation patterns will remain. Conditions require the developer to upgrade the existing bus stop to current standards for handicapped accessibility.
9. **For fences and walls over eight feet tall or fences over three feet tall in front yards when across from Hwy 17, consider height and access to sunlight, setbacks, landscaping and use of materials for articulation and visual relief.** The project meets the requirements of this finding in that the project does not include any new fences or walls.

SECTION 5: That the Planning Commission does hereby approve Sign Design Review #DR09-006 (Planned Sign Program), subject to the attached conditions Exhibit A, based on the following findings:

10. **The signs serve primarily to identify the business or the activity conducted on the premises, or identifies the product or service offered thereon.** The project meets the requirement of this finding in that all signs relate to the restaurant and its drive-thru located on the subject property.
11. **The signs are located on the property, or within the contiguous right-of-way.** As conditioned, all signs are located on the subject property or within the contiguous right-of-way as allowed in the City's Municipal Code. Conditions require the monument sign to be relocated a minimum of five feet from the back edge of the sidewalk.

12. ***The signs are harmonious with the materials, color, texture, size, shape, height, location and design of the building, landscaping, property and environment of which it is a part.*** The project meets the requirement of this finding in that the signs use quality materials and are well-designed in and of themselves. To be consistent with the Sign Design Review criterion that calls for sign sizes to be harmonious with the building, property, and the environment of which it is a part, conditions of approval require the developer to eliminate the wall-mounted sign located on the left (north) elevation to reduce light/glare facing the hotel. The Planned Sign Program allows the number and square footage amounts, as conditioned in Exhibit A. The directional signs will help on-site circulation regarding site entrances and the drive-thru location.

SECTION 6: After careful consideration of the application and related materials, plans, maps, facts, exhibits, staff reports, minutes, 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 #U09-005, Design Review #DR09-005, and Sign Design Review #DR09-006 to demolish the vacated restaurant building and build a drive-thru restaurant with new landscaping, signage, and related property improvements at 6014 Scotts Valley Drive / APN 023-151-05, subject to conditions set forth in the attached Exhibit A, which are attached hereto and incorporated herein by this reference.

SECTION 7: Use Permit #U09-005, Design Review #DR09-005, and Sign Design Review #DR09-006 shall lapse and shall become void two (2) years after the date of this resolution unless prior to the expiration date a building permit is issued by the Building Division and construction is commenced and diligently pursued toward completion, or an extension of this approval is granted by the Planning Commission.

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 September 10, 2009, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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Deborah A. Muth, Chair

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Susan Westman, Community Development Director

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## **Exhibit A Conditions of Approval (#1 - #53)**

### **STANDARD/LEGAL**

1. The property owner, applicant, and developer have 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 these Conditions of Approval agreeing to the conditions before issuance of any building permit and/or earth-disturbing work related to the project.
3. The developer shall obtain all required demolition, grading, and building permits and pay all appropriate required fees before starting any grading/earth disturbance on the property.
4. Minor changes to the approved plans require prior review and approval by the Community Development Director (CDD). Proposed changes that the CDD determines to be significant may require review and approval by the Planning Commission, with associated fees paid by the developer.

### **PLANNING DEPARTMENT**

#### **Project-specific**

5. This approval includes demolition of the vacated restaurant building and construction of a new drive-thru restaurant, landscaped areas, signage, and related property improvements as shown in the project plans and required changes described in these conditions.
6. The project plans shall serve as the Planned Sign Program. Changes to approved signs shall require prior review and approval by the CDD.
7. Given that access is proposed over the adjacent Chevron property to the south, provide proof of an ingress/egress easement before grading/building permit issuance. ||

