



County of San Diego, Planning & Development Services
APPEAL APPLICATION
ZONING DIVISION

PLANNING
NOV 06 2015
Planning and
Development Services

APPEAL TO:

- ☐ Board of Supervisors
☒ Planning Commission
☐ Administrative Appeal
(Requires Deposit & [PDS-346](#))

FOR OFFICIAL USE ONLY

Code	PDS2015-AA15-003	
Thomas Guide Map	Fee	Record ID
Community Plan Area		
General Plan Designation		Zone

APPELLANT FILL IN BELOW THIS LINE, THIS SIDE ONLY – PLEASE PRINT OR TYPE

19191/19150 High Glen Rd, Alpine, CA 91901

521-130-08,-07;-05;522-070-03-

Site Address	Number	Street	City	Zip	Assessor's Parcel Number			
Williams Clark F					Covert Canyon LLC			
Appellant's Name	Last	First	Middle		Owner's Name	Last	First	Middle
19090 High Glen Rd					19150 High Glen Rd			
Mailing Address	Number	Street			Mailing Address	Number	Street	
Alpine, CA 91901					Alpine, CA 91901			
	City	Zip				City	Zip	
619-213-3356, 619-403-6670								
Telephone					Telephone			

REQUEST: Clearly define all items requested in the appeal. Submit plans if necessary, to illustrate request.
Appeal in its entirety, Stipulated Administrative Enforcement Order (SAEO) issued by the Planning & Development Services, October 27, 2015, re: 19191/19150 High Glen Rd, Alpine, CA 91901, APNs 521-130-08,-07;-05;522-070-03-00, proposed property to conduct an interim use of property for government and law enforcement firearms training while pursuing a discretionary permit.

JUSTIFICATION: Attach additional sheets if necessary.
(See Attached)


Signature of Appellant

If Company Officer – indicate Company Name and function
(Please print)



5510 OVERLAND AVE, SUITE 110, SAN DIEGO, CA 92123 • (858) 565-5981 • (888) 267-8770

<http://www.sdcountry.ca.gov/pds>





County of San Diego

Planning & Development Services
5510 Overland Avenue, Suite 110
San Diego, CA 92123
Phone: 1-800-411-0017

Receipt #: 3500634
Date: 11/06/2015
Cashier: CTRIEU

Receipt

Record Information

Record ID	Record Name	Site Address	City	APN	Contact
PDS2015-AA-15-003		19191 HIGH GLEN	ALPINE	521-130-08-00	

Fee Information

Invoice Date	Invoice Number	Record Number	Fee Code	Description	Amount
11/06/2015	1902240	PDS2015-AA-15-003	3APLPC---O	Appeal to Planning Commission	\$1,000.00

Payment Information

Pymt Method	Reference #	Comments	Amount Paid
Credit Card	006105		\$1,000.00

Amount Received: \$1,000.00

Change: \$0.00



**COUNTY OF SAN DIEGO
PLANNING & DEVELOPMENT SERVICES**

5510 Overland Avenue, Suite 110
San Diego, CA 92123
Information (858) 694-2960 Toll Free (800) 411-0017
Website: <http://publicservices.sdcounty.ca.gov/citizenaccess>

Invoice Date:
11/6/2015

Record Reference:

Record ID #: PDS2015-AA-15-003
Record Name:
Site Address: 19191 HIGH GLEN RD, ALPINE, CA 91901
APN: 521-130-08-00

Financially Responsible Party:

Customer #:
Name:
Address:
City, ST, Zip:
Trust Acct #:

Project Description / Scope

Flat Fees To Be Paid

Fee Item	Fee Item Description	Invoice #	Amount
3APLPC---O	Appeal to Planning Commission	1902240	\$1,000.00
FEES AMOUNT DUE:			\$1,000.00

Deposits To Be Paid

DEPOSITS AMOUNT DUE:

TOTAL AMOUNT DUE: \$1,000.00

PLEASE PROCEED TO THE CASHIER WITH THIS INVOICE TO MAKE YOUR PAYMENTS...THANK YOU FOR YOUR BUSINESS



WX1XWPDS2015-AA-15-003

11/06/2015

To: San Diego Department of Planning and Development Services

APPEAL REQUEST: Appeal in its entirety, Stipulated Administrative Enforcement Order (SAEO) issued by Planning & Development Services, October 27, 2015 re: 19191/19150 HIGH Glen Rd, Alpine, CA 91901, APNs 521-130-08-07;-522-070-03-00, proposed property to conduct an interim use of property for government and law enforcement firearms training while pursuing a discretionary permit.

Appellants: Clark and Robin Williams, 19090 High Glen Road, Alpine. Our home/property abuts Covert Canyon, LLC. Clark Williams purchased this property (40 Acres, A72) in 1983 which was under the California Land Conservation - Williamson Act Contract. There is only one-way to/from our property and that is to pass directly through Covert Canyon, LLC. We live at the end of High Glen Road. In fact, the (our) easement road to our home crosses over the long distance weapons/shooting range (a.k.a. "On-the-Rocks" FAA listed and State/County unpermitted airstrip). For more than 8 years, we have lived 24-7 with:

- (1) High-probability of losing our home due to wildfire started by gunfire;
- (2) Restricted ingress/egress due to proximity of gunfire and/or wildfire caused by gunfire;
- (3) Being confined to our home during extreme reverberation of automatic and other high-caliber weaponry gunfire due to our valley location...in an almost concentric-shaped valley, comprised of significant granite rock outcroppings;
- (4) Continuous harassing/threat behavior to us, our friends, and family by employees and owner of Covert Canyon;
- (5) Loss of wildlife-supporting habitat and corridor... due to continuous mowing of bog, marsh/wetland area (See C1), drainage of 3 ponds, grading, clearing/ removal of native plants and trees: scrub oak, manzanita, elderberry, native ground cover, wildflowers, oaktrees (endangered and other), etc.,
- (6) Limited and/or restricted use of our California Land Conservation - Williamson Act Contract (See C1), water pollution/lead contamination in groundwater;
- (7) Limited and/or restricted use of (our) three "dominant-tenement" easements for Road, Utilities, and Water; and, but not limited to...
- (8) Loss of our scenic and restful retirement home.

Attachment Highlights:

A - Firearms training continues night and day violating "Stipulated Administrative Order (August 03, 2011); Non-conforming use at Covert Canyon for 'medic training classes' violates DPLU letter September 11, 2009 citing medic class required the approval and issuance of Major Use Permit (MUP) on property zoned A72; Paramilitary type training facilities are not permitted in A72 zoned agricultural properties without MUP; Outdoor shooting ranges are not permitted in A72 zoned agricultural properties without MUP; Operating a shooting range without license issued by Sheriff's Department; DPLU issues "Notice to Cease Illegal Activity" (May 24, 2007); USDA issues a notice to cease and desist from further grading, vegetation clearing, construction of improvements, disturbance of a riparian area, or shooting on National Forest System lands, and an instruction to restore to the natural grade and re-vegetated according to a restoration plan (September 06, 2007).

A1 - Supervisor Dianne Jacob's stated the following: "First on the Front Lines of Fire Protection." What does this mean exactly? Who does it apply to? How does fire 'prevention' differ from fire 'protection'? I learned a valuable problem solving lesson... in a "Damage Control" Seminar..."If it is predictable -- it is preventable!" This logic does not seem to apply to Covert Canyon. Let me think, a weapons (shooting) training facility for law enforcement and military groups located in the middle of the Cleveland National Forest, an area that has not burned in over 40 years ---over two miles up a steep dirt road with grades exceeding 20%, and the nearest fulltime fire station with a response time of over 20 minutes away...if the fire trucks were available. There is no fire "prevention" in Covert Canyon. Why doesn't the County practice "damage control?" Perhaps, a fire catastrophe at Covert Canyon will be able to utilize the \$120 million secured for new engines, helicopters, stepped up brush removal and better communications technology... as asserted by Supervisor Dianne Jacob in her neighborhood flier. Wouldn't it be more cost effective and less of a liability for the County to step-up and prevent the next forest fire now? Ten years ago, I believed that the County's Zoning Ordinance, Code of Regulatory Ordinances, State and County Fire Regulations, Code Enforcement, California Environmental Quality Act, were created to protect people, property, habitat, waterways, plant matter, endangered species, cultural sites, etc.

B - How does Covert Canyon's proposed "down-sizing" of the original Major Use Permit P07-011 negate insufficient fire response time and pass code-compliance requirements? It doesn't. Bottom-line, down-sizing should not change the conclusion reached May 28, 2010 by the Department and of Planning and Land Use (DPLU). Then, the DPLU staff recommended denial of the Major Use Permit P07-011 and informed the Planning Commission that the proposed project cannot be served by a local fire protection district, or that code-compliant access can be provided. In addition, staff concluded that the proposal did not comply with the Public Facility Element of the County General Plan, the Alpine Community Plan, State and County Fire Codes, and Board of Supervisors Policy I-84. Staff reminded the Planning Commission that the local fire protection district rejected the project and that no fuel modification plan had been provided. Staff also advised, that in addition to legalize an ongoing unpermitted weapons training facility utilized by local law enforcement and military personnel, the Williamson ACT (WA) contract would have to be cancelled. It should be noted: before a WA contract can be cancelled a public hearing must be held. Also note, given that the Clark Williams' WA contracted property is contiguous to the Covert Canyon (CC) WA contracted parcel, cancellation of the CC WA will impact feasibility/continuance of our contract and will be challenged.

C - Logistics.

1. Aerial view from 2008 Covert Canyon (CC) MUP P07-011, labelled 4-15. This view is in error. CC has used this view to demonstrate and illustrate that there are no surrounding residences to interfere with the requirements of the MUP. After we learned (were accused) of "squatting" on CC land, we discovered "why and how" CC was able to be so convincing. The lines drawn on the aerial view illustrate that our house is located within CC property lines. Actually, our house is located 50 feet from the CC property line on our south side. This view also illustrates the 'trespass' of building the long shooting range (airstrip) berm/backstop located on US Cleveland Nation Forest (public) land.
2. Aerial view with map legion and 'Alpha Key'. It should be noted, the Covert Canyon Williamson Act parcel is labeled "C"...the duplex short-ranges were constructed 2006 in violation of WA Contract restrictions.

