

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF OCTOBER 28, 2009

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of October 28, 2009, are available online at www.co.merced.ca.us/planning/plancomarchive.html.

I. CALL MEETING TO ORDER

The regularly scheduled meeting of the Merced County Planning Commission was called to order at 9:10 a.m., on October 28, 2009, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Lynn Tanner - Chairman
Commissioner Mark Erreca
Commissioner Rudy Buendia

Staff Present: Robert Lewis, Development Services Director
William Nicholson, Assistant Development Services Director
Kim Anderson, Recording Secretary
James Holland, Senior Planner
David Gilbert, Senior Planner

Legal Staff: Marianne Greene, Deputy County Counsel

Commissioners Absent: Commissioner Jack Mobley
Commissioner Cindy Lashbrook

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

Bryant Owens, Planada Association, read a letter into the record regarding the Housing Authority/Felix Torres Camp project and discussed the Villages of Geneva project, Pacific Holt Corp. Mr. Owens hopes the Commission will authorize staff to encourage Stanislaus County Office of Education to disassociate with the Housing Authority's Felix Torres project and consider relocation of these much needed services to some site within Planada proper where foot traffic will not present such a real and present danger.

V. PUBLIC HEARINGS

- A. CONDITIONAL USE PERMIT No. CUP09-001 - Tarlochan Badwal and Manjinder Singh -**
To establish a new 6,080 square foot truck repair facility consisting of an office, shop building, covered work and storage area, and truck parking, on a 5.49 acre parcel. The project site is located on the north side of Azusa Rd and approximately 600 feet east of Highway 33 in the Dos Palos "Y" area. The property is designated Dos Palos "Y" SUDP Commercial land use in the General Plan and zoned C-2 (General Commercial). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. JH**

Planner James Holland presented the Staff Report and recommendations of approval dated October 28, 2009.

The public hearing opened at 9:34 a.m.

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Mike Smith, CCPS, said he has reviewed the Staff report and said Condition #20 was worked out with CalTrans to plant the trees along the northern boundary. He is concerned with Condition #4 regarding the enclosure on all 4 sides of the storage building. He says there would be no purpose in enclosing the north side of the storage building and asked that Condition #4 be modified stating that they would be willing to enclose the east and west sides of the building.

Planner James Holland said that there is no public view on the north side of the storage building, and the reasoning was because Planning Department wasn't certain that the Zone Code provided any real discretion there.

Bill Nicholson, Assistant Development Services Director, says this condition is intended for an urban setting where the repair work is facing the streets, so the idea is they should be facing away from the street. Hwy 152 in that area is raised up so the public is not looking into the building as they drive by.

Robert Lewis, Development Services Director, agrees with Mr. Nicholson and says there should be no problem with amending Condition #4 as Mr. Smith proposed.

The public hearing closed at 9:38 a.m.

MOTION: M/S ERRECA - BUENDIA, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP09-001, FROM CEQA.

MOTION: M/S ERRECA - BUENDIA, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED OCTOBER 28, 2009, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 10 FINDINGS, APPROVES CONDITIONAL USE PERMIT No. CUP09-001 SUBJECT TO THE 20 CONDITIONS WITH CONDITION #4 BEING MODIFIED IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning and Community Development Department

1. Conditional Use Permit Application No. CUP09-001 is granted for a truck repair facility on a 5.49 acre parcel and shall be developed in a manner consistent with the submitted operational statement and approved site plan. Minor modifications to this Conditional Use Permit may be approved by the Development Services Director.
2. Applicant/property owner shall comply with all Conditional Use Permit conditions as contained in the Planning Commission Resolution No. 97-1.
3. Applicant/property owner shall comply with all Federal, State, and Local agency regulations.
4. Consistent with the requirements of Section 18.47.13(B) of the Merced County Zoning Code, the proposed 'roof only' storage area located immediately north of the main shop building shall be enclosed on the south, east and west sides in order to screen all truck repair work or storage from the local community.
5. Pursuant to Section 18.47.13(C) of the Merced County Zoning Code, outside storage of junked or wrecked trucks or cars shall not be allowed.

