



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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MEMORANDUM

DATE: April 28, 2010

TO: Planning Commission

FROM: Dave Gilbert, Senior Planner *DJ*

SUBJECT: Request to Rescind Approval of Major Subdivision Application No. MAS06-011
"Lucca Villas"

Background/History/Analysis

The purpose of this memorandum is to request that the Planning Commission consider rescinding the approval of Major Subdivision Application No. MAS06-011 – "Lucca Villas" that was approved by the Planning Commission on October 28, 2009, and re-hear the same request having incorporated new descriptive agenda language for the hearing.

On November 2, 2009, San Joaquin Raptor Rescue Center and Protect Our Water submitted an appeal of the Commission's approval of the application. The appeal stated that the County violated the Brown Act and CEQA. In addition, on November 6, 2009, 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 Mitigated Negative Declaration in the October 28, 2010 Planning Commission agenda for MAS06-011, and requested the County to cure and correct the alleged agenda format violation and re-notice the project.

On March 30, 2010, the Board of Supervisors reviewed the appeal of the Planning Commission's decision approving MAS06-011, filed by San Joaquin Raptor Rescue Center/Protect Our Water on November 2, 2010. The Board of Supervisors unanimously agreed to direct the Planning Commission to rescind the October 28, 2009 approval of Major Subdivision Application No. MAS06-011 – Lucca Villas, and to revise the agenda for the public hearing by including the type of CEQA document under consideration. The Board of Supervisors determined on January 26, 2010 that it was a matter of sound public policy to give the most complete agenda description of an action item as reasonable and to be consistent with the Board of Supervisor's agendas.

This request to rescind the adoption of the Mitigated Negative Declaration and rescind approval of MAS06-011 will have the effect of allowing the Planning Commission to follow the Board of Supervisor's January 26, 2010 policy directive by adding new noticing language on the agenda.

Required Action

Staff recommends that the Planning Commission rescind the adoption of the Mitigated Negative Declaration and rescind approval of Major Subdivision Application No. MAS06-011, and make the following motions:

MOTION 1: Rescind the adoption of the Mitigated Negative Declaration and related findings, and;

MOTION 2: Rescind approval of Major Subdivision Application No. MAS06-011 and related project findings and conditions of approval.