

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Civil Complex Center
751 W. Santa Ana Blvd
Santa Ana, CA 92701

SHORT TITLE: Save the Canyons Coalition, an unincorporated association vs. County of Orange

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

CASE NUMBER:
30-2018-00992951-CU-WM-CXC


I certify that I am not a party to this cause. I certify that the following document(s), Decision on Petition for Writ of Mandate dated 03/15/19, Minute Order dated 03/15/19, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from Orange County Superior Court email address on March 15, 2019, at 11:32:37 AM PDT. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

JAMES L. MILLER
JLIMESQ@DSLEXTREME.COM

LEIBOLD MCCLENDON & MANN
JOHN@CEQA.COM

ORANGE COUNTY COUNSEL
JEFFREY.STOCK@COCO.OCGOV.COM

ORANGE COUNTY COUNSEL
NICOLE.WALSH@COCO.OCGOV.COM

Clerk of the Court, by:  , Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 15 2019

DAVID H. YAMASAKI, Clerk of the Court

BY: *DH* DEPUTY

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CIVIL COMPLEX CENTER

SAVE THE CANYONS COALITION,

Petitioner,

v.

COUNTY OF ORANGE, ORANGE COUNTY
BOARD OF SUPERVISORS

Respondents.

RED ROCK CHATEAU WEDDING CENTER,
NABHAN SIMAAN, YOLA SIMAAN, JAMES
LEROY MILLER

Real Parties in Interest

No. 30-2018-00992951

**DECISION ON PETITION FOR WRIT OF
MANDATE**

OVERVIEW

Petitioner Save the Canyons Coalition filed this writ of mandate proceeding on May 14, 2018 to challenge the decision of Respondent County of Orange (the "County") to approve a conditional use permit allowing Real Parties in Interest Red Rock Chateau Wedding Center, et al ("Red Rock" or "RPIs") to use their residential property up to 12 times per year for private for-profit events such as weddings, bar mitzvahs and similar activities. The operative petition is the

1 Verified First Amended Petition filed October 11, 2018. The writ petition asserts
2 the County's approval of this use (the "Project") violates (1) the Planning and
3 Zoning Law, Government Code section 65000 et seq., (2) the County's General
4 Plan, (3) the County's Specific Plan known as the Silverado-Modjeska Specific Plan
5 (SMSP), (4) the County's zoning ordinance, and (5) CEQA. Petitioner seeks a judicial
6 determination with respect to the above issues and a peremptory writ of mandate
7 "commanding Respondents to set aside and rescind their approval of the Project
8 and MND [Mitigated Negative Declaration], and ordering Respondents and RPIs to
9 take no further steps toward implementing the Project unless and until
10 Respondents fully comply with CEQA, the CEQA Guidelines, the PZL, and/or other
11 applicable laws and regulations." (First Amended Petition, Prayer §1, pp. 18-19.)
12

13 Following the filing of the administrative record, briefing of the issues
14 and oral argument on February 26, 2019, the Court took this matter under
15 submission. For the reasons set forth below, the Court GRANTS the writ.
16

17 FACTUAL BACKGROUND

18

19 Nabhan and Yola Simaan are the owners of a nearly four-acre piece of
20 property (the "Site") developed with a single-family residence located at 17251
21 Santiago Canyon Road in Silverado, California, which is located in the County of
22 Orange. The property includes an 8500 square foot house with an adjoining 3200
23 square foot pool house and swimming pool. Although the Simaans' efforts to
24 obtain a use permit to hold up to 35 events per year at their home were rejected
25 by the County in 2001, 2002 and 2003, they were issued 16 temporary use permits
26 for wedding events between 2000 and 2004. In 2008, RPIs submitted a new permit
27 application for an events venue for up to 20 events per year. Although that
28 application was deemed complete in 2010, it was not acted upon until it was

1 considered by the County Planning Commission in 2017.