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6. Pursuant to Section 16.47.13(D) of the Zoning Code, the applicant shall either; submit a revised site plan that relocates the truck parking area to an area of the site that can be fully screened, or, submit a landscaping plan (including a planting schedule and irrigation plan) that provides for screening of the truck parking at its current location.
7. The Applicant's shall submit a landscaping plan for the project site that includes a list of proposed plants and their installation sizes, an installation timeline, and an irrigation plan. This plan shall be reviewed and approved prior to any building permits being issued for this facility.
8. The hours of operation for the truck repair facility shall be from 7:00AM to 6:00 PM Monday through Saturday.
9. For the purpose of condition monitoring, an inspection fee in the amount of **\$486** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant at the established hourly rate at the time of the inspection.

Public Works Building & Safety Division

10. Building plans must be completed by a licensed engineer or architect and permit applications submitted prior to the start of any work.
11. All buildings, walkways, restrooms, offices and all other facilities are required to be handicapped accessible. Handicapped accessibility must be detailed on any plans that are submitted for building permits.

Environmental Health Division

12. Any hazardous material stored on-site over threshold quantities shall require a hazardous materials business plan be filed with the Environmental Health Division. Threshold quantities – 55 gallons of liquid, 200 cubic feet of compressed gas, or 500 pounds of solid.) Contact Vickie Hayer at (209) 381-1083.

Fire Department

13. Fire access roads shall be of all weather surface with a minimum 0.33 compacted road base (Not turf, dirt or sand), capable of supporting the imposed loads of fire apparatus.
14. If the business is protected by locked gates, a Merced County Key Coded Knox Box or Knox Padlock shall be provided. The order form may be obtained from the Fire Prevention Office of the Merced County Fire Department.
15. Water storage for fire protection in the amount of 15,000 gallons is required for this project as calculated using NFPA 1142. Water storage tanks shall meet all the requirements of the Merced County Fire Department for emergency use.

Public Works Road Division

16. The applicant shall install a paved driveway approach and a 150 watt street light at the access point off of Azusa Road. The light may be mounted on a wooden pole at this time, since full improvements are being deferred. The cost and maintenance of the streetlight shall be the owner's responsibility. This shall be completed prior to the implementation of the administrative use or finalization of building permits. The applicant shall obtain encroachment permits and pay all associated fees for inspection of the light and driveway approach. The current encroachment permit fee is \$99 for a driveway or streetlight, if both are installed concurrently, one fee of \$99

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can be collected.

17. The applicant shall retain a licensed engineer for the design and construction of onsite storm drainage pond and circulation diagram of vehicular movement. This shall be subject to review and approval by the Department of Public Works prior to the issuance of building permits.
18. Drainage plan designs for the property shall consider possible future subdivisions of the property. Each parcel or future parcels shall retain their own drainage and shall not drain onto adjacent properties or public right-of-way.

San Joaquin Valley Air Pollution Control District

19. The proposed project is subject to District Rule 9510 (Indirect Source Review) because it will include more than 2,000 square feet of commercial space. Any applicant subject to District Rule 9510 is required to submit an Air Impact Assessment application to the District no later than seeking final discretionary approval, and to pay any applicable off-site mitigation fees before issuance of the first building permit. Information about how to comply with District Rule 9510 can be found online at <http://www.valleyair.org/ISR/ISRHome.htm>.

CalTrans

20. Should the applicant chose to retain the proposed truck parking location along the northern property boundary, they shall obtain a professional survey of that portion of the property to confirm the parking area lies outside the adjacent Caltrans right-of-way.

B. MAJOR SUBDIVISION No. MAS06-011 - "Lucca Villas" - Pietro Bandoni - To divide 22.2 acres into 17 single family residential lots ranging from 1.0 acres to 1.97 acres in size. The project is located on the east side of Leeds Road, 1,450 feet north of Olive Avenue in the Merced area. The property is designated Merced Rural Residential Center #1 Agricultural Residential land use in the General Plan and zoned A-R (Agricultural-Residential). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**

Planner David Gilbert presented the Staff Report and recommendations of approval dated October 28, 2009.

The public hearing opened at 9:45 a.m.

Duane Andrews, Golden Valley Engineering, agrees with the Conditions and asked for approval of this application.

Tom Grave, Merced resident, is concerned with the water being used for this project. A water study is needed in the General Plan Update process. The wells have declined. He asked for explanation on this matter and how it pertains with the General Plan Update.