C1 - Logistics :

1. BOG / Marsh Wetland and Williamson Act Land Conservation Contract locations obtained from SANGIS.org interactive website (4 pages);
2. Original pictures of the valley taken before Marc Halcon purchased property. These photos were included in the (property) sales brochure (3 photos on 1 page);
3. Pond located on Covert Canyon and Williams' property. Pond was originally shared by both properties (photo C1-2). The pond was fed by two sources: creek lines from Williams' and Halcon's properties. Halcon/Covert Canyon built an earthen dam/road dividing the pond based on the property line. In addition, CC filled-in a large portion of Williams half of pond to support the CC dam/road. This was done without grading/excavation/movement permits nor knowledge and/or permission of the Williams. (Note fence posts standing/edging long gun range... middle of picture)
4. Magnified Williams' half of 'former' pond with "standing" surface water and with CC earthen dam in foreground.
5. Picture (03/24/2014) of CC half of pond now drained/graded/ plant matter and habitat removed and Williams' portion of 'former' pond with standing surface water. Compare to photo C1-3. Note same fence posts standing/edging long gun range... middle of picture.
6. On-going mowing of bog/marsh wetland. None: To the upper left of the tractor is one of the two freshwater springs located on CC property. This area use to be very lush with vegetation and natural habitat. This 40 acre parcel is shown in earlier aerial photo (See C 2.) which includes reference "B"...on the north-end of the CC property. [Note: The second spring is located on parcel "C" on the south-end of CC. (See C 2.)]

C2 - Logistics : County guidelines for determining significance: Wildland Fire and Fire Protection. Covert Canyon's operation requires a secondary access.

1. County Guidelines.
2. Aerial view of road with greater than 20% grade and dead end road length and no secondary access.
3. County Fire and "NO" Fire maps. "Covert Canyon" is located in an area which has not burned in over 40 years. (2 pages)
4. High Glen Road (dirt) traverses USF land in two locations: First, from Japatul Road (.5 mile) and travels for another mile on private land and then travels on USF land again for another mile until it hits the Covert Canyon property line. The USF sections have steep slopes, exceeding 25 % in some sections.

D - USDA - Cleveland National Forest

1. Letter to DPLU, 01/03/2008 in response to MUP, including: Potential wildfire ignitions from the shooting range; Documented trespass 1.3 acres; Forest Service policy prohibits use of NFS lands for military or para-military exercises; Development of shooting ranges, could adversely affect NFS resources from increased noise or nighttime lighting.
2. Cease and Desist letter to Mr. Halcon, 09/05/2007; trespass on 1.3 acres.
3. Aerial view Kearchoffer "Flat" - California Map - Geocode. Shows extent of Grading and trespass on USF lands.
4. Halcon Trespass 1.3 acres, approximate location of "Range Backstops".
5. Illustrates extent of clearing/grading at 05/28/2002, reprinted 2007.

E - Clark Williams Recorded Property Easements: Dominant Tenement

1. Road - 25 Feet in width, 02/14/1968;
2. Utilities - Sewer, gas pipes, telephone, and power lines and poles, and conduits for any other public utility, 06/04/1976;
3. Water Rights - Right to install a well and to take or use water from well, 06/04/1976

F - Forest Conservation Initiative

1. Initiative measure submitted directly to the voters.
2. Forest Conservation Initiative Appendix. - Section One
3. The National Forest and State Parks (23) designation also applies to all private landholdings lying within the boundaries of the Cleveland National Forest and outside of Country Towns. - Section Two

G - Mark Halcon, Covert Canyon LLC - California Land Conservation Contract aka "Williamson Act" (WA) - 10/16/1974. Japatul Agricultural Preserve No. 36, Contract # 74-29: Parcel 521-130-08

1. On-going breach of Williamson Act "contract" (Gov Brown signed WA preservation Bill 1265 through 2016 (July 2011). Installation of gun ranges on protected land is a clear violation/breach of the "contract" with the state of California. In addition, continued use of non-permitted gun-ranges using "lead" bullets creates unsafe/polluted ground water. Note: Williams "water" easement is threatened by continued violation of watershed preservation. Valley (Kearchoffer Flat aka Kearchoffer Flat) is categorized geologically as a "flat" an "alluvial" valley whereby water collects/pools at base of valley and supports native wildlife, vegetation, and habitat. Williams has 200+ oak trees

(endangered/other). Continued oak tree and acorn production is critical to support native wildlife and Williams planned farming of oak trees, acorn harvesting, and adoption of (wild) burros from BLM.

2. As defined in WA contract, Exhibit B, Section I, Part C.1. (Page B-4) The following "**recreational uses**", provided a special use permit authorizing such use is issued by the Planning Commission or Board of Supervisors of the County of San Diego...1. Use of land by the public, with or without charge, for any of the following: Walking, Hiking, Picnicking, Camping, Swimming, Boating, Fishing, Hunting, Other outdoor games or sports for which are provided for public participation.
3. Special note: SB 985 clarified that "Recreational Use" is the use of land in its "agricultural or natural state" (See **G1** for further discussion)

G0 - Williamson Act Contract Matters

1. Request for Williamson Act Enforcement, 06/05/2007, SOFAR (Save Our Forests and Ranchlands)
2. DPLU letter to California Department of Conservation, 04/07/2009: Requests project status of WA cancellation request to permit property to be used as a "Local Law Enforcement Tactical Training Facility."
3. Application Deposit for "Agricultural Preserves Contract Cancellation".

G1 - Agricultural Preserves

1. Board of Supervisors Policy
2. Gov Brown signs bill to preserve WA 07/20/2011
3. Preserving the Williamson Act ... (Overview - by John Gamper)
4. WA article/comment, "Local governments then receive an annual subvention of property tax revenues from the state via the Open Space Subvention of Act of 1971 that helps to offset revenues lost to this program."
5. Williamson Act (Land Conservation Act of 1965).
6. Williamson Act 2000 Amendments.
7. Open Space Element, SD General Plan, Table 7 - Japatul Preserve #36

G2 - Clark Williams: Grant Deed 06/15/1983 and California Land Conservation Contract aka "Williamson Act" (WA) - 10/16/1974. Japatul Agricultural Preserve No. 36, Contract # 74-27 : Parcel 521-130-06.

1. Assessor's Map with Agricultural Preserves "under contract"
 - AP 74-27... 521-130-06 (Williams)
 - AP 74-29...521-130-08 (Halcon/Covert Canyon)

H - Sheriff's License Division letter to DPLU, 01/18/2008

1. "Request for Agency Recommendation" for the proposed training facility Located on parcel numbers 522-070-03,521-130-06,07,08 known as Covert Canyon Training Center. Case #P007-011 High Glen Rd. Alpine
2. "Our recommendation regarding the MUP for the proposed training facility is to require a mandatory and comprehensive impact study review. Have qualified engineers or inspectors provide professional input and expertise to enure all the safety aspects of a training/shooting range are in place."

H1 - Shooting Firearms Cause Six Brush Fires in East County; and Fire Investigation: Determining How the Fire Started

1. There are 18 recognized causes of wildfires, including: "Firearms use: Usually at shooting ranges.
2. Google Reference: Shooting ranges and wildfire origins.

H2 - Shooting Regulations

- No shooting near habitation – Shooting Ranges.
- No shooting – Periods of High Fire Hazard
- No shooting near stock watering holes

I - DPLU letter to Planning Commission, 05/28,2010. Subject: Marc Halcon (Covert Canyon, LLC) Major Use Permit 07-011

1. Attached for reference due to comprehensive analysis by DPLU.
2. DPLU recommendation: "Deny MUP 07-011 for reasons in Attachment B.

Respectfully,

Robin and Clark Williams
19090 High Glen Road
Alpine, CA 91901

(619) 213-3556

(619) 403-6670

(619) 445-2124) Not working due to rain.

A

From: **Clark Williams** clarkwilliams01@gmail.com
Subject: Covert Canyon, Alpine, On-Going Firearms Training
Date: May 29, 2015 at 12:51
To: adam.wilson@sdcounty.ca.gov SD land use supv Dianne Jacob adam.wilson@sdcounty.ca.gov

Firearms training continues on a regular basis at Marc Halcon's Covert Canyon, 19150 High Glen Rd, Alpine, CA 91901. Large groups still train here. A Major Use Permit has not been obtained and the "Cease and Desist Order" should still be in place. Is it?

According to my sources, commercial training classes (for a fee) are advertised on various websites, "Anything with rifles is to be done on Marc's property. All hand-gun only classes will be done at the indoor range."

For example, three days after a class ran, these pictures were posted, May 3, 2015, on the linked website. These pictures were taken at Covert Canyon.

<https://www.facebook.com/media/set/?set=a.1047176845311564.1073741842.780718935290691&type=3>

There have been several company's using Marc's range to do the illegal 'commercial' training. Three sites are listed below. Guncraft is the latest.

According to their website, and though they are out of LA area, they claim to have upcoming courses in Alpine, California.

<https://guncrafttraining.mycustomevent.com/ShoppingCart.aspx?com=detailview&iid=136&cid=326&returncom=productlist&source=search>

Halcon is doing all he can to conceal this (commercial) training, but it is still happening. This weekend, in "Alpine", May 30-31, ...classes will be held! The courses are not cheap...up to \$499/class/trainee.

<http://www.theshootershangout.com/handgunrifle-combined-training-this-weekend-in-alpine-ca/>

Halcon's training partner, Bill Desy, at CCW USA, uses Halcon's ranges exclusively for training, it is not listed on Desy's 'updated' site for fear, we suspect...it would be busted.

<http://www.ccwusa.com/schedule/>

It appears, CCW lists rifle classes a few days before they occur on local gun forums, then try to erase the evidence afterwards. I have made screen shots of the posted events...because the sites are altered soon thereafter.

Regards,

Robin Williams

619-213-3556 cell

619-403-6670 house cell

19090 High Glen Rd

Alpine, CA 91901

August 10, 2011



County of San Diego

ERIC GIBSON
DIRECTOR

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1686
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017

STIPULATED ADMINISTRATIVE ENFORCEMENT ORDER

DATE OF ORDER:	August 3, 2011
LOCATION OF VIOLATION:	19150 High Glen Road, Alpine
APN:	521-130-08-00
ZONE:	A72
PROPERTY OWNER:	Covert Canyon, LLC 5590 Ruffin Road San Diego, CA 92123

STIPULATED ADMINISTRATIVE FINDINGS

Covert Canyon, LLC ("Covert Canyon"), hereby stipulates to the issuance of an Administrative Enforcement Order for enforcement of the San Diego County Zoning Ordinance ("SDCZO") and the San Diego County Code of Regulatory Ordinances ("SDCCRO") at 19150 High Glen Road in Alpine ("Property"). On May 13, 2011, the County of San Diego, Department of Planning and Land Use ("DPLU"), served Covert Canyon with a Civil Penalty Notice and Order, which was amended on June 15, 2011. The Amended Civil Penalty Notice and Order charged the following violations of the SDCZO and SDCCRO:

<u>SECTION</u>	<u>DESCRIPTION</u>
1. SDCZO Section 2725(b) SDCZO Section 1350	Paramilitary type training facilities not permitted in an A72 zoned agricultural property without the issuance of a Major Use Permit.
2. SDCZO Section 2725(c) SDCZO Section 1505(b)	Outdoor shooting range not permitted in an A72 zoned agricultural property without the issuance of a Major Use Permit.
3. SDCCRO Section 21.101(a) SDCCRO Section 21.1 02(v)	Operation of a shooting range without first having obtained a license issued by the Sheriff's Department.