2
3 Prior to the Planning Commission's meeting on September 27, 2017, the
4 County Planning Staff analyzed the Project and recommended that approval be
5 denied. (B03:00017 et seq.) [Citations to the administrative record are to
6 numbered documents and then to bate-stamped pages within those documents.]
7 In making this recommendation, the Planning Staff concluded that the Project was
8 inconsistent with the "objectives, policies, and general land uses and programs
9 specified in the [County's] General Plan," and the use proposed subject to the
10 specified conditions "is inconsistent with the provisions of the Zoning Code. . . ."
11 (*Id.* at 00038.) The Staff provided a detailed analysis regarding land use
12 consistency. In terms of the General Plan, the Planning Staff stated that the
13 Project "proposes a commercial use" that is "intended to serve more than just the
14 local area [residents]," and which is therefore inconsistent with the designation of
15 1A-Rural Residential, which is the "lowest intensity residential land use
16 designation." (*Id.* at 00030-00032.)

17
18 With respect to the SMSP, the Planning Staff concluded that the Specific
19 Plan prohibited this type of commercial activity in areas designated Rural
20 Residential and also that the proposed use was inconsistent with the Scenic
21 Highway corridor. As to zoning compliance for a Site zoned A1 "General
22 Agricultural," the Planning Staff concluded that the Project was neither an
23 agricultural use nor an "outdoor recreational use" as those terms are used in the
24 code, and is a high intensity use as it relates to traffic and noise generation. (*Id.* at
25 00033-00034.)

26
27 Notwithstanding these recommendations, and after the RPIs rejected the
28 Planning Commission's suggestions (relayed to them through Staff) that the

1 Project proceed by way of amendments to the General Plan and SMSP, the
2 Planning Commission approved the Project on January 24, 2018 after reducing the
3 number of annual events from 20 to 12 and limiting the hours of operation to
4 noon until dusk. (B10:00650-00662) The approval included 31 conditions
5 associated with the use permit. That decision was appealed to the Board of
6 Supervisors who, following a public hearing, approved the Project on April 10,
7 2018 after adding a 32nd condition to deal with potential noise issues.
8 (B01:00005-00010)

9
10 The Project Site is located in an area designated 1A—Rural Residential—
11 in the County’s General Plan. This category provides the lowest density level for
12 residential housing and is “applied to areas in which limited residential use is
13 compatible with the natural character of the terrain.” (General Plan § III-12) In
14 contrast to the next category, 1B Suburban Residential, which allows commercial
15 sites subject to specific guidelines (*Id.* § III-10), there is no provision for
16 commercial activity in the 1A category.

17
18 The SMSP was adopted in 1977 and was last amended in 1985. (H0020)
19 Although not mentioned by name in the General Plan, the SMSP is referenced in
20 the October 2015 Land Use Element of the General Plan as follows: “The
21 residential categories are intended for application to all areas so designated on the
22 Land Use Designations figure with one exception. Where . . . specific plans have
23 been adopted but are not reflected in detail in the General Plan level, the overall
24 density and character represented on the Land Use Element Map are assumed to
25 reflect the . . . Specific Plan regulations.” (General Plan §§ III-11, 12) This provision
26 supports the conclusion that the Board of Supervisors intended to rely on specific
27 plans such as the SMSP to interpret and apply the Land Use Element it adopted in
28 2015.

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Several aspects of the SMSP pose problems for the Project. First, the SMSP states under the heading "Neighborhood Commercial" as follows: "Commercial facilities in Silverado and Modjeska [where the Project is located] are limited to existing sites and shall not be allowed in any residential category in this plan." (H0020:2361) Second, to the extent that the proposed events venue can be characterized as a "commercial recreation" use, only those areas designated (with an "r") as "recreation" areas on the SMSP map allow recreation activities. (F10:01151) The SMSP expressly defines "recreation" as uses "which emphasize outdoor activities, such as recreation vehicle parks, camping, picnicking, hiking, equestrian centers and stables, wildlife sanctuaries, wilderness parks and commercial structures directly associated with on-site recreation activities." (*Id.*) The Project is not in one of those areas and even if it were, there is insufficient evidence that this use falls under the category of "recreation." (H0020:02361) Third, the Project is located within the Scenic Highway corridor where commercial activities (i.e., "Neighborhood Commercial") are prohibited. (H0020:2366)

