

*Jill*

### MEMORANDUM

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Charles E. Skaggs, Interim City Manager *CS*

**PREPARED BY:** James Daniels, Director of Community Development

**DATE:** February 18, 2004

**SUBJECT:** Appeal Hearing: Conditional Use Permit 2003-22 (Ward): An Appeal of the Planning Commission Approval of Conditional Use Permit 2003-22 Allowing a Canine Rescue, Care, and Adoption Operation and Facility Limited Primarily to the Great Dane Breed. The Rescue Operation is Located on Property at 4867 Pedley Avenue.

**RECOMMENDATION:** Planning Commission: The Planning Commission held a public hearing at their meeting of January 28, 2004. As a result of the public hearing and the information received, the Planning Commission adopted Resolution No. 2004-06 approving Conditional Use Permit 2003-22.

Staff: Staff agrees with the determination of the Planning Commission and would recommend that the City Council concur with that action.

**MOTION:** To concur with the determination of the Planning Commission in approving Conditional Use Permit 2003-22.

**BACKGROUND:** The Planning Commission considered the Conditional Use Permit for the dog rescue operation at a public hearing held January 28, 2004. As a result of that hearing, along with the information provided, the Planning Commission adopted Resolution 2004-06 approving the Conditional Use Permit. Subsequent to this action, Council Member Sullivan appealed the Planning Commission determination.

Site Description: The property is located at 4867 Pedley Avenue, in the "A-1-20" zone (ref. Exhibit "A" – Location Map). The property is located in proximity to the terminus of Pedley Avenue, having a frontage on the east side of the street (ref. Exhibit "B" – APN Map). The property is also in proximity to the Santa Ana River bluff, with the western portion of the site being comprised of a small ravine that empties into the river area (ref. Exhibit "C" – Aerial Photo and Exhibit "D" – Site Photos).

The property is surrounded by five-foot high chain link fencing on all property lines with the exception of the south, which has a five-foot high wood fence. The property also has

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extensive vegetation and trees along the boundaries (and in the interior). The only access to the site is from Pedley Avenue, which has a six-foot high wrought iron fence at the entrance adjacent to the street right-of-way. All access to the property is secured and controlled from the residence through a speaker system at this location. Access is controlled through appointments made with the property owner. No "free" access to the property is allowed.

A 15-foot wide concrete driveway from Pedley Avenue leads to the residence and to other portions of the property. The driveway leads to a small parking area adjacent to the residence and to an area in proximity to the accessory structures. The driveway crosses the small ravine that provides natural drainage to the Santa Ana River. This ravine also provides a natural buffer from the existing residences located on the west side of Pedley Avenue.

The residence on the property is approximately 2,826 square feet, being constructed in 1980. The property has several accessory structures, including a barn and workshop, several covered horse corrals, and two shelters for the rescued dogs. Other animals maintained on the property (other than the rescue dogs) include four horses, a pony, a sheep, a goat and three pigs.

The dog rescue operation occupies an area of about 3,000 square feet, and is located immediately east of the residence. The rescue area is approximately 85 feet north of the south property line, and is estimated to be over 600 feet from the nearest residence on adjacent property. The rescue area is completely enclosed by eight-foot high chain link fencing, covered by corrugated metal and landscaped on the exterior with hedges.

The rescue enclosure is divided into two separate areas, to ensure a better division of space for the dogs, less confining, better control of the dogs and to allow the separation of older dogs from the younger dogs. Each area in the enclosure has a 240 square-foot dog shelter (20' x 12'), which has been constructed to be soundproof and to provide a climate controlled environment. A portion of the fenced rescue area has a concrete surface to assist in cleanliness. The concrete areas have drain gutters that connect to pipes leading to an approved septic tank (west of the residence).

Project Description: The property owner is applying for the necessary Conditional Use Permit to allow the continuance of an existing dog rescue operation. The dog rescue has been in existence since 1994 and has been the source on an on-going community debate regarding dog rescue operations since 1997. The rescue operation handles the rescue, care, and adoption of dogs, primarily of the Great Dane breed.

As noted in the section above "Site Description," the rescue operation occupies about 3,000 square feet on the property (ref. Exhibit "E" - Site Plan). The rescue is located directly east of the main residence, about 85 feet north of the south property line, and approximately 600 feet from nearest residential dwelling on the south. The rescued

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dogs are housed in an area completely enclosed by an eight-foot high chain link fence, covered with corrugated metal siding and landscaped on the outside with a hedge. The rescue area has two 240 square-foot, climate controlled and soundproofed dog shelters. The rescue area is partially surfaced with concrete, having drain gutters piped into an approved septic tank. The property owner has placed a dumpster in a chain link enclosure adjacent to Pedley Avenue. All feces are collected, double-bagged and placed in this dumpster on a daily basis.

The rescue operation is proposing that no more than a maximum of 50 dogs be maintained on the property. During a staff inspection of the property on January 20, 2004, 39 dogs were observed on the property in the rescue area. The applicant has indicated to staff that the number of dogs adopted each month varies, but the adoption rate averages approximately 20 dogs per month.

The rescue operation has a non-profit status 501(c)(3), with both the state and federal government (ref. Exhibit "F" and "G"). The applicant keeps records on all the dogs entering, housed, and adopted at the rescue facility, and has agreed to make the records available for review by City representatives. As part of the rescue operation, the applicant has agreed to provide evidence of adoption efforts and has a web page dedicated to these efforts. In addition, it has been stated that any difficulties and complaints (excessive barking, inadequate record keeping, lack of waste clean up) regarding any aspect of the dog rescue operation would be cause for review of the Conditional Use Permit and may be grounds for revocation.

The property owner has always agreed that Animal Control is authorized to enter upon and inspect the premises of the dog rescue for the purpose of determining whether the operation is in compliance with the approved provisions and standards. As a condition of the issuance of the Conditional Use Permit, the owner/operator would be required to allow such entry and inspection. Inspections would be made during reasonable hours, at times when the owner/operator is present and with such frequency as Animal Control would deem appropriate. Based on the recommendation of the Animal Control Department, the Planning Commission stipulated that an inspection was to occur within one-half hour of a request by Animal Control.