Covert Canyon denies these alleged violations and contends that it is legally discharging firearms on its Property as authorized under the applicable County codes and the Second Amendment to the U.S. Constitution.

Covert Canyon and DPLU stipulate to the following facts:

- A. Covert Canyon owns 152 acres of land located about eight miles southeast of Alpine. The Property is over a mile from the nearest paved road. Persons entering the property must do so through locked gates.
- B. Unrestricted firearms discharge is permitted on the Property subject to compliance with SDCCRO sections 33.101, et seq. SDCCRO regulations do not limit the number of people who may discharge firearms, the frequency with which a person may discharge a firearm, the purposes for which a person may do so, or the types of firearms that may be discharged on unincorporated territory where firearm discharge is permitted. Nor do the regulations prevent use of the Property for target practice.
- C. "Paramilitary-type training facilities" are not defined in the San Diego County Zoning Ordinances.
- D. On April 28, 2011, ten people discharged firearms on the Property. All were on the Property with the written permission of Covert Canyon.
- E. SDCCRO section 21.102(u) requires that all "shooting ranges" be licensed by the Sheriff. The Ordinance does not define what a shooting range is in contrast to a private target shooting area, military, law enforcement, or other training facilities.

- F. The Property is not open to the general public. The discharge of firearms on the Property is limited exclusively to those who are invited by Covert Canyon to do so. All such persons must have written permission from Covert Canyon.
- G. Covert Canyon has a pending Application for a Major Use Permit to conduct military and law enforcement training on the Property.

STIPULATED ORDER

1. Covert Canyon agrees that it will not allow private individuals, government affiliated officials or employees to formally qualify in firearms proficiency through testing performed at Covert Canyon without written permission from the County.
2. Covert Canyon may use the property for discharging firearms consistent with the SDCCRO and SDCZO. This includes recreational uses such as target practice by family and friends, and firearm practice conducted socially by invited guests, either individuals or as individuals collectively in groups, provided the activity is not offered for monetary gain or on a commercial basis by Covert Canyon, which may include the use of the present target areas on the Property. All firearm activity shall comply with SDCCRO section 33.101 with respect to discharging firearms at a reasonably safe distance from any occupied dwelling, house, residence, or other building. All firearm activity shall comply with SDCZO.
3. Covert Canyon, its corporate officers, agents, employees or assignees shall not operate a commercial or private membership only shooting range on the Property without obtaining a Major Use Permit.
4. Covert Canyon, its corporate officers, agents, employees or assignees shall not operate a commercial or private membership only shooting range on the Property without obtaining a license from the San Diego County Sheriff's Department.
5. This Stipulated Order shall not prevent Covert Canyon or anyone with written permission from Covert Canyon from engaging in free, non-commercial activities involving firearms discharge at any location on the Property, provided such activities comply with SDCCRO section 33.101 with respect to discharging a firearm at a reasonably safe distance from any occupied dwelling, house, residence, or other building and such activities must comply with SDCZO.
6. This Order resolves the alleged violations, which occurred on April 28, 2011. Covert Canyon shall pay the County \$500 to defray its administrative costs. The parties shall pay their own attorneys' fees and any other costs.

7. This Stipulated Order is intended to resolve disputed claims without the time and expense of legal proceedings and to avoid future disputes regarding the types of conduct which are permitted on the Property without a Major Use Permit. This Stipulated Order is not intended to be an admission by any party on the merits of any alleged violations, which are disputed by Covert Canyon.

Eric Gibson, Director
Department of Planning and Land Use

BY:



Pam Elias, Chief
Code Enforcement Division
Department of Planning and Land Use

Covert Canyon, LLC

BY:



Marc Halcon, Manager



ERIC GIBSON
DIRECTOR

County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017

CIVIL PENALTY NOTICE AND ORDER

DATE OF NOTICE: May 13, 2011

LOCATION OF VIOLATION: 19150 High Glen Road, Alpine

APN: 521-130-08-00

ZONE: A72

PROPERTY OWNER: Covert Canyon, LLC
5590 Ruffin Road
San Diego, CA 92123

You are hereby notified that your property at 19150 High Glen Road in the unincorporated area of San Diego County is in violation of the San Diego County Zoning Ordinance (SDCZO) and the San Diego County Code of Regulatory Ordinances (SDCCRO). You are subject to civil penalties pursuant to SDCCRO sections 18.201 through 18.214.

Civil Penalties for violations of the County Codes may be assessed at a daily rate not to exceed \$1,000.00 per day per violation; not to exceed a total maximum of \$50,000 per parcel or structure for any related series of violation(s). State Code violations may be assessed at a daily rate not to exceed \$2,500 per day per violation; not to exceed a total maximum of \$250,000

Penalties may be assessed for each individual code section violated. These penalties may accrue daily for as long as the violations exist.

COPY

SECTION VIOLATED**DESCRIPTION**

- | | |
|--------------------------|---|
| 1. SDCZO Section 2725b | Paramilitary type training facilities not allowed in an A72 zoned agricultural property without the issuance of a Major Use Permit. |
| 2. SDCCRO Section 33.101 | Operation of a shooting range not allowed without a permit issued by the Sheriff's Department. |

REQUIRED CORRECTIVE MEASURES

1. Immediately cease all activities associated with the operation of a shooting range until you obtain a Major Use Permit
2. Once a Major Use Permit is issued you must obtain a permit from the Sheriff's Department to operate a shooting range.

AMOUNT OF PENALTIES ASSESSED

Pursuant to Section 18.205 of the San Diego County Code of Regulatory Ordinance the Director of the Department of Planning and Land Use has assessed civil penalties against you as follows:

Violation #1: For the operation of a paramilitary type training facility on your property, the Director has assessed civil penalties in the amount of \$1,000.00 per day, for 1 day, on April 28, 2011, for a total of **\$1,000.00**. The Director considered that the violation has been maintained periodically since June 12, 2007 and is continuing, that the violation is in the major range due to the negative impacts to the community itself and that after being notified of the violation you have failed to cease the illegal activity.

Violation #2: For the operation of the shooting range on your property without a permit issued by the Sheriff's Department, the Director has assessed civil penalties against you in the amount of \$1,000.00 per day, for 1 day, on April 28, 2011, for a total of **\$1,000.00**. The Director considered that the violation has been maintained periodically since June 12, 2007 and is continuing, that the violation is in the major range and that after being notified of the violation you have failed to cease the illegal activity.

PROCESS FOR PAYMENT OF CIVIL PENALTIES

Full payment of civil penalties in the amount of **\$2,000.00** are due in full within 45 days from the date of service of the Notice and Order unless you have filed a timely appeal. (If the Director has assessed a continuing violation against you in this Notice and Order, you are required to make an initial payment within 45 days of the date of service. Subsequent payments shall be made within 45 days of previous payments until the violation is corrected to the satisfaction of the department Director.)

COPY

Payments should be made by cashier's check or money order payable to the San Diego County Treasurer, at the address below. Please include a copy of the Notice and Order with your payment and write the violation address on the check:

County of San Diego
Department of Planning and Land Use
5201 Ruffin Road, Suite B
San Diego, CA 92123
Attn: Fiscal

Civil penalties paid to the County of San Diego before an appeal hearing will be refunded in full or part if the hearing officer determines the violation did not occur, you are not the responsible person or the penalty amount is unreasonable.

RIGHT OF APPEAL

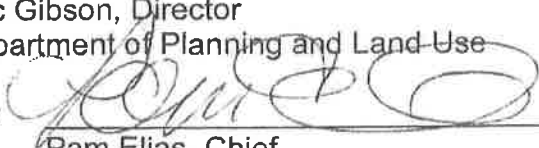
You have the right to appeal this Notice and Order within 14 days after the Notice is served. Service occurs when you have received this Notice and Order by personal delivery or when the notice was deposited into the U.S. Mail and mailed to your mailing address as it appears in public records. The postmark on the envelope indicates the date the notice was mailed. An appeal must be made on a Request for Hearing form at the office of the department that issued the Notice or by completing the enclosed Request for Hearing form by U.S. Mail. If you request a hearing by mail your request must be postmarked no later than 14 days after the date of service. Failure to properly file a written appeal within 14 days shall constitute a waiver of your right to appeal whether the violation occurred, whether you are responsible for the violation, the dates of the violations (whether the violations are continuing) and whether the amount assessed is reasonable.

WAIVER

If you fail, neglect or refuse to obey an order to pay civil penalties, the unpaid amount shall constitute a personal obligation and/or a lien upon the real property. Failure to pay a personal obligation will cause the Director to refer the obligation to County Counsel to file a court action to recover these costs. Failure to pay a lien will cause the Director to refer the lien to the County Auditor for collection in the same manner that ordinary municipal taxes are collected.

If you have any questions concerning this Notice and Order, or to schedule a compliance inspection, please contact Lew Balke, Code Enforcement Officer at (858) 694-3043.

Eric Gibson, Director
Department of Planning and Land Use

BY: 
Pam Elias, Chief
Code Enforcement Division
Department of Planning and Land Use

COPY



ERIC GIBSON
DIRECTOR

County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017
www.sdcountry.ca.gov/dplu

March 9, 2012

Marc Halcon, Manager
Covert Canyon, LLC
5590 Ruffin Road
San Diego, CA 92123

COPY

NON-CONFORMING USE AT COVERT CANYON (MEDIC CLASSES)

Dear Mr. Halcon,

I am writing regarding "First Responder Medic Classes" conducted at Covert Canyon. As you are aware, the Department of Planning and Land Use authorized you to conduct the medic training classes in a letter dated September 11, 2009. The medic class use was allowed at a time when the use was not described in County Code. Subsequent to the September 11, 2009 letter, the Field Medical Training Use was added to Section 1350 of the San Diego County Zoning Ordinance, Major Impact Services and Utilities; which was adopted into County Code on December 3, 2010. Today the medic class use would require the approval and issuance of a Major Use Permit on your property which is zoned A72.