In terms of zoning, the Property is located within the A1 "General Agricultural" zone. Zoning Code (OCCO) section 7-9-55.1 provides in pertinent part as follows: "The A1 District is established to provide for agriculture, outdoor recreational uses, and those low-intensity uses which have a predominantly open space character." The County asserts that a wedding venue qualifies as an "outdoor recreational" use, relying on the definition of "commercial recreation" which is referred to as "[a]ny use or activity where the primary intent is to provide amusement, pleasure or sport . . . for financial gain." (OCCO § 7-9-24)

Despite these restrictions and the report from the Planning Staff (as well as the advice of Deputy County Counsel), the Planning Commission and then the

1 Board of Supervisors went ahead and approved the conditional use permit for the
2 Project. That approval followed the RPIs' signing of an indemnification agreement
3 with the County in which they agreed to defend and indemnify the County in any
4 actions brought against the County to set aside that approval. In connection with
5 that approval, the Board approved the Planning Commission's adoption of a
6 Mitigated Negative Declaration in lieu of an Environmental Impact Report (EIR).
7 (D06; B01:00009; B15:00706-00715)

8
9 **ANALYSIS OF CONSISTENCY FINDINGS WITH RESPECT TO THE GENERAL PLAN,**
10 **SMSP AND ZONING**

11
12 Government Code section 65300 requires all counties and cities to adopt
13 a general plan for the development of their land. (*Endangered Habitats League,*
14 *Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782.) "The general plan has
15 been aptly described as the 'constitution for all future developments' within the
16 city or county. [Citations.] 'The propriety of virtually any local decision affecting
17 land use and development depends upon consistency with the applicable general
18 plan and its elements.' [Citations.]" (*Citizens of Goleta Valley v. Board of*
19 *Supervisors* (1990) 52 Cal.3d 553, 570-71.)

20
21 "To ensure the general plan's authority as the fundamental 'constitution'
22 for the physical development of every city and county, the planning law provides
23 that all zoning regulations, subdivision approvals and specific plans must be
24 consistent with the general plan. [Citations.]" (*DeVita v. County of Napa* (1995) 9
25 Cal.4th 763, 803.) "[Z]oning laws . . . regulate the geographic allocation and
26 permissible uses of land. [Citation.]" (*United Outdoor Advertising Co. v. Business,*
27 *Transportation & Housing Agency* (1988) 44 Cal.3d 242, 249.) Zoning represents "a
28 considered specific, and lasting implementation of the broad statements of policy

1 of the general plan. [Citations.]” (*Id.*) Zoning ordinances are subordinate to the
2 general plan and must be consistent with it. (*Fonseca v. City of Gilroy* (2007) 148
3 Cal.App.4th 1174, 1182.)

4
5 There is a presumption of deference to a local government’s exercise of
6 discretion when considering whether a project is consistent with a general plan
7 (and any specific plan adopted to further its objectives):

8
9 Where a consistency determination involves the application of a
10 general plan's established land use designation to a particular development,
11 it is fundamentally adjudicatory. In such circumstances, a consistency
12 determination is entitled to deference as an extension of a planning
13 agency's “ ‘unique competence to interpret [its] policies when applying
14 them in its adjudicatory capacity.’ ” (*San Franciscans Upholding the
15 Downtown Plan [v. City & County of San Francisco* (2002) 102 Cal.App.4th
16 656] at p. 678, 125 Cal.Rptr.2d 745.) Reviewing courts must defer to a
17 procedurally proper consistency finding unless no reasonable person could
18 have reached the same conclusion. (*Id.* at p. 677, 125 Cal.Rptr.2d 745; see
19 *Joshua Tree Downtown Business Alliance v. County of San Bernardino* (2016)
20 1 Cal.App.5th 677, 695–696, 204 Cal.Rptr.3d 464; *San Francisco Tomorrow v.
21 City and County of San Francisco* (2014) 229 Cal.App.4th 498, 514–515, 176
22 Cal.Rptr.3d 430.)

23
24 *Orange Citizens for Parks & Recreation v. Superior Court* (2016) 2 Cal.5th 141, 155.

25
26 In applying the foregoing standard, courts reject projects only in cases
27 where the projects are clearly inconsistent with a general plan. Thus, courts will
28 grant a writ where a “project . . . conflicts with a general plan policy that is

1 fundamental, mandatory and clear.” *Endangered Habitats League v. County of*
2 *Orange, supra* at 782.