The dog rescue operation would also be required to pay an annual site inspection fee for Animal Control to inspect the rescue operation. As part of the rescue operation program, any dog deemed potentially dangerous or vicious by the Animal Control Department cannot be accepted or, if identified during an inspection, would be removed from the rescue facility within 24 hours.

A standard of the rescue operation program has been that all rescue dogs are spayed/neutered prior to release to an adopting party. All dogs four months or older are vaccinated for rabies. In addition, all dogs that come under the control of a rescue program are permanently identified through an approved microchip program.

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**ANALYSIS:** The issue of preparing a zone code amendment to establish specific requirements and provisions for dog rescues had been considered and presented at several City Council meetings. However, as the City Council could not agree on the specific standards and regulations, the amendment to establish and allow dog rescue operations was denied.

At the City Council meeting of May 7, 2003, Mayor Pro Tem Higgins indicated that staff should prepare and initiate a code amendment allowing additional animal units of any kind with the approval of a conditional use permit. This code amendment was adopted in September 2003, allowing a property owner to increase the allowed number of animals maintained on a property, including dogs. Without a conditional use permit, the Municipal Code allows only four dogs on a property (regardless of the size of the property).

One of the primary reasons for the on-going debate regarding dog rescues has been the dog rescue operating at 4867 Pedley Avenue without any type of City approvals. The operation has been defined as a kennel by the NMC Section 6.12.080, based on the number of dogs located on the property (in excess of four dogs), although it is operating as a rescue. The operator understood that the operation is not legal per the Municipal Code, but was allowed to continue the operation. This was done at the direction of the City Council, allowing the operation to continue until a final decision was made regarding a code amendment relating to dog rescues.

The rescue operation at 4867 Pedley Avenue has been in existence since early 1994, although no complaints were received until 1997. Over the past several years there have been several complaints regarding the operation. The number of dogs placed on the property has been as high as 94, but appears to average under 50. At no time has Animal Control found any problems with the operation of the facility or the health of the dogs, other than the number of dogs kept on the property.

As noted, the City Council directed staff to suspend all Notices to Comply and referred this issue to an Animal Keeping Ad Hoc Committee for recommendations regarding dog rescue operations. In January 2002, Animal Control and Code Enforcement received 13 complaints regarding the operation. The complaints involved too many dogs, barking, traffic, and waste run-off. Inspections found all of the complaints to be invalid, with the exception that 52 Great Danes were being housed on the property.

Driven by the January 2002 complaints and direction from the City Council, staff prepared a code amendment to establish requirements for dog rescue operations, based primarily on recommendations from the Animal Keeping Ad Hoc Committee. As noted above, no consensus was obtained regarding the code amendment initially. The City Council in September 2003 approved the amendment allowing the increase in animal units subject to a conditional use permit.

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The conditions under which the existing dog rescue is operating, and which are included in the resolution adopted by the Planning Commission, are a result of consideration and debate from staff, the Animal Ad Hoc Committee, Planning Commission and City Council. Over the nine years that the rescue operation has been in existence and all of the hearings related to the various Code Amendments, conditions for this type of operation have evolved and have been tentatively agreed upon. The Municipal Code does not set forth any performance standards for a rescue operation; however, the property owner and staff have agreed to these terms and conditions (with the exception of inspections occurring within one-half hour of notice).

Staff feels that the rescue operation is located on a uniquely situated property, providing adequate buffering and separation from adjacent properties. Staff has estimated that the area where the dogs are kept is approximately 600 feet from the nearest residence. When staff inspected the property, the area was secure and constructed in a fashion that prevents intrusion into adjacent properties. The dogs were quiet and did not bark during the inspection. The rescue area was clean and free of animal waste. No aspect of the rescue operation raised any concerns with staff.

The Planning Commission conditioned that the trash dumpster located adjacent to Pedley Avenue be screened from public view. Several neighbors have complained about the unsightly nature of the current enclosure. In addition, the Commission required the entrance gate from Pedley Avenue be relocated to allow a vehicle to stop off of the public right-of-way. Pedley Avenue does not have a heavy traffic volume, but it was felt that providing a space for a vehicle to stop waiting for entry clearance is necessary.

The dog rescue operation has been providing a service in the saving of dogs from death. The facility provides necessary medical care and service, as well as needed vaccinations and neutering/spaying. No adverse impacts from the operations have been observed (or heard). The Planning Commission believes the conditions contained in the approval of the project ensure mitigation of any potential impacts of the rescue operation.

/jed-50040

Attachments: Resolution No. 2004-06  
Exhibit "A" - Location Map  
Exhibit "B" - APN Map  
Exhibit "C" - Aerial Photo  
Exhibit "D" - Site Photos  
Exhibit "E" - Site Plan  
Exhibit "F" - Non-Profit Status  
Exhibit "G" - Non-Profit Status  
Exhibit "H" - Newspaper Article dated 12/7/03  
Exhibit "I" - Planning Commission minutes dated 1/28/04

**RESOLUTION 2004-06**

**A RESOLUTION BY THE PLANNING COMMISSION OF THE CITY OF NORCO, APPROVING A CONDITIONAL USE PERMIT TO ALLOW A CANINE RESCUE OPERATION ON PROPERTY LOCATED AT 4867 PEDLEY AVENUE WITHIN THE "A-1-20" ZONE. CONDITIONAL USE PERMIT 2003-22**

WHEREAS, an application to the City of Norco, California, was submitted for a conditional use permit under the provisions of Chapter 18.45, Title 18 of the Norco Municipal Code, by TRACY WARD on property generally described as:

A portion of Lot 2 in Block 58 of Riverside County Farms Tract No. 3 in the County of Riverside, State of California, as shown by Map on file in Book 12, Page 33 of Maps, Records of Riverside County, California,

More generally described as a rectangular-shaped area of about 4.62 acres, having a frontage of about 320 feet on the east side of Pedley Avenue, and a maximum depth of about 750 feet, and being further described as 4867 Pedley Avenue. Assessor's Parcel Number 153-090-002; and

WHEREAS, the notice on the application for a conditional use permit has been given in the manner and for times required by law; and

WHEREAS, at the time set, at 7 p.m. on January 28, 2004 within the Council Chambers at 2820 Clark Avenue, Norco, California, 92860, the application for a conditional use permit was heard by the Planning Commission for the City of Norco; and

WHEREAS, at said time and place, said Planning Commission heard and considered both oral and written evidence pertaining to the application for a conditional use permit; and

WHEREAS, the City of Norco, acting as the Lead Agency, has determined that the proposed project is exempt from environmental assessment.