The "First Responder Medic Classes" described in the September 11, 2009 letter is limited as outlined in the letter to the following:


- Course Summary: 2 day course – prepares first responders to evaluate and treat serious trauma. Proper use of bandages, tourniquets and hemostatic agents are topics.
- Firearm Use: NONE
- Average # of Students: 12 maximum
- Traffic Impact: Students transported by staff in 2-3 SUV's
- Must comply with the County of San Diego County Code and Zoning Ordinance

The medic class use is allowed to continue at Covert Canyon as described above as a non-conforming use. Included in this correspondence is a copy of Sections 6850 – 6876 of the San Diego County Zoning Ordinance; also known as the Nonconformity Regulations.

Marc Halcon
March 9, 2012
Page 2

Should you have further questions or concerns, please feel free to contact me directly at (858) 495-5020 or pam.elias@sdcounty.ca.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Pam Elias', written in a cursive style.

Pam Elias, Chief
Code Enforcement Division
Department of Planning and Land Use

cc: Case File

Attachments

COPY

NONCONFORMITY REGULATIONS**6850 TITLE AND PURPOSE.**

The provisions of Section 6850 through Section 6899, inclusive, shall be known as the Nonconformity Regulations. The purpose of these regulations is to control, ameliorate, or terminate uses which do not conform to the Zoning Ordinance. These regulations shall apply to all nonconforming uses and structures, except that nonconforming off-premise signs shall be subject to the Off-Premise Sign Regulations commencing at Section 6200; nonconforming on-premise signs shall be subject to the On-Premise Sign Regulations commencing at Section 6250, and substandard lots shall be subject to the Lot Size Regulations commencing at Section 4200.

(Renumbered and amended by Ord. No. 5508 (N.S.) adopted 5-16-79. Formerly 6950)
(Amended by Ord. No. 10095 (N.S.) adopted 12-8-10)

6851 NONCONFORMITY ATTRIBUTABLE TO LACK OF USE PERMIT.

Any nonconformity attributable only to the absence of a major or minor use permit may be removed by the securing of such permit, the application for which is allowed.

(Renumbered by Ord. No. 5508 (N.S.) adopted 5-16-79. Formerly 6951)

6852 RIGHT TO CONTINUE A NONCONFORMITY.

A nonconformity which is in existence prior to the effective date of the Zoning Ordinance or of any subsequent rezoning or other amendment thereto which creates such use or structure nonconformity, may be continued and maintained, except as otherwise specified in these Nonconformity Regulations. No expansion, extension, substitution or other change in activities and no alteration or other change in facilities is permitted except as expressly required by law or as expressly provided herein.

(Renumbered and amended by Ord. No. 5508 (N.S.) adopted 5-16-79. Formerly 6952)
(Amended by Ord. No. 10095 (N.S.) adopted 12-8-10)

6854 NUISANCES.

None of the provisions of the Nonconformity Regulations restrict any authority to require modification or termination of any nonconformity which has been declared to be a nuisance by the Board of Supervisors.

(Renumbered by Ord. No. 5508 (N.S.) adopted 5-16-79. Formerly 6953)

6856 REMOVAL OF OWNER-OCCUPIED INDEPENDENT MOBILEHOMES.

Notwithstanding other provisions of the Nonconformity Regulations, or the provisions of a use permit authorizing the establishment of an owner-occupied independent mobilehome to the contrary, any owner-occupied independent mobilehome legally established pursuant to the former provisions of Ordinance 1402 may continue for an indefinite period from the date of original granting of a use permit therefore and may be altered or enlarged, or replaced with another mobilehome. Any mobilehome that replaces any such existing, legal nonconforming mobilehome shall bear insignia of approval issued by the appropriate state or federal agencies indicating compliance with applicable regulations. Any discontinuance of the use of a mobilehome subject to this section for a continuous period of 12 months shall be deemed to constitute an abandonment of any right to continue or maintain the use and any future use shall conform to the provisions of this ordinance.

6861 NONCONFORMING LARGE WIND TURBINE SYSTEMS.

Notwithstanding other provisions of the nonconformity regulations, no wind turbine system-large, which is nonconforming due to the lack of permit shall be allowed to add additional wind turbine structures or increase size of existing wind turbines without obtaining a permit as specified in Section 6951.

(Added by Ord. No. 7220 (N.S.) adopted 10-22-86)

6862 ABANDONED WIND TURBINES.

- a. A nonconforming wind turbine shall be considered to be abandoned if its energy output (in kilowatt-hours) for any consecutive twelve months is less than 10% of the expected energy output. (See Definitions - Wind Turbine, Non-Operational).
- b. A nonconforming wind turbine, or a series of wind turbines, which has been abandoned shall be removed. The foundation for the wind turbine(s) need not be removed if it does not present a safety hazard, and the top of the foundation is no higher than six inches above ground level.

(Added by Ord. No. 7220 (N.S.) adopted 10-22-86)

6863 EXISTING CUSTOM MANUFACTURING OPERATIONS

Any existing custom manufacturing operation located in the A70, A72, S87, S90 or S92 Zone meeting the definition of the "Custom Manufacturing Use Type" as set forth in this ordinance at Section 1610 and as determined by the Director may continue operation after September 13, 1991. However, the Nonconforming Regulations commencing at Section 6850 shall apply to such operations.

(Added by Ord. No. 7964 (N.S.) adopted 8-14-91)

6864 EXISTING GROUNDWATER EXTRACTION OPERATIONS

Any existing activity meeting the definition of a "Groundwater Extraction Operation", as determined by the Director, shall be considered a nonconforming use and may continue said operations after May 8, 1992. However, the Nonconformity Regulations commencing at Section 6850 shall apply to such operation.

(Added by Ord. No. 8050 (N.S.) adopted 4-8-92)

NONCONFORMING USES

6865 NONCONFORMING USE - DISCONTINUANCE.

- a. Use Nonconforming Because it is Not a Permitted Use. Whenever a use which is nonconforming, wholly or partly because it is not itself a permitted use where it is located, discontinues active operation for a continuous period of 12 months, such nonconforming use shall not be resumed. Intent to abandon such use shall not be necessary to constitute such discontinuance. Related structures, if any are used, may be utilized thereafter only for a permitted use.
- b. Use Nonconforming for Other Reasons. A nonconforming use which is itself a permitted use where it is located, and which is nonconforming only as to applicable off-street parking or loading requirements, performance standards, or other requirements applying to use and not structures, may be resumed regardless of the period during which it may have discontinued active operation.

(Renumbered and amended by Ord. No. 5508 (N.S.) adopted 5-16-79. Formerly 6960)

(Amended by Ord. No. 6268 (N.S.) adopted 4-14-82)

(Amended by Ord. No. 7575 (N.S.) adopted 1-11-89)

6867 NONCONFORMING USE - DAMAGE OR DESTRUCTION OF STRUCTURES.

- a. If the structures containing any nonconforming use are damaged or destroyed to the extent that the cost of reconstruction, repairing or rebuilding will exceed 75 percent of the replacement valuation of the structure immediately prior to the damage, as determined by the Building Official pursuant to Section 51.0107 of the County Code, the nonconforming use shall not be resumed on the same lot. Notwithstanding the provisions of this section, if a structure in a Special Parking District, as defined in Section 5761, is damaged or destroyed, any nonconformity as to the applicable off-street parking for said structure may be resumed even if the cost of reconstruction, repairing or rebuilding of the structure exceeds 75 percent of said replacement valuation if the structure is reconstructed, repaired or rebuilt in accordance with the applicable Community Design Guidelines Manual and all other applicable requirements. See also Section 5761(c)3.
- b. Notwithstanding the provisions of subsection a. above, if the structure containing a nonconforming use includes two or more dwellings and is damaged or destroyed, said dwellings may be reconstructed, repaired, or rebuilt to their predamaged size and number of dwelling units (pursuant to Section 65852.25 of the Government Code). However, if said structure is located in an area zoned with industrial use regulations, then the provisions of subsection a. above shall apply.

Fw: Fwd: FW: KFMB News 8

From: Robin Williams <oaktrees@earthlink.net>
To: "steve.schmidt@utsandiego.com"
Cc: robin williams <oaktrees@earthlink.net>
Subject: Fw: Fwd: FW: KFMB News 8
Date: Feb 21, 2012 3:34 PM
Attachments: [Williamson Act Land Conservation Contract.pdf](#) [1868_001.pdf](#) [1869_001.pdf](#) [1870_001.pdf](#) [1871_001.pdf](#) [1872_001.pdf](#)

quick reference materials...to start.

Robin

-----Forwarded Message-----

From: David Gotfredson
Sent: Feb 16, 2012 9:59 AM
To: Robin Williams , Shalin Gala
Subject: Fwd: FW: KFMB News 8

----- Forwarded message -----

From: **Workman, Michael E** <Michael.Workman@sdcounty.ca.gov>
Date: Thu, Feb 16, 2012 at 9:46 AM
Subject: FW: KFMB News 8
To: David Gotfredson <dgotfredson@kfmb.com>

Here are some answers

Michael Workman

Director
County Communications Office
[\(619\) 531-5450](tel:(619)531-5450)

1. I would like to request under the CPRA any records related to Live Tissue Training using livestock at the Covert Canyon facility, including any permits related to Live Tissue Training requested or obtained by the property owner Marc Halcon, or his companies American Training Center and Covert Canyon LLC.

a. On Aug. 18, 2009, Mr. Halcon sent a letter to DPLU asking for authorization to conduct various activities on his property without having to apply for and receive a discretionary use permit.

b. On Sept. 11, 2009, DPLU responded by letter, denying Mr. Halcon's request to conduct these various activities — with one exception, a request to conduct "First Responder Medic Classes" on his property.

It was a two-day course to prepare first responders to evaluate and treat serious trauma patients injured on the battlefield and included the proper use of bandages, tourniquets and hemostatic agents. His request did not propose using firearms. It anticipated 12 students that would be transported in two-to-three SUVs.