3
4 Here, the General Plan consists of both the Plan document itself and the
5 SMSP. Although the SMSP’s introduction refers to it as a “policy document,” the
6 introduction also provides that “the specific plan clarifies, interprets and details
7 many general plan policies with specific reference to the conditions of the
8 Silverado-Modjeska area.” More importantly, the 2015 iteration of the Land Use
9 Element of the General Plan specifically incorporates the “Specific Plan
10 regulations.”

11
12 This reliance on the SMSP is significant since without the SMSP this Court
13 would be more inclined to defer to the determination of the County with respect
14 to its finding of consistency with the General Plan. The General Plan has broad
15 language recognizing “competing priorities,” and provides that the intent is to
16 interpret the Plan “in a manner that harmonizes their goals, objectives, policies
17 and implementation measures in light of the purposes of those plans.” (General
18 Plan § 1-3.) With respect to the Project, the conditional use permit does not
19 authorize any new development in the Canyon area, nor does it change the rural
20 environment or lifestyle of the area. Although there is scant evidence that the
21 Board of Supervisors actually analyzed the Project in these terms, there arguably
22 would be a sufficient basis to uphold the Board’s determination of consistency
23 with the General Plan—if that is all what needed to be considered.

24
25 But, of course, there was more. Once the SMSP is added as an overlay to
26 interpret the General Plan, the lack of consistency becomes clear. The SMSP, as
27 currently written, does not allow commercial facilities of any type in the area
28

1 designated as Rural Residential, nor is there any allowance of commercial activities
2 in the Scenic Highway corridor. For better or worse, there is nothing in the SMSP
3 that supports an argument that these provisions are merely general policies
4 subject to exceptions. Presumably, this lack of flexibility is why the County argues
5 that the proposed use should be considered “recreational” and therefore should
6 be allowed even though the Project Site is not in a location designated for
7 recreation on the SMSP map. In addition, the Project’s use of the property (i.e.,
8 for commercial events not open to the public) does not clearly fit within the
9 definition of recreation, and there is insufficient evidence in the record that would
10 support such a conclusion.

11
12
13 Compounding the problem is the lack of evidence in the record regarding
14 why the Board of Supervisors made a finding that the Project was consistent with
15 both the General Plan and SMSP. As far as this Court can determine, there is no
16 reasoned analysis, much less discussion, of the requirements of these Plans to
17 support the Board’s finding of consistency. To the contrary, the Planning Staff
18 report, which finds a *lack* of consistency, appears to be the only substantive analysis
19 of these issues. Put another way, for this Court to approve a finding of consistency,
20 it needs more than formal findings which lack a sufficient evidentiary basis. (*See*
21 *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco*
22 *(2002) 102 Cal.App.4th 656, 677.*)

23
24 This same lack of analysis also infects the finding of consistency with
25 respect to zoning. The County argues that the Project qualifies as “outdoor
26 recreation” by relying on the definition of “commercial recreation.” While this
27 argument ultimately might have some merit, there does not appear to be
28

1 evidence in the record to support such a finding, including evidence the County
2 actually compared the proposed use to the applicable zoning regulations and
3 interpreted the zoning as permitting this use. Without that evidence and in light
4 of the contrary evidence before the Board, the County's argument appears to be
5 nothing more than an effort to patch a problem identified by the Planning Staff
6 report.

7
8 CEQA
9

10 In addition to the above issues, Petitioner challenges the Project approval
11 for failure to comply with CEQA. Specifically, Petitioner contends that because
12 there is a "fair argument" that the Project may have a significant effect on the
13 environment, the County was required to prepare an EIR even though there also
14 may be substantial evidence of no significant impact. (*No Oil, Inc. v. City of Los*
15 *Angeles* (1974) 13 Cal.3d 68; 14 Cal. Code of Regs [CEQA Guidelines] § 15064.)
16 "Significant effects" are "substantial, or potentially substantial" adverse changes in
17 physical conditions that exist within the area that will be affected by a proposed
18 project. (Public Resources Code §§ 21068, 21100, 21151.)
19