8. To promote compatibility with the adjacent hotel located to the north, the drive-thru shall close by 11PM every night. The walk-in restaurant may remain open later than 11PM. If noise generated from the drive-thru or walk-in operations prove to be a nuisance to the hotel at night, as determined by the Community Development Director (CDD), the CDD shall may reduce the hours of operation or require review and determination by the Planning Commission at a public hearing, with associated fees paid by the developer.
9. To be consistent with the Sign Design Review criterion that calls for signs to be harmonious with the subject property, the developer shall eliminate the square wall-mounted "Jack-in-the-Box" sign on the left (north) elevation facing the hotel building to reduce light/glare and to promote land use compatibility.
10. To allow filtration of surface runoff before potential ground infiltration, the landscape plan shall provide curb cuts in all of the landscape planters.
11. To provide adequate handicapped accessibility at the existing public bus stop, the developer shall increase the width of the entire concrete landing to a minimum of 8 feet and provide a stripped path from the bus stop to the restaurant, a mini-shelter, security lighting, and a waste bin before project occupancy, subject to review and approval by the CDD and Metro Transit Manager.
12. To ensure that the pylon freeway sign does not increase in nonconformity, the height shall be limited to a maximum of 40 feet.
13. To be consistent with the City's Design Review standard that calls for landscaping to be in keeping with the character of the site, redwood trees shall replace the proposed Coast live oak and Liquidambar trees.
14. To be consistent with the City's Tree Preservation Regulations, the developer shall either submit tree protection measures (e.g., fencing, pre-construction treatments, etc.) to protect on-site trees and off-site trees (located near the shared property line with adjacent hotel) for review and approval by the City Arborist, or hire the City Arborist directly to prepare tree protection measures and perform Conditions #14 and #15.
15. Before any tree removal and/or earth disturbance on site and building permit issuance, the developer shall contract directly with the City Arborist. At a minimum the contract shall include the following items:
  - a. Have the City Arborist review the final grading plans. If deemed necessary by the Community Development Director, additional tree preservation measures shall be applied to the project.
  - b. Implement all tree protection measures recommended by the City Arborist for inspection and approval by the City Arborist, and follow any additional

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- c. recommendations of the City Arborist.
  - c. Require all project contractors to attend a pre-tree removal meeting with the City Arborist to discuss tree monitoring expectations and preservation measures for the project. The City Arborist shall call the staff planner to confirm that the meeting occurred.
  - d. Have the City Arborist conduct routine inspections of the tree protection measures protection as deemed appropriate by the City Arborist; and,
  - e. All costs of City Arborist review and implementation of conditions, site inspections, and related work shall be paid by the developer.
16. If the City Arborist deems appropriate to place a monetary value on trees to preserved on the development site, a surety bond or equivalent instrument acceptable to the City shall be deposited with the City prior to any tree removal or the issuance of a grading/building permit for the project. If damage occurs to the preserved trees during development and/or construction, funds will be drawn from the deposited amount. Funds remaining in the account will be returned to the applicant upon final inspection of the project.
17. The plans submitted for a building permit shall show the amount of cubic yards required for project construction. If the amount of excavation exceeds four (4) cubic yards, the developer shall submit a copy of a contract with a registered and qualified archaeologist to monitor the grading/excavation of the earthwork activity to determine if important cultural remains are present, as follows:
- a. Include these requirements in the contract for all contractors involved with grading and subsurface work;
  - b. Monitoring shall occur during subsurface earth moving activities. The professional archaeologist shall determine the appropriate duration of archaeological monitoring;
  - c. At a minimum, however, any activity that initially displaces or removes original soil from its present context shall be monitored by an archaeologist on a continuous basis;
  - d. Monitoring activities such as replacing soils in trenches, redistributing displaced soil elsewhere on the development site, or removing stockpiled excavated soil may not require monitoring;
  - e. Monitoring may include the periodic sampling and screening of soils in order to better determine is cultural remains are present; and,
  - f. If any important cultural remains are discovered, all earth disturbing work within fifty (50) meters (150 feet) of the find on the parcel shall be immediately halted to allow for inspection, evaluation and, as necessary, the recovery of such remains prior to resumption of the grading of other earth-disturbing construction activities. It may be necessary to resume grading or excavation activities under the direction of the supervising archaeologist in order to locate or expose cultural remains. As required by City Code, if any indications of archaeological remains are encountered during project, all work shall be halted within a 30 meter

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radius of the find and a qualified archaeologist retained to determine the nature of the discovery and recommend appropriate evaluation procedures.