At that time, the County's Zoning Ordinance did not clearly identify this as a recognized

regulated use under the code. Because of that, it was determined that we could not require a use permit to operate First Responder Medic Classes.

c. In December 2010, the County amended its Zoning Ordinance to address the deficiency of not recognizing medical training uses by adding them to the "Major Impact Utility" provisions of the ordinance. (It should be noted that gun and rifle ranges are classified as "Participant Sports and Recreation" uses, which also require approval of a MUP and have since the 1980s) The change to Section 1350 of the Zoning Ordinance, Major Impact Services and Utilities, was adopted on December 3, 2010.

d. If Mr. Halcon applied today to provide the "First Responder Medic classes" he would need to apply for and receive a Major Use Permit. However, he is being allowed to continue them without seeking a permit because they are considered a "continuing non-conforming use" because he started them before the County changed its ordinance. We have provided copies of Mr. Halcon's Aug. 18, 2009 letter, the Department's September 11, 2009 response and a copy of Section 1350 of the San Diego County Zoning Ordinance as attached .pdf's.

e. Regarding the questions on the Cease and Desist Order, the Stipulated Enforcement Order does not invalidate the Cease and Desist Order. It simply clarifies what is and is not allowed by the San Diego County Zoning Ordinance and San Diego County Code of Regulatory Ordinances on Mr. Halcon's property. Copies of the Cease and Desist Order dated May 24, 2007 and Stipulated Administrative Enforcement Order dated Aug. 3, 2011 are attached as a .pdf.

2. Could you also please update me on the status of his MUP application?

3.

a. Timeline:

- **Oct. 2007:** Mr. Halcon submitted an application for a Major Use Permit (MUP) to operate a live weapon training facility (3 firing ranges) for law enforcement and military groups on his property located at 19150 High Glen Road.

- **January 2010:** DPLU, after working with the applicant and his consultants, took Mr. Halcon's MUP application before the Planning Commission with a recommendation of denial due to significant and unresolved fire safety and access issues. These issues were not the only issues that needed to be addressed, but they were the most significant and a major project issue.

The Planning Commission, following public testimony at the hearing, directed Mr. Halcon to continue to work with the San Diego Rural Fire Protection District, the County Fire Authority and the U.S. Forest Service to resolve these issues.

- **Present:** Mr. Halcon is continuing to work with these agencies; however, to date, fire safety issues remain unresolved and Mr. Halcon has not made any progress on his MUP application.

From: David Gotfredson [<mailto:dgotfredson@kfmb.com>]

Sent: Wednesday, February 08, 2012 2:26 PM

To: Elias, Pam

Cc: Workman, Michael E

Subject: KFMB News 8

Hello Pam,

I would like to request under the CPRA any records related to Live Tissue Training using livestock at the Covert Canyon facility, including any permits related to Live Tissue Training requested or obtained by the property owner Marc Halcon, or his companies American Training Center and Covert Canyon LLC.

Could you also please update me on the status of his MUP application?

Thank you for your assistance.

Regards,

David Gotfredson
KFMB News 8 Producer
7677 Engineer Rd.
San Diego, CA 92111
Email: dgotfredson@kfmb.com
Cell: [\(858\) 472-3569](tel:(858)472-3569)
Fax: [\(858\) 495-7557](tel:(858)495-7557)

David Gotfredson
KFMB News 8 Producer
7677 Engineer Rd.
San Diego, CA 92111
Email: dgotfredson@kfmb.com
Cell: [\(858\) 472-3569](tel:(858)472-3569)
Fax: [\(858\) 495-7557](tel:(858)495-7557)



GARY L. PRYOR
DIRECTOR

County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017

SAN MARCOS OFFICE
151 E Carmel
SAN MARCOS, CA 92078
(760) 471-0730

EL CAJON OFFICE
200 EAST MAIN ST. • SIXTH FLOOR
EL CAJON, CA 92020-3912
(619) 441-4030

May 24, 2007

Mr. Marc Halcon
Covert Canyon, LLC
19150 High Glen Road
Alpine, California

NOTICE TO CEASE ILLEGAL ACTIVITY

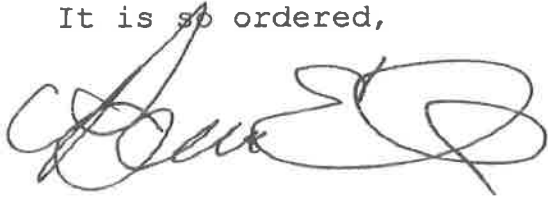
Pursuant to County Zoning Ordinance sections 7700 et seq. the County of San Diego hereby orders you to immediately cease operating a training facility for military, law enforcement, security and intelligence personnel on your property located on assessor parcel numbers 521-130-05-00; 521-130-08-00; 521-130-07-00; and 522-070-03-00. You are ordered to immediately cease all activities relating to the training facility including but not limited to shooting, shooting ranges, target practice, firearms training, combat training, military techniques, law enforcement techniques, use of explosives, helicopter landings and any other use of the property other than as allowed as of right as provided in Zoning Ordinance sections 2720 et seq. Any use of the property, other than as allowed as of right, without a permit is a violation of the Zoning Ordinance. Violation of the Zoning Ordinance is a public nuisance and a misdemeanor. Every day of violation is a separate and distinct violation and may carry civil penalties of up to \$2500 a day.

In addition to violating the County Zoning Ordinance, your use of the property may violate the County Code of Regulatory Ordinances, sections 33.101 et seq., which regulates shooting in

Page 2
Cease and Desist Order
Covert Canyon
5/24/07

the unincorporated area of the County. These sections are enforced by the Sheriff and we have referred this matter to the Sheriff for appropriate enforcement action.

It is so ordered,

A handwritten signature in black ink, appearing to read 'Pam Elias', with a large, stylized flourish at the end.

Pam Elias, Chief
Code Enforcement Division
Department of Planning and Land use



United States
Department of
Agriculture

Forest
Service

Cleveland National
Forest

Descanso Ranger District
3348 Alpine Blvd.
Alpine, CA 91901-3923
(619) 445-6235
(619) 445-1753 FAX
CRS 1-800-735-2922

File Code: 5400

Date: September 6, 2007

Marc Halcon
[REDACTED]

San Diego, CA 92123

Dear Mr. Halcon,

This letter is to follow-up with the field meeting Recreation and Lands Officer Tim Cardoza had with you and Sheriff's Lieutenant Anthony Salazar on August 28, 2007 on site at your private land and adjacent National Forest System lands at Kerchoffer Flat. During this meeting a trespass of approximately 1.3 acres was documented from your private lands onto the Cleveland National Forest. Improvements and activities in violation include earthen and wooden shooting range backstops, grading, clearing of vegetation, and disturbance of a riparian area. The enclosed map and photographs depict the nature of the unauthorized improvements and activities.

This is your official notice to cease and desist from further grading, vegetation clearing, construction of improvements, or shooting on National Forest System lands. Failure to comply will result in law enforcement action.

At the field meeting you expressed your willingness to work with the Forest Service to correct the trespass. We will appreciate your cooperation in resolving this matter. The disturbed area will have to be evaluated by resource specialists to assess the extent of resource damage that has occurred. The subject lands must then be restored to the natural grade and re-vegetated according to a restoration plan developed in cooperation with and approved by the Forest Service.

Please contact Tim Cardoza to begin developing a restoration plan for the affected lands and an implementation schedule. He can be reached at (619) 445-6235 ext. 3418.

Sincerely,


ANNE G. CAREY
Acting District Ranger



Caring for the Land and Serving People

Printed on Recycled Paper



A1

We can always count on Dianne Jacob



First on the Front Lines of Fire Protection

- Led the charge to fix the fractured network of rural fire agencies.
- Secured over \$120 million for new engines, helicopters, stepped up brush removal and better communications technology.
- Implemented a new state-of-the-art mass notification system to reach over 400,000 people per hour during a disaster.



Public Safety is Priority Number One

- Established the East County Gang Task Force to combat the increase in gang violence in our neighborhoods.
- Arrests of gang members by the East County Gang Task Force are up from this time last year – 109 gang members apprehended.
- Initiated the first ever countywide Megan's Law Sex Offender Pin Map, giving vital information on the location of registered sex offenders in our neighborhoods.



B



ERIC GIBSON
DIRECTOR

County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017
www.sdcountry.ca.gov/dpla

May 28, 2010

Mr. Marc Halcon
c/o Covert Canyon LLC
5590 Ruffin Road
San Diego, California 92124

Ref. Case No.: P07-011

Dear Mr. Halcon:

On May 28, 2010, the San Diego County Planning Commission considered the Director of Planning and Land Use's recommendation that the above-referenced Major Use Permit (P07-011) and cancellation of an existing Williamson Act Contract be denied. The application as proposed requests establishment and operation of a weapons training facility for law enforcement and military groups, which includes live munitions training activities for local and national security purposes. The project site is located on High Glen Road in the Alpine Community Plan Area.

By a vote of 5-2, the Planning Commission remanded P07-011 back to Department of Planning and Land Use Staff, with stipulations that the account be brought out of deficit and that discussions be held with the U.S. Forestry Service and the local fire district. This decision of the Commission becomes final on June 6, 2010 at 4:00 p.m. unless prior to that you or a protestant files a written appeal to the Board of Supervisors accompanied by a fee of \$500. Filing an appeal will stay the decision of the Commission until a new hearing on your application is held and action is taken by the Board of Supervisors. If you have any questions, please contact Patrick Brown at (858) 694-3011.

SAN DIEGO COUNTY PLANNING COMMISSION
Eric Gibson, Secretary

By: 
Jason Giffen, Chief

EG:JG:cj

(cc's on Page 2)

P07-011. Agenda Item 4:4. Covert Canyon. Major Use Permit P07-011. Alpine Community Plan Area

Proposed Major Use Permit and Williamson Act Agricultural Contract cancellation to allow establishment and operation of a weapons training facility for law enforcement and military groups. Included would be live munitions training activities for local and national security purposes. The project site is located on High Glen Road in the Alpine Community Planning Group. The Department of Planning and Land Use recommends that the project be denied because necessary infrastructure and fire protection services are not available to serve the property. Consequently, the proposal does not comply with the Public Facility Element of the County General Plan, the Alpine Community Plan, State and County Fire Codes, and Board of Supervisors Policy I-84.