20 When a challenge is brought to an agency's determination that an EIR is
21 not required, "the reviewing court's 'function is to determine whether substantial
22 evidence supported the agency's conclusion as to whether the prescribed "fair
23 argument" could be made.' " (*Quail Botanical Gardens Foundation, Inc. v. City of*
24 *Encinitas* (1994) 29 Cal.App.4th 1597, 1602, fn. omitted.) The "fair argument" test
25 is based on Public Resources Code section 21151 which "creates a low threshold
26 requirement for initial preparation of an EIR and reflects a preference for resolving
27 doubts in favor of environmental review when the question is whether any such
28 review is warranted." (*Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307,

1
2 1316-17.) "If there is substantial evidence of a significant environmental impact,
3 evidence to the contrary does not dispense with the need for an EIR when it still
4 can be 'fairly argued' that the project may have a significant impact." (*City of*
5 *Livermore v. Local Agency Formation Com.* (1986) 184 Cal.App.3d 531, 540;
6 *Pistoresi v. City of Madera* (1982) 138 Cal.App.3d 284, 288.) "Application of this
7 standard is a question of law and deference to the agency's determination is not
8 appropriate." (*Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33
9 Cal.App.4th 141, 150-51.)

10
11 **1. Noise Impacts**

12
13 Although Petitioner asserts a number of potential environmental impacts
14 in support of its fair argument position, only two—dealing with the noise and
15 traffic effects of the Project—are potentially meritorious. In terms of noise,
16 Petitioner relies on (1) numerous letters and public hearing statements from
17 Canyon residents who contend that the weddings and other events at the Site
18 would undoubtedly generate disturbing noise based in large part on their
19 experiences when events were held there between 2000 and 2004, and (2) a 2004
20 memorandum from a senior park ranger from the County's Resources &
21 Development Management Department to the effect that noise from parties
22 during that time frame disturbed animals and birds in nearby areas.
23 (HE0505:06241-42) The Court finds that these letters (and the accompanying
24 testimony) are not substantial evidence supporting a fair argument that potential
25 noise from wedding and other similar events at the Site will have a significant
26 impact.

27
28 CEQA defines substantial evidence, including evidence required to

1 support a fair argument, as “facts, reasonable assumptions predicated upon facts,
2 and expert opinions supported by facts.” Argument, speculation and
3 unsubstantiated opinion are not substantial evidence. (Public Resources Code §§
4 21080(e)(1)-(2); CEQA Guidelines § 15384.)
5

6 The letters from neighbors to the Site have two things in common—their
7 concerns about noise stem either from what happened 15-18 years earlier, and/or
8 they are based on their assumptions about what occurs at most weddings. They
9 also were written before the mitigating conditions regarding noise were approved.
10 The fact that parties held at the Site in the distant past were noisy is not evidence
11 supporting the conclusion that future events also will be noisy. Unlike in *Keep Our*
12 *Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 715, 733, where
13 there was specific evidence of relatively recent “pounding music” and substantial
14 “crowd noise,” here there is no evidence to suggest that the weddings will reach a
15 certain decibel level. Indeed, the only “scientific” evidence in the record—a noise
16 study conducted by a consultant (E03:0869 et seq.)—supports the conclusion of
17 no significant impact.
18

19 As to mitigation, the County imposed conditions on the use permit such
20 that events can start no earlier than noon and must end by dusk. Accordingly,
21 whatever noise is generated is likely to have minimal impact on sleep. In terms of
22 the noise level itself, the conditions imposed by the use permit, including limiting
23 allowable noise to the standards set forth in OCCO 4-6-1 et seq. (which limits noise
24 to 55 decibels or 33 decibels less than were assumed by the consultant in his
25 study), requiring use of a noise monitoring device and providing for revocation of
26 the use permit in the event of sustained code violations (B01:00005-00006), are
27 appropriate for consideration when determining whether a fair argument exists.
28 (*Stanislaus Audubon Society, Inc. v. County of Stanislaus, supra*, 33 Cal. App. 4th at

1 151.)