NOW, THEREFORE, the Planning Commission of the City of Norco does hereby make the following FINDINGS AND DETERMINATION:

**I. FINDINGS:**

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2. The recorded owner of the property shall submit to the Planning Department, for record purposes, written evidence of agreement with all conditions of this approval before said permit shall become effective.
3. The project shall be in compliance with all City of Norco Municipal Codes, Ordinances and Resolutions. Non-compliance with any provisions of the Norco Municipal Code not specifically waived in compliance with City procedures shall constitute cause for revocation and/or termination of the approvals granted under authority of permit.
4. The rescue operation shall maintain no more than 55 animal units on the property at any time. The total count of animals shall include all dogs: (i.e., security dogs and non-adoptable rescue dogs, personal, etc.) and other animal regulated by the Norco Municipal Code.
5. Rescue operations shall maintain in good standing a non-profit status 501(c)(3). Evidence of adoption efforts shall be required if requested by the Animal Control Department.
6. Any complaints (i.e., excessive barking, inadequate record keeping, lack of waste clean up) regarding the dog rescue operation which are deemed valid shall be cause for review of the conditional use permit and may be grounds for revocation.
7. An Animal Control Officer is authorized to enter upon and inspect the premises of the dog rescue for the purpose of determining whether the rescue operation is in compliance with the provisions and standards of this permit. As a condition of the issuance of Conditional Use Permit 2003-22, the owner/operator shall agree to allow such entry and inspection within one half hour of request from the Animal Control Department. Inspections shall be made during reasonable hours at times when the owner/operator is present and with such frequency as Animal Control shall deem appropriate.
8. Records should be kept on all dogs entering, housed, and adopted at the facility, and shall be made available for review by properly credentialed City, county, state and/or federal representatives, as may be reasonable requested.
9. All rescue dogs shall be spayed/neutered prior to release to an adopting party. If dogs are received that are eight weeks of age or older, the dogs shall be altered within 30 days of receipt by the rescue operation. The alteration of a dog may be postponed only if necessary and determined by a licensed veterinarian and as provided by State of California Food and Agriculture Section 30503 (b). Any dog over four months old must be kept

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**Page 4**  
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separated from other dogs to avoid accidental breeding, until dogs can be altered.

10. All dogs that come under the control of the rescue operation shall be permanently identified through an approved microchip program. Appropriate records shall be kept on all dogs, and any change of ownership or guardianship shall be established and maintained by any caregiver. All personal dogs must be in possession of a current City dog license.
11. All dogs four months or older shall be vaccinated for rabies. Accurate and complete vaccination and adoption records of all dogs shall be maintained by the rescuer operator on forms that will be made available to Animal Control for their inspection upon request. The rescue operation's adoption procedure shall be on file with the Animal Control Department.
12. The rescue operation shall be contained on the property within suitable areas as determined by Animal Control. The areas where the rescue dogs are maintained shall be a minimum of 75 feet from any property line and a minimum of 100 feet from any equestrian trail. All area and kennels where dogs are kept shall be subject to approval by the Animal Control Department.
13. Any dog deemed potentially dangerous or vicious by any Animal Control Department cannot be accepted, or, if identified during an inspection, shall be removed from the rescue facility within 24 hours. The Animal Control Officer's decision on animal temperament (dangerous/vicious) is not subject to appeal.
14. There shall be adequate drainage facilities and satisfactory sanitation disposal of both natural precipitation and animal waste of all kinds into an approved sewer system. The City Public Works Department shall approve the method of connection or modification of connection into the sewer (septic) system. All feces shall be removed or collected from the property on a daily basis. The City Animal Control Department shall approve the method of disposal.
15. The existing trash container located on Pedley Avenue shall be placed in an enclosure approved by the City to ensure that the trash container is obstructed and screened from public view. The location and design shall be subject to approval of the City Planning Department.
16. The trash pick-up shall be increased to a minimum of two times per week.



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17. The security entrance gate located on the main access from Pedley Avenue shall be relocated inside the property boundaries to allow adequate area for an entering vehicle to stop off the public right-of-way. The location of the entrance gate shall be subject to approval by the City Planning Department.
18. The Conditional Use Permit shall be subject to an annual review by the Planning Commission to ensure that all conditions and standards are being met, and that no difficulty or problems are being created by the rescue operation. Conditions may be modified, revised or amended if difficulties or problem must be mitigated.
19. This Conditional Use Permit shall not be transferable from the current applicant and property owner. If the rescue operation is transferred to another person, entity or corporation, or the property is sold, the Conditional Use Permit shall be deemed to be invalid.
20. It is hereby established that it shall be grounds for revocation of this conditional use permit if the permittee, his agent or assigns, or employee(s) of this establishment, or any other person connected or associated with the permittee or his business establishment, or any person who is exercising managerial authority of the business establishment has:
  - A. Violated any rule, regulation or condition of approval adopted by the Planning Commission relating to the conditional use permit;  
or
  - B. Conducted the operation permitted hereunder in a manner contrary to the peace, health, safety and general welfare of the public or in a manner which either generates or contributes to noise and/or health/sanitation nuisances, or which results in undesirable activities or creating an increased demand for public services.

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**PASSED AND ADOPTED** by the Planning Commission of the City of Norco at a regular meeting held on January 28, 2004.