Staff Presentation: Brown

Proponents: 22; **Opponents:** 8

Discussion:

Staff explains that this project site, zoned A72, and designated (20) General Agriculture and (23) National Forest, is surrounded by Cleveland National Forest, large-lot residential development and agriculture. The property is also currently under Williamson Act contract. The site contains a single-family residence, guest-living quarters, and accessory structures. The Major Use Permit and cancellation of the Williamson Act contract is requested to legalize an ongoing unpermitted weapons training facility utilized by local law enforcement and military personnel. Staff further informs the Planning Commission that the applicant has received a "Cease and Desist" order from Code Enforcement representatives, and is subject to additional code violations due to unauthorized grading of Forest Service lands and construction of the guest living quarters without obtaining a permit.

Staff recommends denial of the requested Major Use Permit, and informs the Planning Commission that the proposal does not comply with County codes. The applicant has been unable to provide evidence that the proposed project can be served by a local fire protection district, or that code-compliant access can be provided. As a consequence, the project does not comply with the County's General Plan, the Alpine Community Plan, the Consolidated Fire Code, County road standards, or Board of Supervisors Policy I-84.

P07-011. Agenda Item 4:

The Planning Commission is also informed that the access road to the project site (High Glen Road) is densely vegetated and poorly surfaced, contains grades of at least 25%, and does not comply with the County's minimum road width standards. Any improvements to the road will require approval by the U.S. Forest Service. In addition, due to the site's remoteness and road conditions, the project does not comply with the General Plan's emergency travel time requirements, and exceeds the dead-end road limits established by both the State of California and the County of San Diego Fire Codes. Staff explains that the applicant proposes to mitigate the excessive dead-end road length by providing shelter-in-place onsite. While this concept could apply in certain circumstances, Staff doesn't support it for this project because of the lack of adequate infrastructure and fire service, deficient primary access, inconsistencies with established travel time requirements, nonconformity with County road standards, and the lack of a willing fire protection district to serve the site. Also, the applicant's account is in deficit.

Staff informed the applicant of these issues on numerous occasions during the past several years and advised the applicant that a fire protection plan would be required, but the applicant never responded to these concerns or provided the requested information. The County Fire Marshal's determination that the project is inconsistent with the Fire Code was appealed by the applicant to the Regional Fire Appeals Board. That appeal was subsequently denied because of the conditions of the access road, and because shelter-in-place concepts are not appropriate for projects that lack basic infrastructure and fire protection service. Staff believes introduction of a live munitions training facility would greatly increase the potential for negative impacts on human health and safety, and it is imperative that responders have a safe and reliable route to the project site. Staff does not believe the findings necessary to approve this Major Use Permit can be made. Staff also reminds the Planning Commission that impacts to community character, biological resources and noise haven't been fully evaluated because of the proposal's unresolved inadequacies. Staff does not support further processing of this application until these significant issues have been addressed. Those members of the audience opposed to the project concur with Staff's conclusions and recommendations, and express great concern about potential impacts on health and safety.

The Alpine Community Planning Group recommends approval of the project, and so do former and current members of the military attending today's hearing. The applicant and his representatives insist that the project should be classified as a civic use, and maintains that the proposal is a stand-alone project wherein appropriate mitigation can address and enhance fire safety. The applicant's

P07-011. Agenda Item 4:

representatives explain that only 18 acres of the 160-acre is proposed for development, which will consist of low intensity uses patronized by professional law enforcement and military personnel. The applicant does not see a need to provide additional protection of the non-flammable steel/concrete structures.

The applicant's representative also disagrees with Staff's assessment of the access road, and requests that the Planning Commission refer the project back to Staff for further processing. He maintains that the Public Facilities Element determines emergency response time by residential lot size or commercial or industrial type uses, and does not apply to civic-type uses. The applicant's representative reminds the Planning Commission that the State and County Fire Codes allow for modification of standards where same practical effect can be applied, commensurate with the need for the project and the risks associated by the proposed project. Certain Permits are subject to Policy I-84, not all of them, and the standards contained therein can be mitigated by other measures. The applicant's representative reminds the Planning Commission that the applicant, his family and friends are allowed to practice shooting onsite by-right, with none of the restrictions imposed by a Use Permit. The applicant also informs the Planning Commission that a fire protection plan was prepared but not submitted because it doesn't meet the strict standards of the Fire Code.

With respect to the road access, the applicant's representative explains that a special use permit was granted by the U.S. Forest Service. This permit allows regular maintenance on High Glen Road and the associated drainage structures. Maintenance includes grading, blading, removal of debris and shaping of the roadbed including shoulders, turn-outs and turn-arounds that can be utilized by emergency responders. He insists that only 2% of the road grade is greater than 20%. The applicant's representative reminds the Planning Commission that lot sizes impact dead-end road length requirements. The General Plan requires 40- or 80-acre minimum lot sizes in this area, which automatically increases allowances for dead-end road lengths to one mile, thereby greatly reducing the road-length overage for this project.

The applicant's representative believes the same portion of the site utilized by CalFire as a staging area in the Horse Thief Canyon fire is very suitable for shelter-in-place, and an onsite full-time manager would operate the shelter-in-place facility. He assures the Planning Commission that onsite activities can be suspended at a moment's notice, and there would be no temptation to stay and defend the property as many homeowners are tempted to do when residences are involved. The applicant's representative believes site evacuation can be conducted in an orderly

P07-011, Agenda Item 4:

fashion by following plans developed and required by facility operators. In addition, all personnel and clients must participate in fire-safety training programs, an additional water supply and onsite ponds will be available, vehicles will be limited, and no incendiary or flammable material will be utilized to construct the facility. The applicant insists that fire conditions will be monitored and, if necessary, the facility will be shut down if fires are within five miles of the site to allow early and orderly emergency evacuation.

Action: Riess - Norby

Deny Major Use Permit P07-011.

Discussion of the Action:

Commissioner Riess commends the law enforcement and military personnel in attendance, but reminds them that proposed project is a privately-run facility on private property. The proposal must comply with local law, first of which must be provision of adequate access.

Commissioner Pallinger believes the site is an appropriate location for the project, and supports sending the application back to Staff for further processing. Referring to the account already in deficit, Commissioner Pallinger cautions the applicant that further processing will result in additional costs. Commissioner Day reminds those in attendance that he is a resident of Alpine and frequently passes the property. He supports the applicant's request that the application be sent back to Staff for further processing, also, because of its unique type and intensity of use.

Substitute Action: Day - Woods

Refer Major Use permit P07-011 back to Staff. The applicant is to develop and submit a fire protection plan, as well as submit other studies required by Staff. The applicant is also required to obtain an easement that will allow modification of High Glen Road from the U.S. Forestry Service representatives, and undertake fuel modification efforts..

Discussion of the Substitute Action:

Commissioner Day agrees that use of the site as it's currently zoned would result in substantially more impacts than the proposed project. He believes the necessary findings can be made to approve the project. Chairman Beck disagrees, and

P07-011. Agenda Item 4:

discusses the inadequacies of the access road. He discusses the danger residents in the area could encounter if a fire occurs in this very high-risk fire area. Chairman Beck discusses the endeavors undertaken by the Planning Commission to address fire protection following the recent wildfires. He supports Staff's recommendations to deny the Use Permit for this commercial operation. Chairman Beck also reminds the Planning Commission that the illegal uses onsite, unpaid fees and the project's inconsistency with the General Plan, the Community Plan, Board of Supervisors Policies and the County Fire Code remain unresolved. He notes that Staff advised the applicant to withdraw his application throughout the process.

Commissioner Brooks announces his support of the substitute motion. He realizes that the required mitigation might make the project infeasible, but believes the applicant should be allowed to provide the reports, the fire protection plan, and any other supporting documents Staff requests. Staff reminds the Planning Commissioners that the local fire protection district rejected the project and no fuel modification plan has been provided. In addition, travel time requirements included in the General Plan must be met. Staff would rather rescind the application and allow the applicant to work with Department of Forestry representatives.

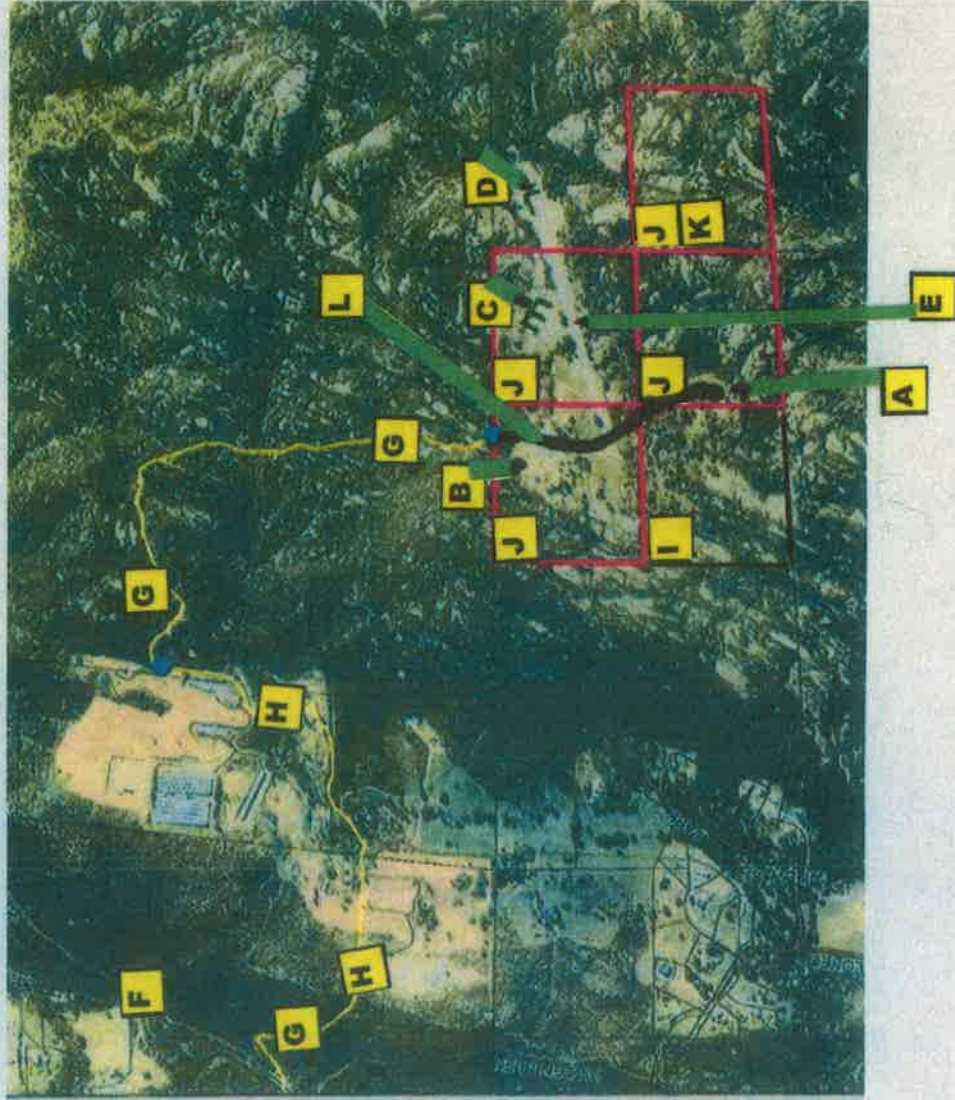
Ayes:	5 -	Brooks, Day, Pallinger, Riess, Woods
Noes:	2 -	Beck, Norby
Abstain:	0 -	None
Absent:	0 -	None