2
3 The 2004 letter from an Orange County park ranger likewise fails to
4 provide the necessary credible evidence to support a fair argument of a significant
5 effect on the environment as a result of noise from the wedding venue.
6 (HE0505:6241-6242) That letter refers to decibel levels of 95-100, ambient or
7 crowd noise emanating from the Site, and “the addition of a public address
8 system.” Because that letter does not take into account the present parameters of
9 the Project, it is more speculative than probative.

10
11 **2. Traffic Impacts**

12
13 Although it is a close call, the Court finds that there is a fair argument
14 that the Project may result in significant traffic safety impacts. In contrast to the
15 evidence pertaining to the noise issue, the evidence regarding traffic safety is of
16 recent vintage. (See B05:00529-00630) As recounted in letters and emails
17 submitted to the Planning Commission and as stated at the public hearings,
18 Santiago Canyon Road has a long history of traffic accidents. Further, it is well-
19 settled that personal observations of neighbors on a non-technical issue such as
20 traffic safety qualify as substantial evidence to support a fair argument. (*Keep Our*
21 *Mountains Quiet v. County of Santa Clara, supra*, 236 Cal.App.4th at 735-36;
22 *Citizens Association for Sensible Development of Bishop Area v. County of Inyo*
23 (1985) 172 Cal.App.3d 151, 173.)

24
25 In *Taxpayers for Accountable School Bond Spending v. San Diego Unified*
26 *School Dist.* (2013) 215 Cal.App.4th 1013, resident testimony regarding traffic
27 congestion and accidents associated with events at a school stadium constituted
28 substantial evidence supporting a fair argument that a plan to allow night games

1 (that would draw larger crowds) may have a significant traffic impacts. The
2 testimony constituted substantial evidence because "any traffic problems
3 experienced in the past logically will only be exacerbated if the Project is
4 completed and evening football games are held." (*Id.* at 1054.) In other words, one
5 reasonably can infer a project will have a significant impact on traffic from factual
6 testimony regarding past traffic congestion and accidents.

7
8 Petitioner's evidence establishes that approximately 75 or more vehicles
9 will travel to and from the wedding venue at about the same times. All of these
10 vehicles must travel on Santiago Canyon Road which is the main thoroughfare in
11 the Canyon area. The road is narrow and often has vehicles traveling at high
12 speeds. The history of accidents on this road are well-documented. Moreover, a
13 reasonable inference can be drawn that a number of patrons attending the
14 weddings will have had some alcoholic drinks.

15
16 Recognizing the potential problems with traffic safety, a number of
17 mitigating factors have been put in place. These include widening and turn lane
18 pockets, improved sight distances, use of valets at the Site and temporary warning
19 signs. (B17:00712-00714--conditions 17-23) Whether these improvements are
20 enough to reduce the traffic safety issue below the significant effect level is simply
21 not clear from the evidence. Given the "low threshold" for establishing a fair
22 argument of a potential significant environmental impact, the Court finds that
23 Petitioner has met this standard on this particular issue. (*See Keep Our Mountains*
24 *Quiet v. County of Santa Clara, supra, 236 Cal.App.4th at 735-36.*)

CONCLUSION

Petitioner shall prepare a proposed judgment and a peremptory writ of
mandate in accordance with this ruling.

Dated: March 15, 2019



William D. Claster
Superior Court Judge

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**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER**

MINUTE ORDER

DATE: 03/15/2019

TIME: 11:26:00 AM

DEPT: CX104

JUDICIAL OFFICER PRESIDING: William Claster

CLERK: Gus Hernandez

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: None

CASE NO: **30-2018-00992951-CU-WM-CX**CASE INIT.DATE: 05/14/2018

CASE TITLE: **Save the Canyons Coalition, an unincorporated association vs. County of Orange**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

EVENT ID/DOCUMENT ID: 73006840

EVENT TYPE: Under Submission Ruling

APPEARANCES

Re: Petition for Writ of Mandate

There are no appearances by any party.

The Court, having taken the above-entitled matter under submission on 02/26/2019 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules in accordance with the Decision on Petition for Writ of Mandate signed and filed this date.

Court orders clerk to e-serve a copy of this Minute Order and a copy of the Decision on Petition for Writ of Mandate upon counsel.