Bill Nicholson, Assistant Development Services Director, explained that the Water Study is not a new study in terms of the County studying wells. It is an assembly of data from all the Irrigation Districts and Municipal Systems. They each prepare there own separate analysis. The work is almost complete and will be posted on the Planning Department website for the General Plan Update soon. The traditional data is the residential use per acre is more or less equivalent as for agricultural use. The only water approval the County does is through Environmental Health. The environmental study concludes that the residential use will not be much different than historic agricultural use. The General Plan policy will come up with new policies, but in the meantime, the County Environmental Health has to approve every well that is dug to make sure its meeting safety and water supply standards.

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Commissioner Tanner asked if this property is being irrigated by the Merced Irrigation District water. Mr. Nicholson responded and said the property is receiving surface water from MID.

The public hearing closed at 9:48 a.m.

The Planning Commission recessed for 15 minutes to review comment letter submitted by Lydia Miller with San Joaquin Raptor Rescue Center; Maureen McCorry with San Joaquin et al; Steve Burke with Protect our Water and Lawyer, Marsha Burch.

Planner Dave Gilbert explained each letter received. In response to Lydia Miller and Steve Burke's letter, they identified 26 points. As far as cultural resources mitigation the consultant, MBA, did use the latest State standards to identify the mitigations. As far as hydrology, this project does meet standards. The Kit Fox Corridor was used with the latest standards of CEQA Guidelines. Most Kit Fox are located along the I-5 corridor and noted in the grasslands area north of Los Banos. This project is in orchards and not good habitat for Kit Fox. Regarding Marsha Burch's letter, the Brown Act and CEQA notification will be discussed during the William Morris application portion of this meeting. Maureen McCorry's letter discusses A-1 and A-2 zoning and this project involves is neither of them. This is a transition between agricultural and rural. Adequate notice of the CEQA documents was completed.

Mr. Nicholson added that the Initial Study was sent to State Clearinghouse, US Fish and Wildlife and Department of Fish & Game, which are important for any endangered species issues. These Departments have not raised any issues and did not submit comments.

County Counsel Marianne Greene asked in regards to the area designated as a Kit Fox corridor since August 27, 2007, is there basis for that?

Mr. Nicholson said that is correct and said they do not see any documents where this corridor terminology is identified. We are constantly dealing with the County wildlife on the eastside of the County, if the agencies identify it.

Chairman Tanner wants to make sure the Commission understands the difference between surface water and well water. This is well water that they will be pumping out of the wells for the subdivision.

MOTION: M/S ERRECA - BUENDIA, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION ADOPTS THE MITIGATED NEGATIVE DECLARATION PREPARED FOR MAJOR SUBDIVISION No. MAS06-011.

MOTION: M/S ERRECA - BUENDIA, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED OCTOBER 28, 2009, AND MAKES THE 9 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 9 FINDINGS, APPROVES MAJOR SUBDIVISION No. MAS06-011 SUBJECT TO THE 37 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning & Community Development Department

1. A Final Map shall be recorded within two years of the Planning Commission approval date as required by the Merced County Subdivision Code.
2. This project shall comply with the applicable Standard Conditions in Planning Commission Resolution No. 97-1.

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3. For the purpose of conditions monitoring, an inspection fee in the amount of \$324 shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant/property owner at the established hourly rate at the time of the inspection. This permit will not be considered valid until the conditions monitoring fee has been paid.