## **BUILDING INSPECTION DEPARTMENT**

### **Standard**

18. The developer shall obtain any required grading and/or building permit(s) and pay applicable fees prior to starting any earth-disturbing work or any construction of the signs on the property.
19. The developer shall pay all applicable City development impact fees before grading and/or building permit issuance.
20. The developer shall pay school impact fees to the Scotts Valley Unified School District before building permit issuance.
21. All trades of electrical, plumbing and mechanical will be issued under one building permit for said project (General Contractor permittee).
22. All of the following Codes shall be used:

|                                  |      |
|----------------------------------|------|
| National Electrical Code (NEC)   | 2005 |
| California Plumbing Code (CPC)   | 2007 |
| California Electrical Code (CEC) | 2007 |
| California Mechanical Code (CMC) | 2007 |
| California Building Code (CBC)   | 2007 |
23. All buildings shall be designed to comply with the California Building Code (CBC), 2007 edition, structural, and seismic/earthquake requirements.
24. The building permit plans must comply with the California Building Code (CBC), 2007 edition, for water-conserving fixtures and fittings and with the CA Energy Commission Building Energy Efficiency Standards (2005), which includes energy-saving fixtures and appliances to be used throughout the building.
25. All structures shall comply with the most current California Energy Commission Standards (Title 24).
26. All new construction shall comply with the City of Scotts Valley's Green Building Guidelines, to the satisfaction of the Community Development Director (CDD).
27. Structural calculations shall be submitted and wet-signed by the Engineer of record.

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28. A soils report by a qualified geologic engineer may be required with the application for any building permits.
29. The project soils engineer shall provide a plan review letter approving the submitted site drainage, erosion control, and foundation plans.
30. All new utilities shall be installed underground.
31. Building permit plans shall include a drainage plan that conforms with the City's Storm Drain Master Plan and post run-off requirements, in effect at the time a building permit is issued. Pre-development runoff rates shall not exceed post-development rates, subject to review and approval by the Building Inspector and/or Public Works Director.
32. For any grading proposed during the winter (October 15 - April 15), the developer shall obtain a winter grading permit and pay applicable fees, which requires review and approval by the City Council before grading within this time period.
33. The developer shall staple a copy of the project Conditions of Approval to all of the plans submitted for a building permit.
34. All construction activity shall be limited to the hours between 8:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. through 5:00 p.m. on Saturday. No construction activity is allowed on Sunday.

### **Project-specific**

35. To conserve water, the toilets shall be dual-plumbed for future recycled water use.
36. The developer shall comply with the City's standard erosion control measures. The plans submitted for a building permit must include best management practices (e.g. erosion control practices and procedures) during construction.
37. To meet the Monterey Bay Unified Air Pollution Control District requirements and to minimize potential dust from project grading and construction and/or exporting soils, the developer shall also implement the following actions in a Grading Management Plan and include these items in the construction contract:
  - a. Prohibit all grading activities during periods of high wind (over 15 mph);
  - b. Implement best management practices for dust control, including watering down exposed earth surfaces each non-rainfall day at intervals that attenuate dust problems.
  - c. Remove any dirt tracked onto Scotts Valley Drive daily in a manner that does not create substantial airborne dust.