C

ALPHA KEY

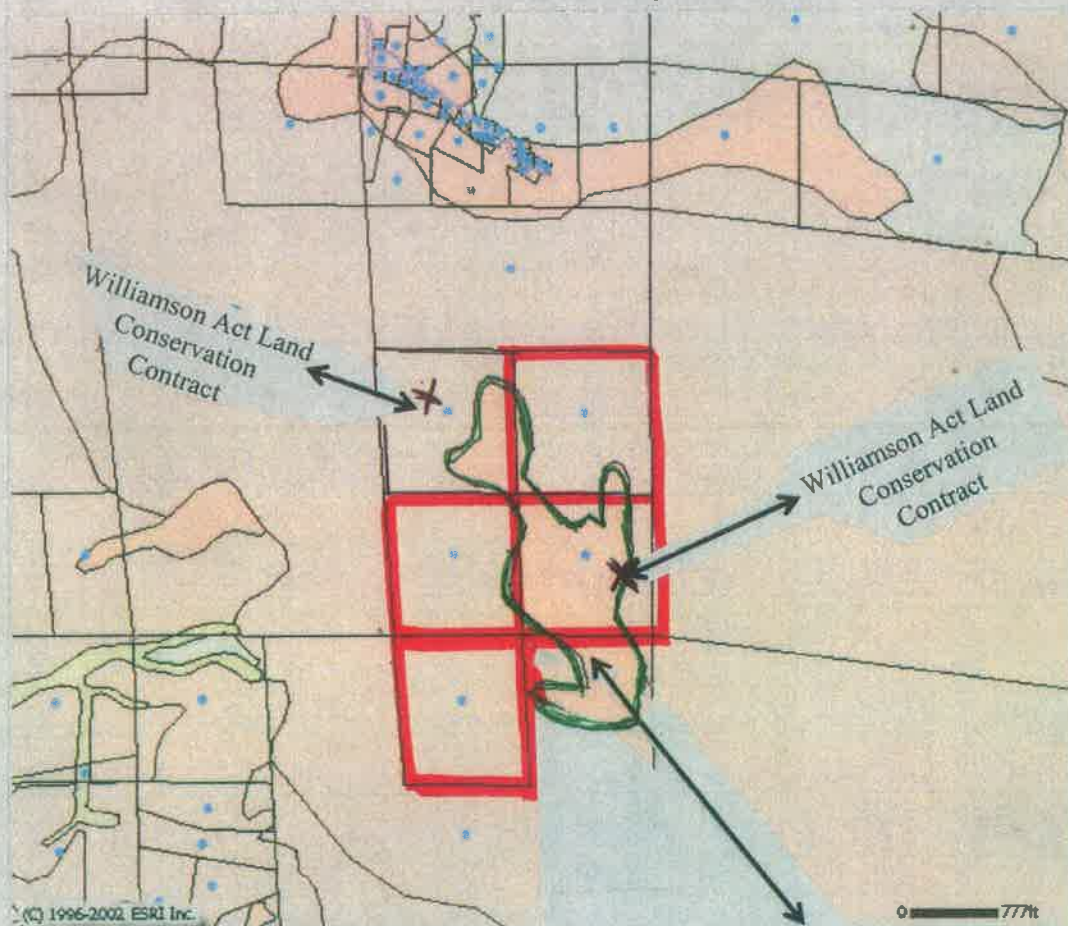
A	Residence - Clark and Robin Williams
B	Residence - Marc Halcon
C	Shooting Ranges - Duplex
D	Shooting Long Range - on US Cleveland Natl Forest Land
E	Airstrip - Illegal/Unpermitted
F	Japatul Road
G	USF Road
H	Private Road
I	Williams' Parcel
J	Covert Canyon, LLC
K	Not in the Valley
L	Williams' Legal Easement