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**Gregory Newton,**  
Chairman  
Planning Commission  
City of Norco, California

**ATTEST:**

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**James E. Daniels, Secretary**  
Planning Commission  
City of Norco, California

I HEREBY CERTIFY that this Resolution was duly and regularly passed and adopted by the Planning Commission of the City of Norco at a regular adjourned meeting thereof held on January 28, 2004, by the following roll call vote:

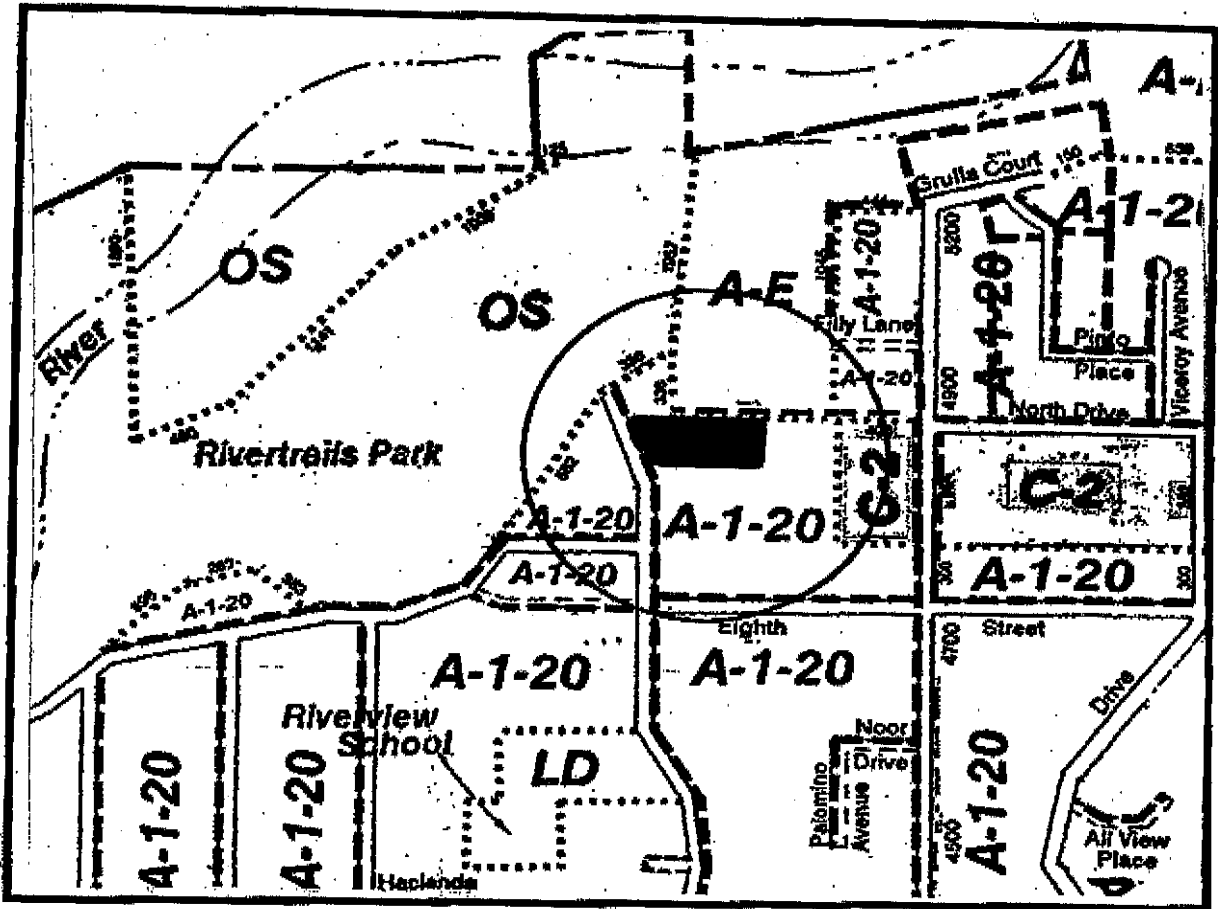
**AYES:** Hinson, Newton, Ryan and Wright  
**NOES:** Wilson  
**ABSENT:** None  
**ABSTAIN:** None

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**James E. Daniels, Secretary**  
Planning Commission