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- d. Apply chemical soil stabilizers on inactive construction areas (disturbed lands within construction projects that are unused for at least four consecutive days);
  - e. Haul trucks shall maintain at least 2 feet - 0 inches of freeboard;
  - f. All trucks hauling dirt, sand, or loose materials shall be covered; and,
  - g. Cover inactive storage piles.
38. The developer shall demolish the building in accordance with the requirements of the Monterey Bay Unified Air Pollution Control District Rule 439 which includes the following:
- a. There shall be no visible emissions from building removals; and,
  - b. The following work practice standards shall be followed during building removals:
    - i. As necessary to prevent visible emissions, sufficiently wet the structure prior to removal. Continue wetting as necessary during active removal and during the debris reduction process;
    - ii. Demolish structure inward toward building pad. Lay down roof and walls so that they fall inward and not away from the building; and,
    - iii. Starting removal activities are prohibited when the peak wind speed exceeds 15 miles per hour.
39. To prevent accidental discharge of construction related fuels, lubricants or other contaminants into the right-of-way, project site, or other properties, the developer shall implement the approved erosion control plan and a best management practice/hazardous materials containment plan during the entire time construction activities. The hazardous materials containment plan shall be approved by Planning staff before any earth disturbance on the project site. The plan shall require:
- a. Stationary equipment such as motors, pumps, welding equipment shall be placed over drip pans or other containment apparatus; and,
  - b. Any petroleum, lubricants or other hazardous materials used during construction shall be stored in a special storage location equipped with double containment and this location shall be shown on the erosion control plan and approved by the agencies that review this plan; and,
40. To ensure that City requirements are met, the developer shall specify to the Building Official the off-site disposal location of any exported soil material at a pre-construction meeting or before grading permit issuance. If the disposal site is located outside the City, the site shall be a legal facility such as a licensed landfill or permitted fill site.
41. To address any unanticipated construction dust or noise problems in a timely manner, the developer shall post the name and phone number of the construction disturbance coordinator on a sign that is easily readable from Scotts 16

Valley Drive, before issuance of a building permit. The coordinator shall be the person responsible for receiving and resolving citizen complaints and inquires about dust/noise. The coordinator shall be available to receive calls and respond to them each day grading and construction occurs.

## **PUBLIC WORKS DEPARTMENT AND WASTEWATER DIVISION**

### **Standard**

42. Developer shall construct storm drain facilities in conformance with data and analysis and current City regulations for water quality and waste discharge that are in effect at the building permit stage, as determined and required by the Public Works Director/City Engineer.
43. The developer shall obtain an encroachment permit from the Public Works Department before doing any work in the public right-of-way, to the satisfaction of the Public Works Director/City Engineer. The civil on-site work, as plan reviewed by the Department, shall require an on-site civil engineering permit and inspection.
44. All signing and striping shall be approved and completed as required by the Public Works Department, and shall be in conformance with current editions of Transportation and Traffic Engineering Handbook, by the Institute of Transportation Engineers, and the State Department of Transportation "Standard Specifications".

### **Project-specific**

45. Provide a continuous sidewalk along the property frontage, subject to review and approval by the Public Works Director.
46. To reduce potential erosion of the existing dirt swale, the drainage plan shall include an energy dissipater at the bottom of the concrete swale, subject to review and approval by the Public Works Director.
47. Construction plans shall show plumbing details for dishwasher, sinks, and a minimum 1,500 gallon grease interceptor, subject to review and approval by the Wastewater Division Manager.

## **SCOTTS VALLEY FIRE PROTECTION DISTRICT**

### **Project-specific**

48. Provide a NFPA 13 (latest edition) fire sprinkler system for the building, which shall be monitored by an approved central station when there is 100 or more sprinkler heads installed. Submit underground water supply plans for review and approval before issuance of a permit for the fire sprinkler system.

49. A fire hydrant shall be installed at the entrance of the site and shall be operable before construction beyond the building foundation, subject to review and approval by the Fire Marshal.
50. A UL300 hood and duct system shall be required.
51. Resolve occupancy and a potential second exit with the Fire Marshal before issuance of a building permit.

**SCOTTS VALLEY WATER DISTRICT**

**Project-specific**

52. Recycled water shall be required to irrigate all landscaping, pursuant to a permit obtained from Scotts Valley Water District (SVWD).
53. Contact the SVWD for next steps in their review process.

\_\_\_\_\_  
Signature of Property Owner (BC & N, Inc.)  
or Owner's Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Property Owner or Owner's Agent

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