Public Works/Road Division

4. Satisfy Improvement Level 1 requirements as set forth in Chapter 16.08 of the Merced County Code, which generally includes dedication of right-of-way and public utilities easements, roadway construction and installation of matching pavement along existing roadways, street lighting, storm drainage system and to install underground or relocate utilities and irrigation facilities.
5. The project shall be phased to the satisfaction of the Department of Public Works and the Merced County Fire Department until the alignment of Campus Parkway is finalized.
6. Release and relinquish all abutters' rights of access to and from the entire Campus Parkway frontage of Lots 6, 7, 8 and 9.
7. Provide a letter from the Merced Irrigation District (MID) accepting storm drainage water from this proposed development into their facilities prior to recording the final map.
8. A common or joint use agreement between the County of Merced and electrical transmission utility for the County's use of the utility's existing "Tower and Electrical Wire Easement" for road, storm drainage, and open space purposes shall be executed prior to recordation of the final map.
9. No portion of the electrical transmission tower foundation shall be located within proposed road right-of-way or public utility easement.
10. Any plan review approval, permission, or permit required by the utility company to construct within the "Tower and Electrical Wire Easement" shall be obtained by the developer prior to recordation of the final map. It shall be the developer's responsibility to inform all contractors prior to the start of work within the "Tower and Electrical Wire Easement" of utility permit conditions.
11. Prior to recordation of the final map, the property owner shall enter into an agreement with the County of Merced consenting to payment of a traffic impact or Bridge and Major Thoroughfare fee at building permit issuance if a fee for the rural residential center has been adopted by the Board of Supervisors.
12. As provided by Section 4.02 of the Merced County Department of Public Works Improvement Standards and Specifications, the developer shall be responsible for construction of a partial width roadway on the west side of Leeds Road along the project frontage. The partial width roadway shall consist of a 10-foot wide paved travel lane, a minimum 2-foot wide gravel shoulder, and an 8-foot wide ditch
13. Prior to recordation of the final map creating new County roads, the owner shall provide all documentation and pay all fees associated with forming a road maintenance zone of benefit in County Service Area Number One for extended road maintenance services which includes, but is not limited to, street sweeping.
14. All lot grading shall be completed, all underground improvements shall be installed and aggregate base material on all new streets shall have been rough graded and compacted, prior to the issuance of any building permits. The developer shall enter into an agreement with Public Works that no occupancy shall take place until such time as all improvements are completed.

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15. Provide centerline striping for those new roads which intersect the existing peripheral streets.
16. Developer/Applicant is advised that he/she may be obligated to comply with Federal Regulations for storm water runoff issued by the U.S. EPA on November 16, 1990 (40 Code of Federal Regulations Parts 122, 123 and 124). For information and direction, contact the State Water Resources Control Board's Construction Activity Storm Water Hotline at (916) 341-5537, e-mail: stormwater@swrcb.ca.gov, or visit their website at www.swrcb.ca.gov.
17. Developer/Applicant is advised that he/she may be obligated to comply with all applicable requirements of the San Joaquin Valley Air Pollution Control District. Regulation VIII Record Keeping Forms and District Rules and Regulations may be obtained at www.valleyair.org or by calling (209) 557-6400.
18. This project may experience noise from Campus Parkway. The Campus Parkway project will only be providing noise attenuation for existing homes along the alignment. This subdivision shall provide noise attenuation as determined necessary by the Planning and Community Development Department to conform to General Plan requirements.
19. The developer shall pay \$500 per lot at the building permit stage as a proportionate share of the cost to finance a comprehensive traffic and circulation study for the Merced Rural Residential Center #1, and then the project will be subject to the adopted fee in place at the time of building permit issuance.

Merced County Fire Department

20. The applicant/property owner shall comply with all requirements provided in the letter dated October 21, 2009.

Merced Irrigation District (MID)

21. MID is amenable to selling its 40-foot wide fee strip to the property owner and taking back an appropriate width easement.
22. That the property owner obtain a "Non-exclusive Driveway License Agreement" for all new and existing crossing over or under MID facility, including driveways, utilities and pipelines.
23. A signature block shall be provided for MID on all Improvement Plans associated with MID facilities.
24. No structures or trees shall be allowed within the MID easement.
25. If storm drainage is to be directed to any MID facility now or in the future, the property owner/applicant shall enter into a "Subdivision Drainage Agreement" or a "Deferred Fee Subdivision Drainage Agreement" with the Merced Irrigation District Drainage Improvement District No. 1 (MIDDID No. 1) paying all applicable fees.
26. The property owner shall enter into a "Construction Agreement" with MID for any work associated with MID facilities and pay all applicable fees.
27. All septic system leach fields shall be a minimum of 20 feet from the Bradley Lateral pipeline to protect the lateral from contamination and to protect the septic systems from incidental seepage from the MID lateral.
28. Any dedicated streets that cross MID facilities shall require a "Joint Use Agreement" between MID and the County of Merced.