/jed-49801

# LOCATION MAP



Not to Scale



**PROJECT:** Conditional Use Permit 2003-22

**LOCATION:** 4867 Pedley Avenue

**APPLICANT:** Burt and Tracy Ward

## Exhibit "A"

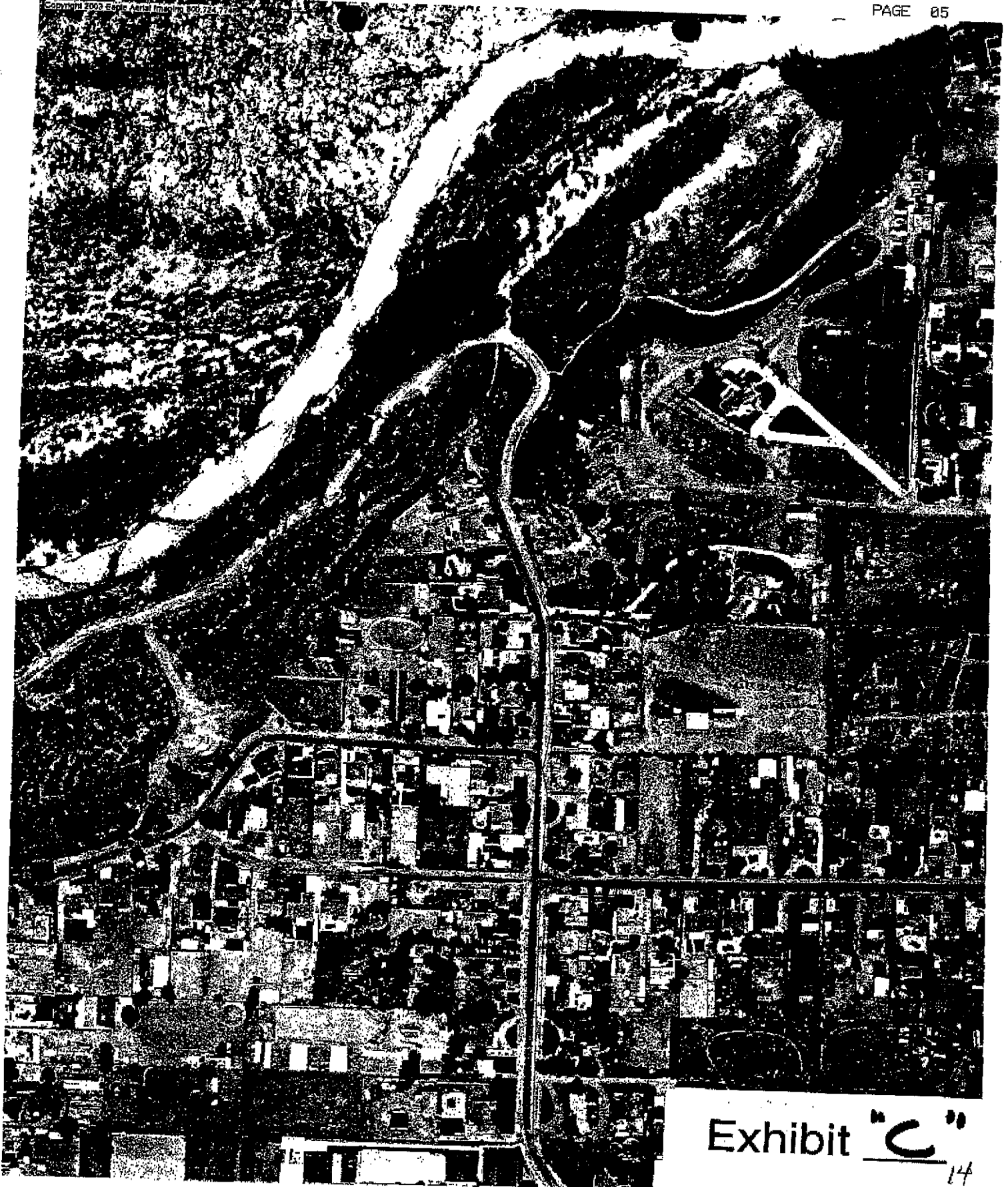


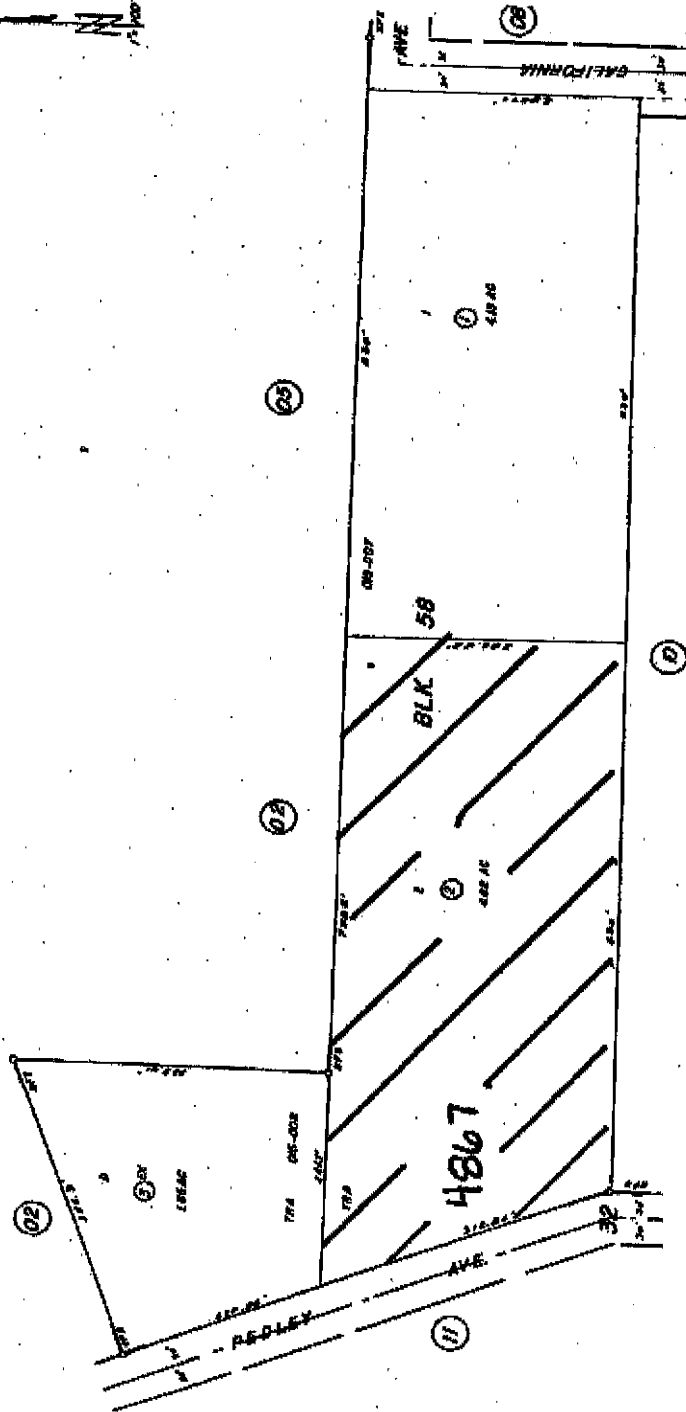
Exhibit "C" 14

# APN MAP

2.7  
T.R.A. 815 1002 /53-09  
815 1606

FOR N1/2 SEC. 32 T.2 S. R.6 W.  
FOR CITY OF NORCO

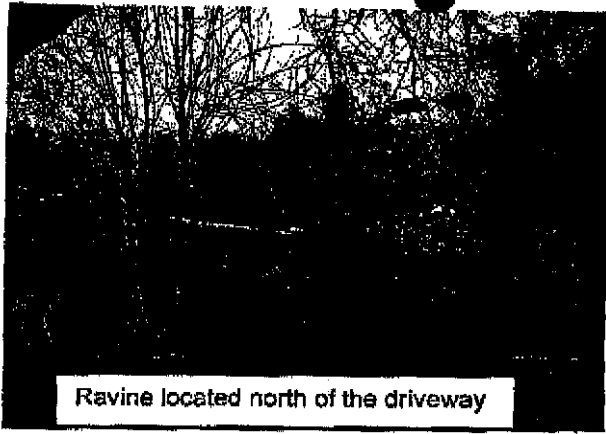


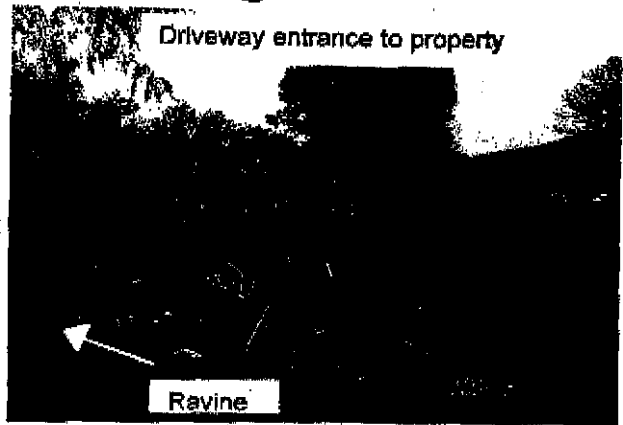
