



**PLANNING AND COMMUNITY  
DEVELOPMENT DEPARTMENT**

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**MEMORANDUM**

**DATE:** March 10, 2010

**TO:** Planning Commission

**FROM:** Dave Gilbert, Senior Planner *DB*

**SUBJECT:** Request to Rescind Approval of Minor Subdivision Application No. MS09-014 Pacheco LLC

**Background/History/Analysis**

The purpose of this memorandum is to request that the Planning Commission consider rescinding the approval of Minor Subdivision Application No. MS09-014 (Pacheco LLC) that was approved by the Planning Commission on January 13, 2010, and re-hear the same request having incorporated new descriptive agenda and legal notice language for the hearing.

On February 24, 2010, the Planning Commission unanimously agreed to follow the Board of Supervisor's policy directive to revise its agenda descriptions to conform to the agenda format used by the Board, specifically including the type of CEQA document, if any, under consideration, and to re-advertise MS09-014 pursuant to state planning and zoning law and place it on the March 10, 2010 Planning Commission Agenda with the new agenda format description. Although there was no violation of the Ralph M. Brown Act in the form and context of the agenda and legal notice, the Board as a matter of sound public policy to give the most complete description of an action item as reasonable.

On January 15, 2010, San Joaquin Raptor Rescue Center and Protect Our Water submitted an appeal of the Commission's approval of the application. In addition, on January 25, 2010, Marsha Burch attorney representing San Joaquin Raptor Rescue Center and Protect Our Water submitted a letter stating that the Planning Commission violated the Brown Act by not including the consideration of a CEQA exemption in the January 13, 2010 Planning Commission agenda and the newspaper legal notice for MS09-014, and requested the County to cure and correct this alleged violation.

This request to rescind the determination that the application is exempt from CEQA review and rescind approval of MS09-014 will have the effect of allowing the Planning Commission to follow the Board of Supervisor's policy directive by adding new noticing language on the agenda and the newspaper legal notice.

**Required Action**

Staff recommends that the Planning Commission rescind the determination that the application is exempt from CEQA review under Section 15315 – "Minor Land Divisions" and rescind approval of Minor Subdivision Application No. MS09-014, and make the following motions:

**MOTION 1:** Rescind the determination that the application is exempt from CEQA review under Section 15315 – "Minor Land Divisions", and;

**MOTION 2:** Rescind approval of Minor Subdivision Application No. MS09-014 and related project findings and conditions of approval.