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29. If there are no downstream users of the Bradley Lateral, this facility may be formally abandoned and the fee title purchased by the applicant

Mitigation Measures

30. Should any portion of the irrigation channel to the west of the project site be filled, protocol-level pre-construction surveys for this species shall be conducted by a qualified biologist during the identifiable period (i.e., May-October). Timing of the survey shall be determined based on climate conditions for that growing year; unusual weather patterns will influence the blooming period. Should this species be identified, CDFG shall be contacted to determine suitable mitigation (i.e., transplanting).
31. Removal of woody vegetation shall occur outside of the nesting season, which typically runs from March 1 through September 15.
32. If proposed project construction occurs during the nesting season (March 1 – September 15), pre-construction surveys for active raptor nests shall be conducted with 250 feet of the project site. If an active nest is located, CDFG shall be consulted to determine if project construction may proceed during the nesting season.
33. If potentially significant archaeological resources are discovered during ground-disturbing activities associated with Project preparation, construction, or completion, all work within 100 feet of the find shall stop until a qualified archaeologist can assess the significance of the find, and, if necessary, develop appropriate mitigation measures in consultation with Merced County and other appropriate agencies and individuals. If significant resources are discovered, a formal evaluation using CEQA criteria will be conducted to determine if further study, test excavations, or data recovery procedures are necessary.
34. Storm drainage system design for the project shall comply with the Merced County Department of Public Works Storm Drainage Design Manual adopted by the Board of Supervisors on April 5, 1988. The U. S. Department of Agriculture Soil Conservation Service Technical Release 55, Urban Hydrology for Small Watersheds, is used to calculate run-off. After the Director of Public Works approve the plan, but prior to the start of grading or issuance of building permits, the developer shall enter into a subdivision improvement agreement with the DPW. The agreement is in lieu of a grading permit.
35. As required by the Regional Water Quality Control Board in the sites Stormwater Pollution Prevention Program the applicant will include, as part of the final project drainage design elements, BMPs to minimize storm-water runoff caused by the project and maximize storm-water quality. The construction of the BMPs shall reasonably follow the design and construction schedule of the project as a whole and the proper implementation of these measures is to be the responsibility of the applicant and their contractors. The applicant shall institute an appropriate method to ensure that the BMPs are maintained throughout the life of the development project. BMPs may include but are not limited to the following: Treatment BMPs such as vegetative swales and vegetative filter strips should be used where feasible throughout the development to reduce runoff and provide initial storm water treatment. This type of treatment would be particularly applicable adjacent to parking lots. Permanent energy dissipaters should be included for drainage outlets. Maximize the storm-water percolation basin elevation to allow the highest amount of infiltration and settling prior to discharge. Wet detention/retention basins are expected to remove, at a minimum, 50 percent of suspended solids and metals, 30 percent of nitrogen and phosphorus, and up to 30 percent of pathogens (EPA, 1999). The proposed detention basin shall be equipped with an oil/grease separator to minimize the discharge of these constituents offsite.

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36. The Applicant shall implement the following measures during project-related construction:
- Construction activities shall be limited to between 7 a.m. and 6 p.m. Monday through Saturday to avoid noise-sensitive hours of the day. Construction activities shall be prohibited on Sundays and holidays.
 - Construction staging and heavy equipment maintenance activities shall be performed a minimum distance of 300 feet from the nearest residence, unless safety or technical feasibility takes precedence.
 - Construction equipment noise shall be minimized by muffling and shielding intakes and exhaust on construction equipment (per the manufacturer's specifications) and by shrouding or shielding impact tools.
 - Construction contractors shall locate fixed construction equipment (such as compressors and generators) and construction staging areas as far as possible from nearby residences. Stationary combustion equipment such as pumps or generators operating within 300 feet of the nearest residence shall be shielded with a noise protection barrier.
37. The Applicant shall enter into a Roadway Impact Agreement (RIA) with the County and agree to pay \$500 per lot at the building permit stage as proportionate share of the cost to finance a comprehensive traffic and circulation study for the Merced Rural Residential Center #1 until such time as the Board of Supervisors adopts Bridge and Major Thoroughfare fees for the Merced RRC#1, then the project will be subject to the adopted fee in place at the time of building permit issuance.

- C. MINOR SUBDIVISION No. MS09-014 - Pacheco LLC** - To divide 6.17 acres into 4 parcels consisting of the following: Parcel 1 = 1.5 acres, Parcel 2 = 1.5 acres, Parcel 3 = 1.50 acres, and Parcel 4 = 1.67 acres. The project is located on the east side of Badger Flat Road, 4,200 feet north of Highway 152 in the Los Banos area. The property is designated Los Banos SUDP - Industrial and zoned M-1 (Light Manufacturing). **THE ACTION REQUESTED IS TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. DG**

The public hearing opened at 10:20 a.m.