M.S. 12/35 Norco Form Tr. No. 3  
APN 804

ASSESSOR'S MAP BK. 155 PG. 09  
RIVERSIDE COUNTY, CALIF.

Exhibit "B" 13

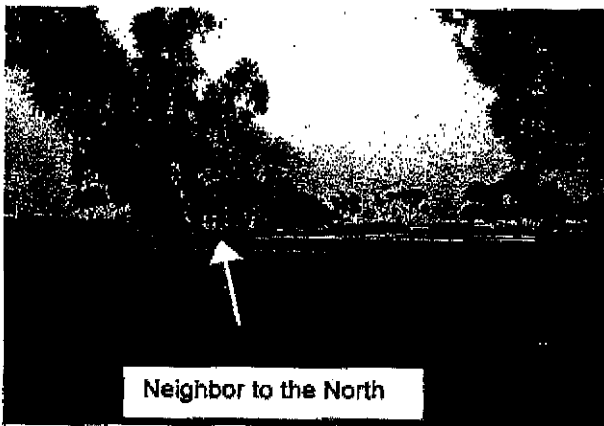


Ravine located north of the driveway

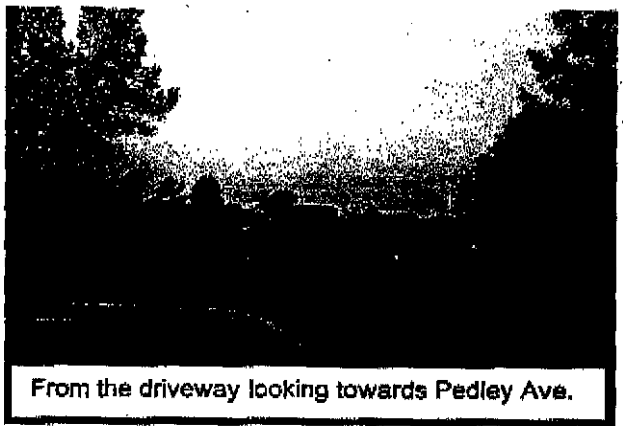


Driveway entrance to property

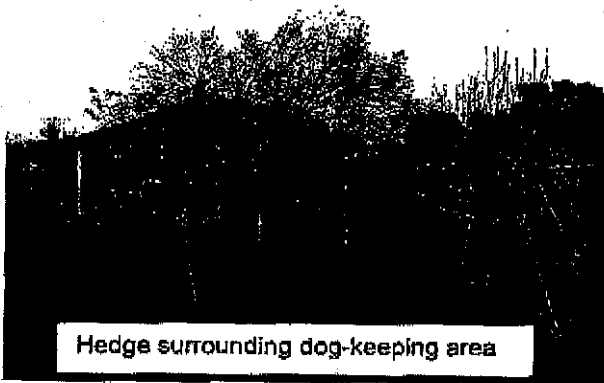
Ravine



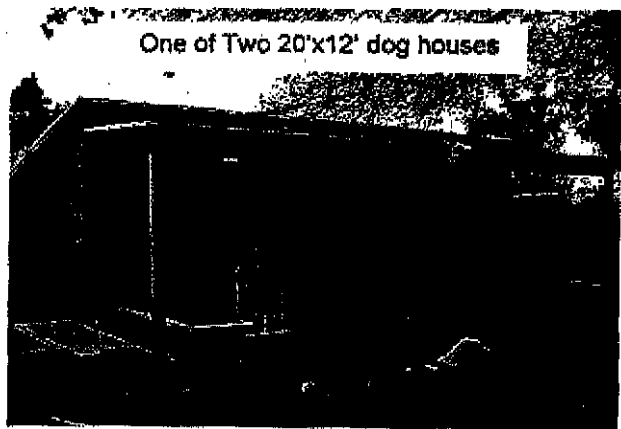
Neighbor to the North



From the driveway looking towards Pedley Ave.