Covert Canyon

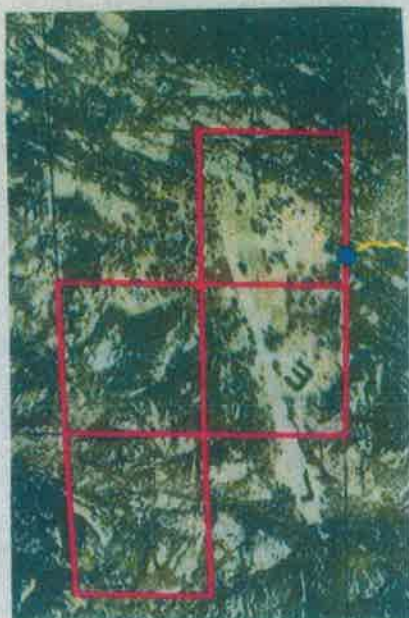


C1

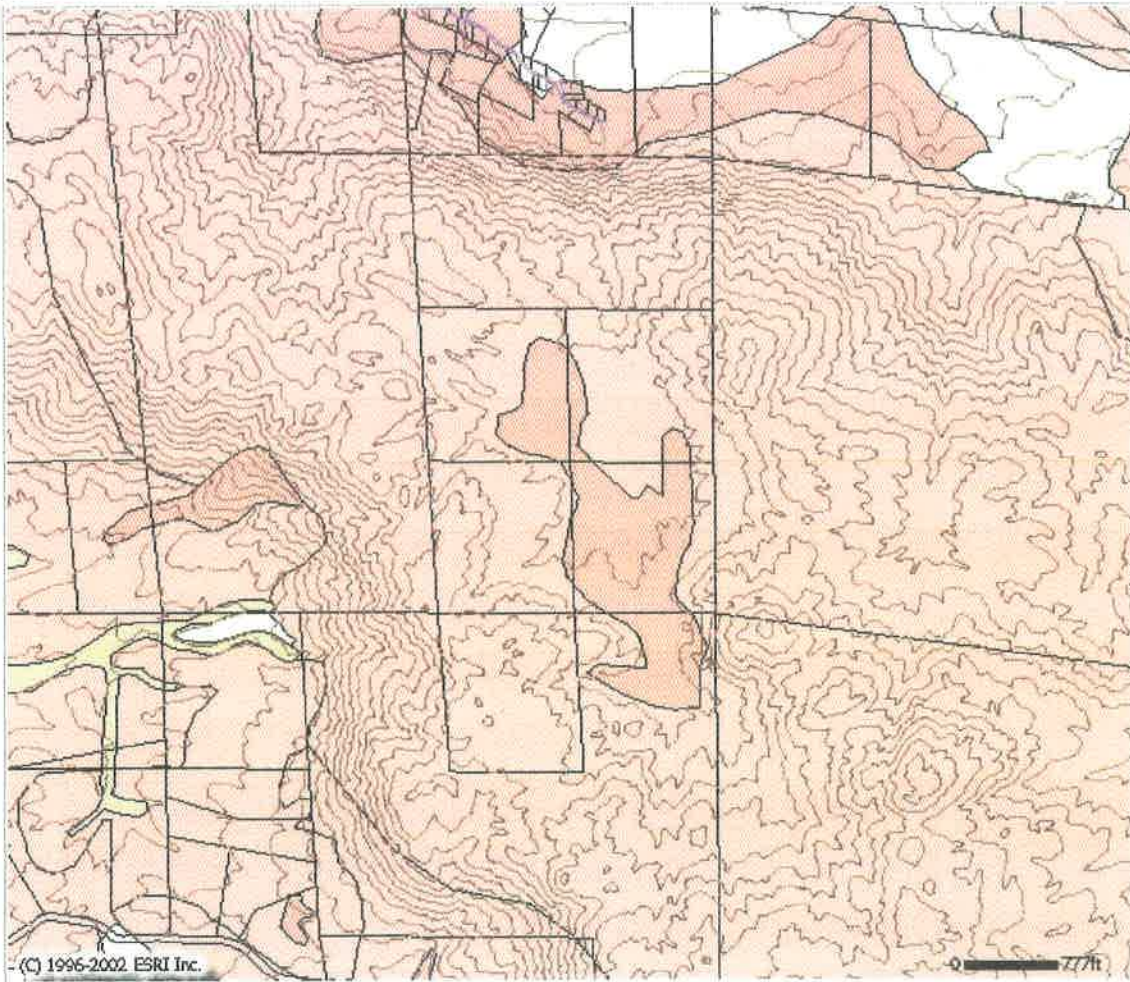
Parcel Map and Data

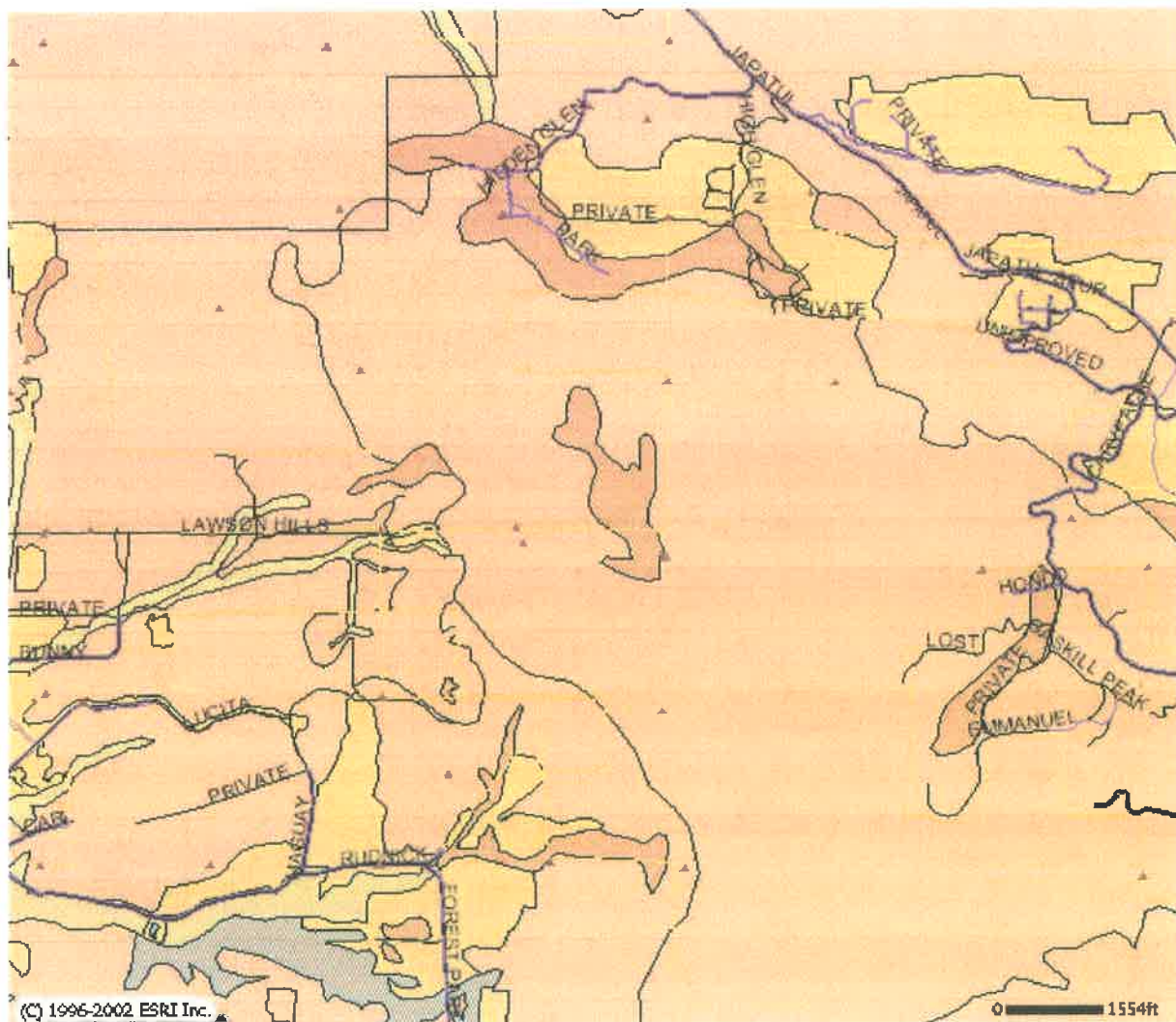


— BOG / MARSH
WETLAND



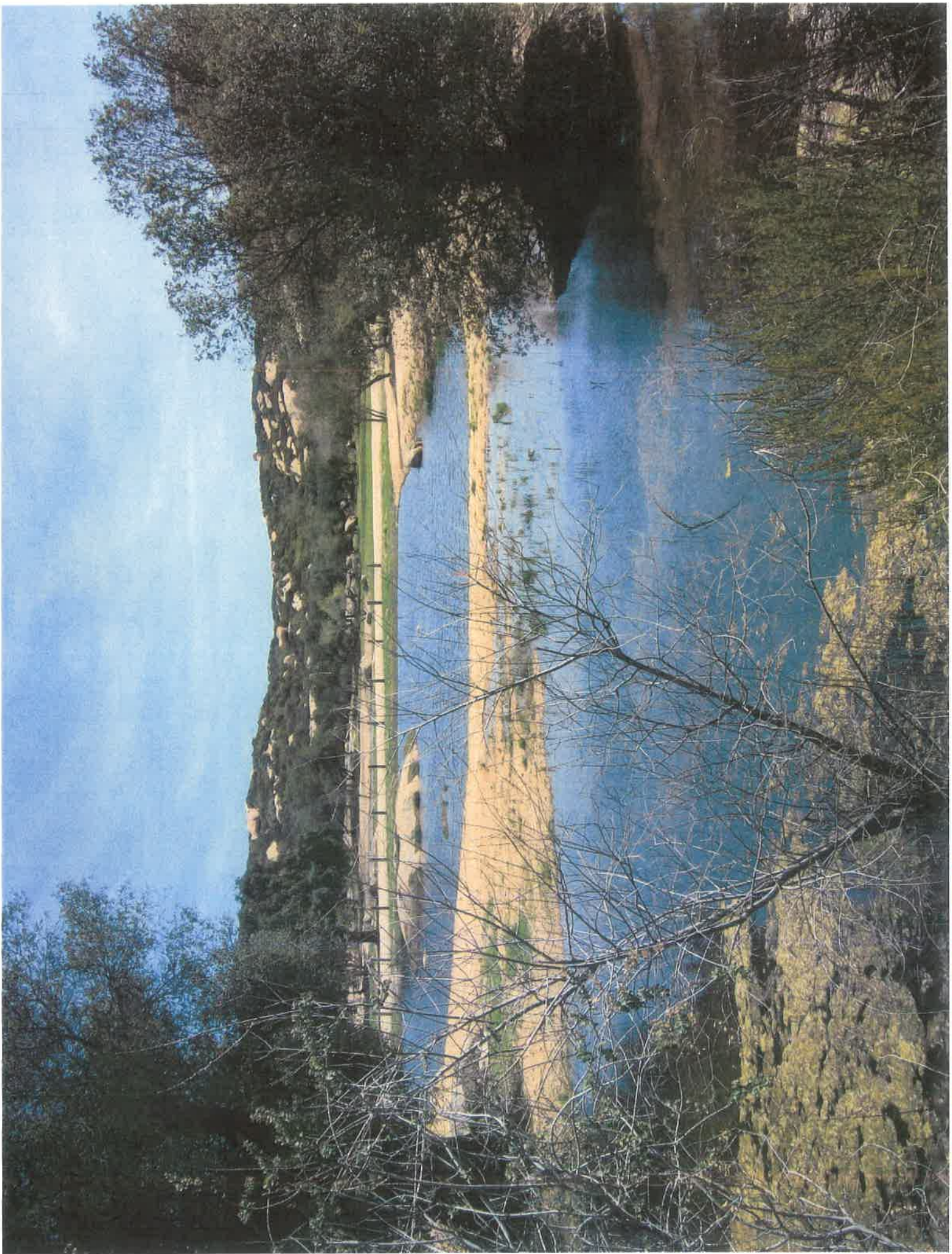
Parcel Map and Data

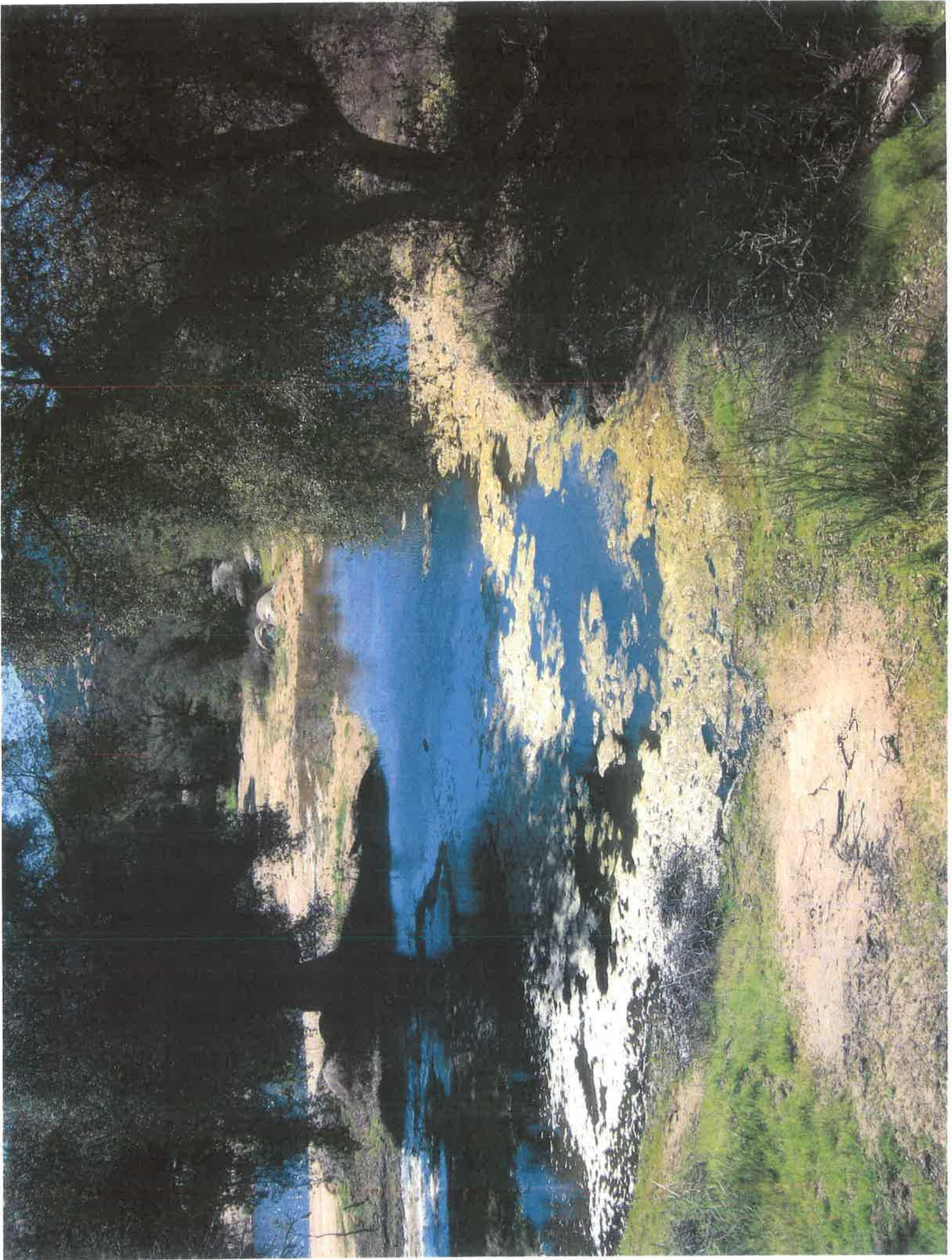
















CZ

County Guidelines for Determining Significance: Wildland Fire and Fire Protection

- Secondary access is required when accumulated dead end roads exceed thresholds:
 - Zoned 5 to 19.99 acres: **2,640 feet**
 - Zoned 20 acres or larger: **5,280 feet**
- Grades greater than 15% are not permitted without mitigation; **grades greater than 20% are prohibited.**
- Road surface: suitable for travel by **50,000 lb. fire apparatus**