Duane Andrews, Golden Valley Engineering, says Pacheco LLC is working with the City of Los Banos currently and this should be resolved and they would support an application process with the County to bring back to the Planning Commission.

MOTION: ERRECA – BUENDIA, AND CARRIED BY A VOTE OF 3 - 0, THIS ITEM WAS REFERRED BACK TO PLANNING STAFF SO THE COUNTY, CITY OF LOS BANOS AND THE APPLICANT CAN DISCUSS THE ANNEXATION PROCESS INTO THE CITY AND OTHER POSSIBLE SCENARIOS.

- D. MINOR SUBDIVISION APPLICATION No. MS07-030 - William Morris - TO REVIEW COMPLIANCE WITH THE RALPH M. BROWN ACT FOR THE OCTOBER 14, 2009 PLANNING COMMISSION ENVIRONMENTAL DETERMINATION AND DECISION** – The application was to divide three parcels totaling 380.45 acres into nine parcels, ranging from 40.00 acres to 54.72 acres in size. The project site is located at the southwest corner of American Avenue and Mitchell Road in the Hilmar area. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **THE ACTION REQUESTED IS TO REVIEW RALPH M. BROWN ACT COMPLIANCE AND GIVE DIRECTION TO STAFF. JH**

Planner James Holland presented the Staff Report and recommendations of approval dated October 28, 2009. Letters of comment were received by Maureen McCorry et al and Lydia Miller with San Joaquin Raptor Rescue Center and Marsha Burch.

The public hearing opened at 10:35 a.m.

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Duane Andrews, Golden Valley Engineering, says Mr. Holland gave an excellent presentation and covered everything thoroughly. The applicants have done nothing wrong. This project started in 2007 and would be unfair to send this application back and open the hearing again later. He asked that the Commission uphold the action from October 14, 2009 because it is very appropriate.

The public hearing closed at 10:37 a.m.

Robert Lewis, Development Services Director, suggested a brief recess to review comment letters submitted by Lydia Miller with San Joaquin Raptor Rescue Center; Steve Burke with Protect our Water and Marsha Burch.

The Commissioners agreed and took a 15 minutes recess.

Following the recess, Planner James Holland responded to the three letters submitted. In response to Lydia Miller and Steve Burke letter Mr. Holland states that these new comments do not involve the Brown Act. Maureen McCorry's letter does not raise any issues concerning the Brown Act. Marsha Bursch's letter does not raise any new issues related to Brown Act compliance.

County Counsel Marianne Greene reminded the Commission that this discussion is purely in response to the notice to cure and correct violation of the Brown Act as it relates to the project.

MOTION: M/S ERRECA - BUENDIA, AND CARRIED BY A VOTE OF 3 - 0, THE PLANNING COMMISSION UPHOLDS THE ACTION TAKEN ON OCTOBER 14, 2009 TO APPROVE MINOR SUBDIVISION APPLICATION No. MS07-030 BY FINDING THE PROJECT WAS PROPERLY DESCRIBED AND NOTED IN CONFORMANCE WITH THE RALPH M. BROWN ACT.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

There will be a Joint Study Session between the Board of Supervisors and Planning Commission on November 10, 2009 at 1:30pm in the Board Chambers regarding the General Plan Update. Mr. Nicholson handed out the Revised Alternatives Report and mentioned the report is made available on the Planning website for review.

VIII. DIRECTOR'S REPORT

James Holland gave a presentation on the proposed changes to the Public Hearing Notice and Agenda to include language regarding Regulatory Determinations and actions of the Commission on future projects.

The recommended Public Hearing Notice and Agenda statement should read: **THE ACTION REQUESTED IS TO MAKE A PROJECT REGULATORY DETERMINATION AND TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION.**

County Counsel Marianne Greene emphasized that this is an optional policy. The current legal notification is defensible. This is something to consider that may serve to enhance the notices. It's a policy decision.

Commissioner Erreca said if the current language used is ok, then leave it the way it reads.

Commissioner Buendia agrees with Mr. Erreca.

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Ms. Greene added that consideration of this language would be good, but it's not up to Counsel.

Robert Lewis said this proposed language will help clarify motions.

Chairman Tanner feels the language should be added. Commissioner Erreca said if the Chairman is happy with that decision then he is in support of changing the language. Commissioner Buendia agreed.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 11:05 a.m.