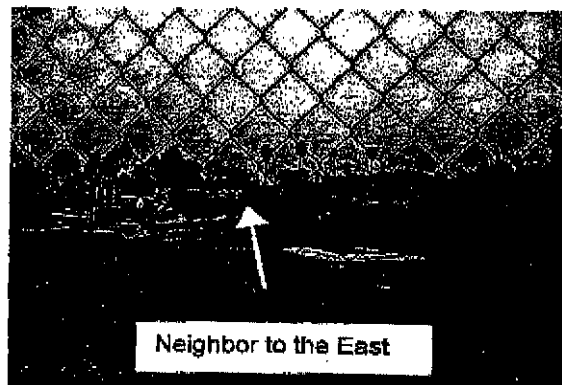
Hedge surrounding dog-keeping area



One of Two 20'x12' dog houses

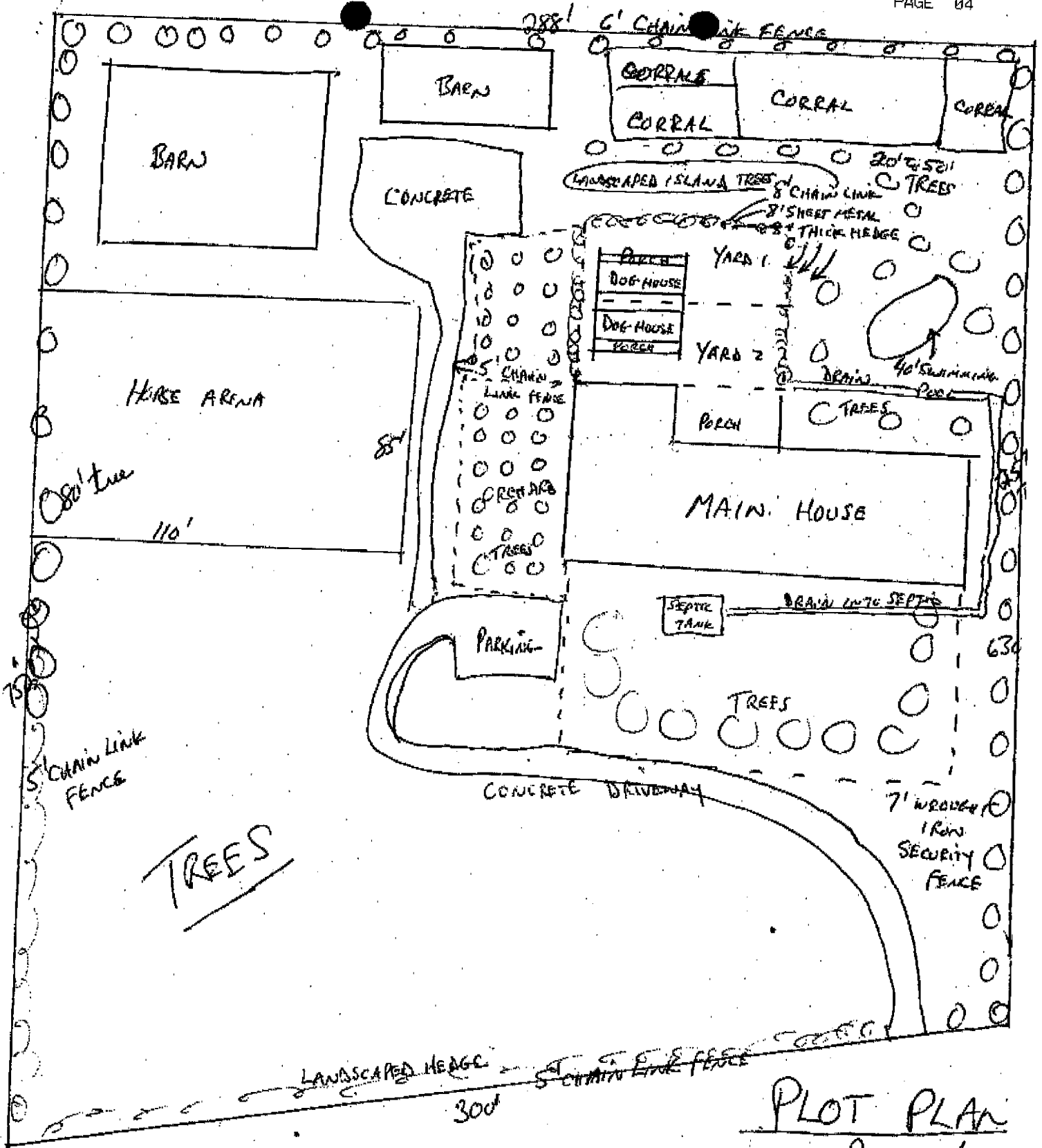


A portion of one of two dog yards



Neighbor to the East

EXHIBIT "D"



PEDLEY AVENUE

EXHIBIT "E"

PLOT PLAN

4867 PEDLEY AVENUE  
NORCO, CA 92860  
1.22.05



STATE OF CALIFORNIA  
FRANCHISE TAX BOARD  
PO BOX 1286  
RANCHO CORDOVA CA 95741-1286

In reply refer to  
755:6 :PLR

January 2, 2004

GENTLE GIANTS RESCUE AND ADOPTIONS INC A CALIFORNIA NON-PROFIT  
LEWITT HACKMAN SHAPIRO  
16633 VENTURA BLVD # 1  
ENCINO CA 91436-1801

Purpose : CHARITABLE  
Code Section : 2370ld  
Form of Organization : Corporation  
Accounting Period Ending: December 31  
Organization Number : 2509522

You are exempt from state franchise or income tax under the section of the Revenue and Taxation Code indicated above.

This decision is based on information you submitted and assumes that your present operations continue unchanged or conform to those proposed in your application. Any change in operation, character, or purpose of the organization must be reported immediately to this office so that we may determine the effect on your exempt status. Any change of name or address must also be reported.

In the event of a change in relevant statutory, administrative, judicial case law, a change in federal interpretation of federal law in cases where our opinion is based upon such an interpretation, or a change in the material facts or circumstances relating to your application upon which this opinion is based, this opinion may no longer be applicable. It is your responsibility to be aware of these changes should they occur. This paragraph constitutes written advice, other than a chief counsel ruling, within the meaning of Revenue and Taxation Code Section 21012(a)(2).

You may be required to file Form 199 (Exempt Organization Annual Information Return) on or before the 15th day of the 5th month (4 1/2 months) after the close of your accounting period. Please see annual instructions with forms for requirements.

You are not required to file state franchise or income tax returns unless you have income subject to the unrelated business income tax under Section 23731 of the Code. In this event, you are required to

EXHIBIT "F"



January 2, 2004  
GENTLE GIANTS RESCUE AND ADOPTIONS, INC., A CALIFORNIA NON-PROFIT  
ENTITY ID : 2509522  
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file Form 109 (Exempt Organization Business Income Tax Return) by the 15th day of the 5th month (4 1/2 months) after the close of your annual accounting period.

Please note that an exemption from federal income or other taxes and other state taxes requires separate applications.

A copy of this letter has been sent to the Registry of Charitable Trusts.

P ROBINSON  
EXEMPT ORGANIZATIONS  
BUSINESS ENTITIES SECTION  
TELEPHONE (916) 845-3779

EO :

COPY

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: DEC 18 2003

GENTLE GIANTS RESCUE AND ADOPTIONS  
INC  
C/O TRACY WARD  
4867 PEDLEY AVE  
NORCO, CA 92860

Employer Identification Number:  
27-0062109  
DIN:  
17053306007013  
Contact Person: SIRIJUN MAYI ID# 31449  
Contact Telephone Number:  
(877) 829-5500

Accounting Period Ending:  
December 31  
Foundation Status Classification:  
509(a)(2)  
Advance Ruling Period Begins:  
May 5, 2003  
Advance Ruling Period Ends:  
December 31, 2007  
Addendum Applies:  
No

Dear Applicant:

Based on information you supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

Because you are a newly created organization, we are not now making a final determination of your foundation status under section 509(a) of the Code. However, we have determined that you can reasonably expect to be a publicly supported organization described in section 509(a)(2).

Accordingly, during an advance ruling period you will be treated as a publicly supported organization, and not as a private foundation. This advance ruling period begins and ends on the dates shown above.

Within 90 days after the end of your advance ruling period, you must send us the information needed to determine whether you have met the requirements of the applicable support test during the advance ruling period. If you establish that you have been a publicly supported organization, we will classify you as a section 509(a)(1) or 509(a)(2) organization as long as you continue to meet the requirements of the applicable support test. If you do not meet the public support requirements during the advance ruling period, we will classify you as a private foundation for future periods. Also, if we classify you as a private foundation, we will treat you as a private foundation from your beginning date for purposes of section 507(d) and 4940.

Grantors and contributors may rely on our determination that you are not a private foundation until 90 days after the end of your advance ruling period. If you send us the required information within the 90 days, grantors and

Letter 1045 (DO/CG)

Exhibit "G"

**GENTLE GIANTS RESCUE AND ADOPTIONS**

contributors may continue to rely on the advance determination until we make a final determination of your foundation status.

If we publish a notice in the Internal Revenue Bulletin stating that we will no longer treat you as a publicly supported organization, grantors and contributors may not rely on this determination after the date we publish the notice. In addition, if you lose your status as a publicly supported organization, and a grantor or contributor was responsible for, or was aware of, the act or failure to act, that resulted in your loss of such status, that person may not rely on this determination from the date of the act or failure to act. Also, if a grantor or contributor learned that we had given notice that you would be removed from classification as a publicly supported organization, then that person may not rely on this determination as of the date he or she acquired such knowledge.

If you change your sources of support, your purposes, character, or method of operation, please let us know so we can consider the effect of the change on your exempt status and foundation status. If you amend your organizational document or bylaws, please send us a copy of the amended document or bylaws. Also, let us know all changes in your name or address.

As of January 1, 1984, you are liable for social security taxes under the Federal Insurance Contributions Act on amounts of \$100 or more you pay to each of your employees during a calendar year. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the private foundation excise taxes under Chapter 42 of the Internal Revenue Code. However, you are not automatically exempt from other federal excise taxes. If you have any questions about excise, employment, or other federal taxes, please let us know.

Donors may deduct contributions to you as provided in section 170 of the Internal Revenue Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

Donors may deduct contributions to you only to the extent that their contributions are gifts, with no consideration received. Ticket purchases and similar payments in conjunction with fundraising events may not necessarily qualify as deductible contributions, depending on the circumstances. Revenue Ruling 67-246, published in Cumulative Bulletin 1967-2, on page 104, gives guidelines regarding when taxpayers may deduct payments for admission to, or other participation in, fundraising activities for charity.

You are not required to file Form 990, Return of Organization Exempt From Income Tax, if your gross receipts each year are normally \$25,000 or less. If you receive a Form 990 package in the mail, simply attach the label provided, check the box in the heading to indicate that your annual gross receipts are normally \$25,000 or less, and sign the return. Because you will be treated as a public charity for return filing purposes during your entire advance ruling

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## GENTLE GIANTS RESCUE AND ADOPTIONS

period, you should file Form 990 for each year in your advance ruling period that you exceed the \$25,000 filing threshold even if your sources of support do not satisfy the public support test specified in the heading of this letter.

If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. A penalty of \$20 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year, whichever is less. For organizations with gross receipts exceeding \$1,000,000 in any year, the penalty is \$100 per day per return, unless there is reasonable cause for the delay. The maximum penalty for an organization with gross receipts exceeding \$1,000,000 shall not exceed \$50,000. This penalty may also be charged if a return is not complete. So, please be sure your return is complete before you file it.

You are not required to file federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return. In this letter we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

You are required to make your annual information return, Form 990 or Form 990-EZ, available for public inspection for three years after the later of the due date of the return or the date the return is filed. You are also required to make available for public inspection your exemption application, any supporting documents, and your exemption letter. Copies of these documents are also required to be provided to any individual upon written or in person request without charge other than reasonable fees for copying and postage. You may fulfill this requirement by placing these documents on the Internet. Penalties may be imposed for failure to comply with these requirements. Additional information is available in Publication 557, Tax-Exempt Status for Your Organization, or you may call our toll free number shown above.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, we will assign a number to you and advise you of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

This ruling is based on the understanding that the majority of your Board of Directors will be non-salaried and will not be related to salaried personnel or to parties providing services. It is also based on the understanding that salaried individuals cannot vote on their own compensation and that compensation decisions will be made by the board.

If we said in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

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## GENTLE GIANTS RESCUE AND ADOPTIONS

Because this letter could help us resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



Lois E. Lerner  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure(s);  
Form 872-C

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